

HB 611, HD1
Proposed SD1

EDT

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
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY

TESTIMONY REGARDING HB 611 HD 1 PROPOSED SD 1 RELATING TO TAXATION

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

DATE: MARCH 23, 2009

TIME: 1:15PM

ROOM: 016

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 various tax credits and GET exemptions set to expire between December 31, 2011 and December 31, 2013.

The Department of Taxation (Department) offers **comments on amendments to the capital goods excise tax credit** and **concerns regarding the automatic repeal without legislative action.**

I. AMENDMENTS TO 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. Some would characterize the credit as a stimulus to encourage businesses to invest in capital property; however with its relatively low rate being equal to the general excise tax assessed on tangible personal property sold at retail, it is best characterized as a return of tax.

WON'T HELP CURRENT BUDGET SHORTFALL; BUT WILL HELP FUTURE—If the intent of this measure is to raise revenue to assist with the current FY 2009 budget shortfall, this measure will not assist because the credit is not suspended until the beginning of 2010. The

suspension; however, will assist with increasing revenues for the general fund beginning on January 1, 2010 and carryover to the next fiscal year.

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 is concerned with such an impact at such a crucial time. Given the tenuous economic times, the Department has concerns with the unknown impact this credit could have on future business investments.

TAXPAYERS HAVE OTHER INCENTIVE ALTERNATIVES; ESPECIALLY SMALL BUSINESSES—The Department points out that the income tax code contains another incentive, which can oftentimes be more attractive than the capital goods excise tax credit. The deduction for business purchases under Section 179 of the Internal Revenue Code can be more attractive because it allows for expensing of business purchases. However, Hawaii's conformity to Section 179 is limited to \$25,000 in business purchases. For 2009, the federal amount is \$133,000 (inflation adjusted). Though Hawaii's amount of expensing is less, Hawaii's Section 179 deduction is most attractive for small businesses that do not invest more than \$25,000 in any one year on business capital assets. In short, the Department points out that under many circumstances, a business will be more inclined to expense the asset under Section 179, which requires that they waive the capital goods excise tax credit to enjoy the accelerated expensing.

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 the potential credit and exemption eliminations in the proposed SD 1, including the elimination of the capital goods excise tax credit for calendar years 2010 and 2011 is as follows:

- FY2010 \$17.2 million;
- FY2011 \$425.4 million;
- FY2012 \$925.2 million;
- FY2013 \$1.1 billion;
- FY2014 \$1.3 billion;
- FY2015 \$1.6 billion.

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 eliminating the GET exemptions are from the report of the 2005-2007 Tax Review Commission.



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
THEODORE E. LIU
Director

Department of Business, Economic Development, and Tourism
before the

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND
TECHNOLOGY**

Monday, March 23, 2009
1:15 PM

State Capitol, Conference Room 016

in consideration of
HB 611 HD1 SD1 (Proposed)
RELATING TO TAXATION.

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

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of this proposed Senate Draft particularly as it relates to §235-17 motion picture, digital media and film production income tax credit, known as Act 88, which is scheduled to sunset December 31, 2015.

We believe Act 88 is a fiscally responsible and necessary incentive to ensure the further development of Hawaii's film industry, a key driver of Hawaii's creative economy. The production incentive has generated an estimated \$322 million in direct expenditures since its inception July 1, 2006, provided high paying jobs, resulted in tourism sector support, and has provided education and workforce development across the state.

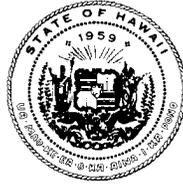
Analyzing the economic impact for tax credits is an important element in the responsible use of these credits. We believe that such evaluation will illustrate for the Legislature that our film credits are indeed working to develop this industry in a manner that is beneficial to the state of Hawaii. In particular we support the idea of conducting an economic impact study of the film credits similar to the state of New Mexico as mentioned in Section 5 under Part II of this proposed draft. The New Mexico Film Office commissioned Ernst & Young to conduct this independent study at a cost of \$50,000. Several other jurisdictions across the U.S. and in other countries have commissioned or are considering similar independent studies in an attempt to prove the economic value of

their respective tax incentives to the communities they serve. Hawaii would be wise to do the same.

The entertainment industry is part of the **solution** to the economic challenge we face. Not only does production provide skilled, well-paying jobs, it works to support our visitor industry infrastructure and provides valuable exposure the state might not otherwise be able to afford. Further, in times of economic downturn, the entertainment industry continues to thrive. Studios will continue to spend millions of dollars to produce film and television projects in locations around the world despite the economic challenges other industries currently face. However, their decisions are still driven by the bottom line, so they most definitely will take production to the places where they are assured of getting the most bang for their buck.

For this reason, the marketplace continues to be highly competitive on a global scale, with Hawaii competing for its share of production business mostly with other countries rather than U.S. states. To the extent we can maintain a competitive tax incentive program, Hawaii will continue to attract production business to our islands.

Thank you for the opportunity to offer testimony.



STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

March 23, 2009, 1:15 p.m.
Room 016, State Capitol

In consideration of
H.B. 611, H.D. 1 Proposed S.D. 1
RELATING TO TAXATION.

The HHFDC has concerns with H.B. 611, H.D. 1 because of the negative impact to the provision of affordable housing. We offer the following specific comments on the Proposed S.D. 1 of this bill.

We appreciate that the Committee included language in the Proposed S.D. 1 intended to grandfather in affordable housing project owners allocated LIHTCs or certified for GET exemption prior to the repeal date of December 31, 2013 set forth in this bill. However, the Proposed S.D. 1 needs technical amendments to correct drafting errors in this provision to ensure that existing affordable housing projects are not impacted by the repeal for reasons stated in our previous testimony on this bill.

Specifically, in Part II, page 54 of the Proposed S.D. 1, the proviso grandfathering in State Low-Income Housing Tax Credits pursuant to sections 235-110.8, Hawaii Revised Statutes (HRS) and 241-4.7, HRS and exemptions from general excise tax for certified or approved housing projects contains erroneous references that must be corrected to be effective. Attached is a copy of page 54 of the Proposed S.D. 1 with the necessary corrections marked thereon for your convenience.

Thank you for the opportunity to testify.

PROPOSED SD1 - HB 611, HD1

economic development, and tourism, does not submit a complete and accurate evaluation of the following tax credits by no later than twenty days prior to the convening of the regular session of 2014, thereby curtailing the legislature's ability to assess the tax credit or tax exemption pursuant to the department of taxation's recommendations, then each of the applicable tax credits and tax exemptions shall not be available to be claimed for taxable years beginning after December 31, 2013; provided that the potential repeal of the tax credits in paragraphs ~~(6)~~ ⁽¹¹⁾ and ~~(7)~~ ⁽¹¹⁾ of this subsection and the tax exemption in paragraph ~~(7)~~ ⁽⁹⁾ of this subsection shall not apply to those projects approved before January 1, 2014:

- (1) Section 235-12.5, Hawaii Revised Statutes (renewable energy technologies; income tax credit);
- (2) Section 235-55, Hawaii Revised Statutes (tax credits for resident taxpayers);
- (3) Section 235-55.6, Hawaii Revised Statutes (expenses for household and dependent care services necessary for gainful employment);
- (4) Section 235-55.7, Hawaii Revised Statutes (income tax credit for low-income household renters);
- (5) Section 235-110.3, Hawaii Revised Statutes (ethanol facility tax credit);

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY
MONDAY, MARCH 23, 2009
1:15 P.M
CONFERENCE ROOM 016**

**HOUSE BILL NO. 611, HD1, PROPOSED SD1
RELATING TO TAXATION**

Chairperson Fukunaga and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 611, HD1, Proposed SD1, which amends the capital goods excise tax credit so that it applies only to property placed in service in taxable years beginning before January 1, 2010, suspends the credit for calendar years 2010 and 2011, and adds a new part for property placed in service in taxable years beginning after December 31, 2011. Requires the Department of Taxation, with the assistance of the department of business, economic development, and tourism, to evaluate certain tax credits and tax exemptions and report to the legislature. Requires the Department of Taxation to give recommendations and for the legislature to implement those recommendations prior to the mandate for those tax credits and tax exemptions to sunset. The Department of Agriculture is providing comments on Section 7 only in support of the amendments to this section.

We believe that when livestock are transported between islands, that the amounts received should be treated for tax purposes like all other agricultural products and therefore believe that the amendments proposed are fair and appropriate. We defer to the Department of Taxation as to any potential economic impact.



HAWAII
Hawaii

National Association of Insurance and Financial Advisors --

516 Kawaihae Street, Suite E
Honolulu, HI 96825

Senate Committee on Economic Development & Technology
Senator Carol Fukunaga, Chair

Date of Hearing: Monday, March 23, 2009 Time: 1:15 pm

RE: House Bill 611, HD1, Proposed SD1 – Relating to Taxation

Chair Fukunaga and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of insurance agents throughout Hawaii, who primarily sell life insurance, annuities, long term care and disability income policies.

We are strongly opposed to HB 611, HD1, Proposed SD1, that will repeal Section 237-24.7(1), (2), and (3) under Section 8, if the report from DoTax and DBEDT is NOT submitted to the Legislature in early January 2010.

Proceeds from a life insurance policy after the death of the insured and amounts received from endowments and annuity contracts will be repealed under Section 237-24.7(1), (2), and (3). Also included in this repeal are disability income insurance proceeds and long term care insurance benefits.

When consumers purchase these kinds of insurance policies, they were of the understanding that the proceeds would be tax free. Consumers pay premiums on these kinds of insurance policies for many years – many for decades -- and to change the law by repealing the exemptions for in-force policies is not right.

Consumers buy these kind of insurance policies to take responsibility for their lives, their health and care. It's these kinds of insurance policies that keep our citizens out of the welfare entitlement programs.

We ask that you continue to allow the exemptions for these insurance policies.

Mahalo for allowing us to share our views.

Cynthia Hayakawa, Executive Director

March 21, 2009

The Honorable Carol Fukunaga, Chair

Senate Committee on Economic Development and Technology
State Capitol, Room 016
Honolulu, Hawaii 96813

RE: H.B. 611, H.D. 1, Proposed S.D.1, Relating to Taxation

HEARING DATE: Monday, March 23, 2009 at 1:15 p.m.

Aloha Chair Fukunaga and Members of the Committee.

I am Craig Hirai, a member of the Subcommittee on Taxation and Finance of the Government Affairs Committee of the Hawai'i Association of REALTORS® ("HAR"), here to testify on behalf of the HAR and its 9,600 members in Hawai'i. HAR has the following **comments** with respect to Subsection (d) of Section 10 of **H.B. 611, H.D. 1, Proposed S.D.1, Relating to Taxation**, which repeals the Low Income Housing Tax Credit under HRS §235-110.8, the General Excise Tax ("GET") Exemption for Certified or Approved Housing Projects under HRS §237-29, and the Low Income Housing Tax Credit under HRS §241-4.7 after December 31, 2013.

Section 10 of H.B. 611, H.D. 1, Proposed S.D.1, appears to be identical to Section 3 of S.B. 1247, S.D.1, Relating to the Economy. This committee's Standing Committee Report No. 395 on S.B. 1247, S.D.1, states that this committee had amended S.B. 1247 by:

- (3) Clarifying that potential repeal of the tax credits under sections 235-110.8 and 241-4.7, Hawaii Revised Statutes, and the tax exemption under section 237-29, Hawaii Revised Statutes, shall not apply to those projects approved before January 1, 2014; . . .

HAR therefore respectfully requests that the last few lines of the first paragraph of Section 10(d) of H.B. 611, H.D. 1, Proposed S.D.1, be amended as follows:

“ . . . provided that the potential repeal of the tax credits in paragraphs (~~7~~) and (~~11~~) and the tax exemption in paragraph (~~9~~) shall not apply to those projects approved before January 1, 2014.”

Paragraph (7) of Section 10(d) of H.B. 611, H.D. 1, Proposed S.D.1, references the “low-income housing tax credit” under HRS §235-110.8; Paragraph (11) references the “low-income housing; income tax credit” under HRS §241-4.7; and Paragraph (9) references “general excise tax; exemptions for certified or approved housing projects” under HRS §237-29.

HAR has historically supported mechanisms to help increase the supply of low and moderate income affordable housing such as the Rental Housing Trust Fund Program which can help integrate the use of mixed-income and mixed-use projects, special purpose revenue bonds,

low-interest loans, block grants, low-income housing tax credit programs and deferred loan programs to provide rental housing opportunities.

Rental Housing Trust Fund projects qualify for and benefit from the GET exemption under HRS §237-29, and are often aided by equity financing generated from the Low Income Housing Tax Credit under HRS §235-110.8 and HRS §241-4.7. Repealing these programs will clearly reduce the amount of State funding available for desperately needed Rental Housing Trust Fund projects.

HAR further believes that if Subsection (d) of Section 10 of H.B. 611, H.D. 1, Proposed S.D.1, is passed without the amendment proposed above, the repeal of HRS §§ 235-110.8, 237-29 and 241-4.7 will have the following adverse consequences:

1. With respect to existing projects, the repeal of the GET exemption under HRS §237-29 will reduce the gross rents available for operating costs and debt service of hundreds of State and County approved rental housing projects throughout the State by at least 4% (or 4.5% in the City and County of Honolulu). This will almost certainly adversely affect the projects' ability to fund their operating and maintenance reserves and may impair their ability to service or possibly breach a covenant and cause a default under their outstanding mortgage debt.
2. With respect to projects approved between the date of enactment of H.B. 611, H.D. 1, Proposed S.D.1, and December 31, 2013, the uncertainty of the continued existence of the GET exemption under HRS §237-29 will tend to reduce the amount of mortgage debt lenders will be willing to lend for these projects because their gross rents available for operating costs and debt service may decrease by 4% (or 4.5% in the City and County of Honolulu) on January 1, 2014. A logical consequence of such lender action would be a need for additional equity from sources such as the Rental Housing Trust Fund.

The pricing of construction contracts for projects which are certified or approved under HRS §237-29 will also become more difficult and most likely more expensive as the December 31, 2013 repeal date grows closer because contractors may not be able to complete construction by that date.

3. With respect to existing projects, the repeal of the Low Income Housing Tax Credits under HRS §§ 235-110.8 and 241-4.7 will not allow: (a) current investors the use of the full amount of their credits if their 10-year recovery period under HRS §235-110.8(c) and IRC §42(b) extends beyond December 31, 2013; and (b) the State to recapture the credit under HRS §235-110.8(d)(4) and IRC §42(j) after December 31, 2013.
4. With respect to projects approved between the date of enactment of H.B. 611, H.D. 1, Proposed S.D.1, and December 31, 2013, the uncertainty of the continued existence of the Low Income Housing Tax Credits under HRS §§ 235-110.8 and 241-4.7 will undoubtedly reduce the amount investors will be willing to pay for the credits because they cannot be assured of the use of the credit through its entire 10-year

recovery period. Again, a logical consequence of such investor action would be a need for additional equity from sources such as the Rental Housing Trust Fund.

ADDITIONAL COMMENTS

A. Section 2 of H.B. 611, H.D. 1, Proposed S.D.1.

With respect to Section 2 of H.B. 611, H.D. 1, Proposed S.D.1, HAR would note that the definitions contained in proposed HRS §235-A are very similar to those contained in a measure proposed in the 2008 Legislation Session, S.B.591, S.D.3, Relating to Taxation, at Section 2. However, there is a discrepancy in the provided definitions that is worth noting. The 2008 version of proposed HRS §235-A included a definition of “computer software”, and in paragraph (9), the definition of “eligible property” included “computer software.” The present bill, H.B. 611, H.D. 1, Proposed S.D.1, does not include a definition of “computer software”, but the paragraph (9) definition of “eligible property” still includes “computer software.”

HAR believes that the definition of “computer software” from S.B. 591, S.D.3, should either be inserted into the version of proposed HRS §235-A contained in Section 2 of H.B. 611, H.D. 1, Proposed S.D.1, or that paragraph (9) of the definition of “eligible property” should be deleted from the version of proposed HRS §235-A contained in Section 2 of H.B. 611, H.D. 1, Proposed S.D.1.

B. Section 3 of H.B. 611, H.D. 1, Proposed S.D.1.

With respect to Section 3 of H.B. 611, H.D. 1, Proposed S.D.1, HAR would suggest that in order to encourage the purchase of capital goods prior to taxable years beginning before January 1, 2010, the first paragraph of HRS §235-110.7(a) as amended in Section 3 be further amended to read as follows:

"(a) [~~There~~] For property placed in service **or purchased pursuant to a binding contract** in taxable years beginning before January 1, 2010, there shall be allowed to each taxpayer subject to the tax imposed by this chapter a capital goods excise tax credit which shall be deductible from 1 the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed. **Except as provided in the preceding sentence, for taxable years beginning on or after January 1, 2010, and ending on or before December 31, 2011, there shall not be allowed a capital goods excise tax credit to any taxpayer.**

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Thank you for your consideration of our request, and mahalo for the opportunity to testify.

The Chamber of Commerce of Hawaii

1132 Bishop Street, Suite 402

Honolulu Hawaii, 96813

Testimony to the Senate Committee on Economic Development and Technology

Monday, March 23, 2009

1:15 PM

Conference Room 016

RE: HOUSE BILL NO. 611, HOUSE DRAFT 1, SENATE DRAFT 1, RELATING TO TAXATION

Chair Fukunaga, Vice Chair Baker, and members of the committee.

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's strong opposition to House Bill No.611, House Draft 1, Senate Draft 1, Relating to Taxation.

The Chamber's Military Affairs Council (MAC) has served as the liaison for the state in matters relating to the U.S. military and provided oversight for the State's multi-billion dollar defense industry since 1985.

The measure proposes to amend the capital goods excise tax credit and require the Department of Taxation, with the assistance of the department of business, economic development, and tourism, to evaluate certain tax credits and tax exemptions and report to the legislature. It further requires the department of taxation to give recommendations and for the legislature to implement those recommendations prior to the mandate for those tax credits and exemptions to sunset.

This measure could result in repealing the tax exemption on shipbuilding and ship repair businesses, which has a vital place in the economy of our island-state that is so dependent on maritime transportation.

We would specifically like to address Part II, Section 10 (b) (8) of the bill, which requires an evaluation and report on tax exemptions tax exemption of certain shipbuilding and ship repair business.

A repeal of this general excise tax exemption will significantly drive up costs for local shipbuilding and shipyard businesses and render them incapable of competing with shipyards that are unaffected by this tax. This would result in the loss of millions of dollars in revenues, and possibly lead to the demise of the industry.

The general excise tax exemption is essential to placing Hawaii-based shipyards on a level competitive field. It is the prime reason why the US Navy is able to award ship repair contracts to our local private shipyards. It should be noted that despite this attempt to level the playing field, the US Coast Guard in Hawaii already contracts with shipyards outside Hawaii, and the Matson Navigation Company sends its ships to faraway Hong Kong for repairs. This reflects the global nature of the ship repair business.

The Ship Repair Association of Hawaii has advised that the Navy is working towards instituting a centralized Multi-Ship Multi-Option contracting procedure to reduce costs. Repealing the GET

exemption would result in substantial increases in local contract bids and likely force the Navy to contract these planned ship overhauls to outside shipyards, taking away hundreds of thousands of work hours from Hawaii's tax-paying, highly skilled work force. This anticipated loss of millions of dollars in revenues to out-of-state shipyards and suppliers could contribute towards the de-diversification of Hawaii's economy.

It should be noted that the exemption has allowed the Navy to position a private shipyard at one of the dry docks in Pearl Harbor to handle emergent and scheduled repairs for its fleet of surface ships. This extremely favorable benefit would be lost if the tax exemption is repealed.

For these reasons, we respectfully request that HB 611, HD1, SD1 be revised to provide for retaining the general excise tax exemption for Hawaii-based shipbuilding and ship repair businesses.

Thank you for this opportunity to testify.

HB611 SD1

RELATING TO TAXATION

**JOEL K. MATSUNAGA
CHIEF OPERATING OFFICER & EXECUTIVE VP
HAWAII BIOENERGY**

MARCH 23, 2009

Chair Fukunaga and Members of the Senate Committee on Economic
Development and Technology:

I am Joel Matsunaga, testifying on behalf of Hawaii BioEnergy on HB611 SD1,
“Relating to Taxation”.

SUMMARY

HB611 SD1 calls for the department of taxation to evaluate certain tax credits and tax exemptions and calls for the department of taxation to report and give recommendations regarding those tax credits and tax exemptions to the legislature before the mandate for those tax credits and tax exemptions expires. While HBE agrees that the review of these tax credits is important to help ensure the productive and efficient use of taxpayer dollars, the bill would allow the aforementioned provisions to sunset 1) should the department of taxation not submit a review and associated recommendation for the tax credits and tax exemptions; or 2) should the department submit their recommendations and those recommendations not be implemented by the legislature. Included in the bill are programs that currently or could significantly benefit the residents of Hawaii. Should those programs not be reviewed and be allowed to expire, and should the department not take into account the role of credits and tax

exemptions in attracting future investment, the benefits to Hawaii may never be realized.

Further, Hawaii BioEnergy (“HBE”) would like to take this opportunity to emphasize the importance of two credits contained in HB611 SD1 that are at risk. Specifically, HBE underscores the importance of the Ethanol Facility Tax Credit (Section 235-110.3) and the High Technology Business Investment Tax Credit (Section 235-110.9) to Hawaii’s economy for the following reasons:

1. HBE is currently considering plans to develop locally produced ethanol in Hawaii. While this credit is not currently being utilized, its existence is critical if Hawaii is to attract investment and develop a local ethanol industry. Should the department not submit a report or recommendation to the legislature 20 days prior to the regular 2014 session, and/or the legislature not adopt the recommendations, the Ethanol Facility Tax Credit would not be available for the following tax year. The elimination of the Ethanol Facility Tax Credit would either significantly delay or shut down any attempts by HBE to produce ethanol in Hawaii.
2. HBE is also moving forward with the development of other renewable energy projects in Hawaii that could contribute significantly toward addressing the State’s energy needs and reducing the State’s dependence on imported fuels. The repeal or expiration of the High Technology Business Investment Tax Credit could jeopardize or delay the projects and their associated environmental, economic, and social benefits to Hawaii’s residents.

RENEWABLE ENERGY PROJECTS IN HAWAII

Hawaii BioEnergy is a local company with a mission to help Hawaii toward a sustainable energy future through the production of biofuels from locally grown feedstocks. Among its partners are three of the larger land owners in Hawaii who control in total over 430,000 acres of land. HBE and its partners would like to use significant portions of their land to address Hawaii's energy needs. Since its inception in 2006, HBE has been researching various biofuels alternatives to clearly evaluate each biofuel's relative suitability and sustainability based on Hawaii's natural resource base, climate, market and infrastructure.

One of those biofuel alternatives that HBE is pursuing is the production of jet fuel and other oil derivatives from micro-algae. Preparations have been underway for many months and facilities to conduct on-site research and development are expected to be in place before this legislative session is done. Algae not only offers Hawaii the benefit of developing a locally produced fuel source, but it also benefits the agriculture industry by providing proteins for animal feed, fertilizers and other locally produced products.

HBE is also currently considering plans to develop locally produced ethanol from sugar cane, sweet sorghum, or other crops that can be fermented into ethanol. The production of ethanol in Hawaii will provide its residents with better energy security, create a significant number of jobs, reduce the burning of fossil fuels, and retain dollars in the State's economy rather than sending them overseas.

REPEAL OF INCENTIVES WILL JEOPARDIZE RENEWABLE ENERGY PROJECTS

The elimination of the Ethanol Facility Tax Credit would likely cause HBE to abandon any consideration of developing the local production of ethanol in Hawaii. Or at a minimum, the elimination would significantly delay any plans to go forward with ethanol production in the State. This is because the production of ethanol in Hawaii would need to compete against ethanol produced and available on the world markets where land, labor and other costs, including adherence to environmental and other regulations, are lower. The current Ethanol Facility Tax Credit helps to offset those cost disparities to the extent that, under the right conditions, HBE would be willing to pursue producing ethanol locally. Further, the credit helps to offset a portion of the risk that first-movers must assume in the establishment of a new industry. Without that credit it would be very difficult, if not impossible, to justify investment in ethanol production facilities in Hawaii.

In addition to ethanol, HBE is also developing other renewable energy sources which will help contribute to a more secure and sustainable energy future for Hawaii. The Company has expended a considerable amount of its investors' funds to date to conduct the research and development to be able to move projects forward that will benefit Hawaii. The availability of the High Technology Business Investment Tax Credit has allowed HBE to maximize our investors' funds with the State's incentives. Without the credit, it is possible that HBE's projects, as well as the benefits they will provide to Hawaii's residents, will be delayed. Based on an independent analysis commissioned by HBE, a large-scale ethanol facility could provide up to 1,400 new jobs and over \$115 million in added value in the State. This type of economic stimulus is needed now more than ever given the economic downturn and the state budget deficit, but could be in

jeopardy should the High Technology Business Investment Tax Credit be repealed or otherwise eliminated.

CONCLUSION

HBE is moving forward with projects that will help to secure Hawaii's energy future and generate economic benefits for the state. Hawaii residents will benefit from:

- Greater energy security from the displacement of fuel imports;
- A cleaner environment from the expansion of sustainable agriculture, the sequestration of CO₂ and harmful green house gas emissions, and reduction of fossil fuel consumption;
- A stronger economy through local fuel production, job creation, wealth, and tax generation..

However, the potential elimination of the Ethanol Facility Tax Credit and the High Technology Business Investment Tax Credit will jeopardize those benefits by either significantly delaying or terminating projects under consideration.

Based on the aforementioned, Hawaii BioEnergy respectfully requests your support in opposing the provision that allows for automatic termination of the Ethanol Facility Tax Credit and the High Technology Business Investment Tax Credit absent review and recommendations from the department of taxation and/or consensus by the legislature.

Thank you for the opportunity to testify.



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Senator Carol Fukunaga, Chair
Senate Committee on Economic Development & Technology

Monday, March 23, 2009; 1:15 PM
State Capitol, Conference Room 016

Re: HB 611 HD1 SD1 (proposed) – RELATING TO TAXATION

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

My name is Rick Keene, Executive Vice President and Chief Financial Officer of The Queen's Health Systems (Queen's), testifying on House Bill 611 HD1 SD1 (proposed), which requires the Department of Taxation, with the assistance of the Department of Business, Economic Development, & Tourism, to evaluate certain tax credits and tax exemptions and report to the legislature; requires the Department of Taxation to give recommendations and for the Legislature to implement those recommendations prior to the mandate for those tax credits and tax exemptions to sunset. **Queen's is opposed to the repeal of the general excise tax exemption for nonprofit organizations and hospitals and notes that a review of the current general excise tax exemption is unnecessary.**

The current tax exemption does not serve to increase hospitals' profits; rather, it defrays significant losses and allows for continued support of community programs, non-core services, and charity care. According to the Healthcare Association of Hawaii, local hospitals incurred \$141 million in uncollected payments in 2008 resulting from bad debt and charity care. Queen's contributes to the well-being of Hawaii by giving back to the community more than \$40 million annually, including costs associated with health care services, education, and uncompensated care.

We also note that credit rating agencies take into consideration legislation that will impact financial performance. This could lower the credit ratings of tax-exempt hospitals and lead to increased cost for debt financing. Such increased costs would make it more challenging for nonprofit hospitals to continue some of its community benefit programs, which could negatively impact the community's access to health care.

The new IRS form 990, Schedule H, will provide information to the Legislature and public at large regarding tax-exempt hospitals' delivery of charity care, community benefit, bad debt, and Medicare and Medicaid shortfall, all of which demonstrates the contributions that tax-exempt hospitals make to the community.

Queen's wholly appreciates the Legislature's budgetary challenges in light of the State's economic outlook. However, we respectfully request that this measure be amended to eliminate reference to nonprofit organizations and hospitals.

Thank you for the opportunity to testify.

Testimony of
Phyllis Dendle
Director of Government Relations

Before:
Senate Committee on Economic Development and Technology
The Honorable Carol Fukunaga, Chair
The Honorable Rosalyn H Baker., Vice Chair

March 23, 2009
1:15 pm
Conference Room 016

HB 611 HD1 RELATING TO TAXATION

Chair Fukunaga, and committee members, thank you for this opportunity to provide testimony on HB 611 HD1 which would require a review of tax credits and exemptions and automatically repeal certain tax credits and exemptions.

Kaiser Permanente Hawaii opposes this bill.

The cost of delivering health care in Hawaii and across the nation continues to mount. To the extent this measure would repeal excise tax exemptions applicable to Kaiser, this measure will only add to that cost. The burden of an excise tax such as this one would be passed on to health plan purchasers and consumers, driving up the overall cost of healthcare to those purchasers and to the state.

Additionally, as a 501(c)(3) federally tax exempt, charitable organization, Kaiser provides approximately \$19 million in free care, subsidized care, grants, health education, and programs for safety net organizations within the State of Hawaii. Imposition of the excise tax would be an unfortunate precedent setting erosion of Kaiser's tax exempt status, inconsistent with its public benefit social mission.

In short, repeal of Kaiser's general excise and use tax exemptions would be bad for the business community, bad for the public, and bad for the cost of healthcare in the State of Hawaii.

Thank you for your consideration.



Ship Repair Association of Hawaii

P.O. BOX 29001, Honolulu HI 96820

Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
The Senate, Twenty-Fifth Legislature
Hawaii State Capitol, Conference Room 016
415 South Beretania Street
Honolulu, HI 96813
phone 808-586-6934; fax 808-586-6659
E-mail EDTTestimony@Capitol.hawaii.gov

March 21, 2009

Dear Ms. Fukunaga:

This letter was written and submitted to the State Senate Committee on Economic Development and Technology on behalf of the Ship Repair Association of Hawaii (SRAH), regarding House Bill 611, SD 1. This follows up my earlier letter dated March 17, 2009, which addressed very similar concerns with HB 611.

The Ship Repair Association of Hawaii had a representative attend your Committee meeting on Friday afternoon, March 20th. At that meeting, a Senate revision to House Bill 611 (HB 611, SD1) was handed out. Persons attending the Committee meeting were invited to review that latest revision and to submit testimony for a follow-on hearing to be conducted at 1:15PM Monday, March 23, 2009. This letter formally submits the Ship Repair Association of Hawaii's testimony concerning HB 611, SD1.

The Ship Repair Association of Hawaii is opposed to House Bill 611, SD 1, 237-24.3, Section 10, (b) (8) which states in part,...

(b) The department of taxation and the department of business, economic development, and tourism shall perform an evaluation of the following tax credits or tax exemptions and submit an evaluation of the fiscal impacts and economic benefits of each credit and exemption required by this section to the legislature by no later than twenty days prior to the convening of the regular session of 2011; provided that if the department of taxation, with the assistance of the department of business,

pursuant to the department of taxation's recommendations, then each of the applicable tax credits and tax exemptions shall not be available to be claimed for taxable years beginning after December 31, 2011:

(8) Section 237-28.1, Hawaii Revised Statutes (general excise tax; exemption of certain shipbuilding and ship repair business); and

From a straight-forward reading (non-legal interpretation) of this wording, the General Excise Tax (GET) exemption now afforded the Hawaii shipbuilding and ship repair industry would be repealed on Dec 31st, 2011 were this bill to make it through the Legislature and be signed into law.

If the GET was applied to ship repairs conducted in Hawaii, obviously, companies with local Hawaii offices will shoulder added costs. There is also concern that non-resident companies that perform work here without a Hawaii address will continue to avoid paying the State GET and, thereby, continue to underbid companies that do have local addresses.

Please understand that ship building and repair is an industry competing more and more within a global market. Hawaii costs need to continue to be kept as low as possible. That is difficult inside this island economy.

It is also worthy of note that the U.S. Navy is working to reduce ship repair costs for work conducted onboard U.S. Navy ships, homeported here in Pearl Harbor Hawaii. In that regard, the Navy instituted the Multi-Ship Multi-Option (MSMO) contracting concept to consolidate Pearl Harbor surface ship repairs under central management, with one primary goal of the MSMO concept being to save the Federal Government money. Presently, the SRAH and MSMO are working to convince the Navy to conduct significant Navy cruiser modernizations and upgrades (USS LAKE ERIE, USS CHOSIN and USS PORT ROYAL) here at Pearl Harbor, starting in 2011. If the Navy had to pay the GET for these projects, which will range from \$30M to \$40M each, the added cost makes an exceptionally persuasive cause for relocation of these planned overhauls to the West Coast of the U.S.

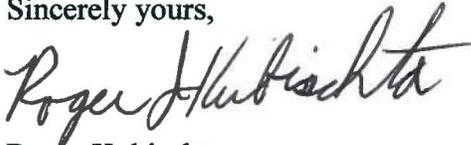
For smaller non-Federal, commercial projects, the GET would also add significant dollars to every waterfront customer's costs. For example, a \$1M repair project for a local cargo ship or barge would grow by \$50K+ added to the customer's bill; an amount that is sufficiently large to sway customer choices as to the location of such repairs.

Although the tax exemption has partially fulfilled its intention, there's much more waterfront left to cover. It is acknowledged that the exemption makes repair costs more attractive to military and commercial shipping and related companies. As noted above, the ship building and repair industry operates in a global market. Unless Jones Act type protections are stiffened, the Hawaii ship repair companies face fierce competition indeed from relatively nearby Asian competitors.

Another consideration during the contemplation of this section of House Bill 611 is that Hawaii profits tax-wise from the ship building and repair industry in other off-setting ways. That is, employee wages are sufficient to support Hawaii families, who pay income taxes. Most Hawaii companies working onboard ships do other work in the economy besides ship repair. And, they all pay taxes related to that non-ship type work. Many of those companies would not be as productive on-island without support from their ship-related industrial activities. This is an important aspect of the Hawaii ship repair tax exemption;... It supports the growth of other beneficial and taxable Hawaii industries, such as facilities electrical work, structural steel work, electronics, etc.

When House Bill 611 is reviewed by your committee, please review these above listed considerations and strike the section that would otherwise repeal the GET exemption for the Hawaii ship building and repair industry.

Sincerely yours,



Roger Kubischta

President

Ship Repair Association of Hawaii

Member Firms

AMSEC LLC Airgas Gaspro American Industrial Insulation Arise Waco Scaffolding BAE Hawaii Shipyards Inc.
C&S Services Hawaii Marine Cleaning HSI – Electric Boat, Inc. HSI Mechanical, Inc.
Kratos Defense & Security Solutions Marisco, Ltd. Oceaneering Pacific Shipyards International Phoenix International
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Fax: (808) 848-1921; e-mail: info@hfbf.org

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Monday March 23, 2009 1:15 pm

HB 611 HD 1 Proposed SD1 RELATING TO TAXATION

Chair Fukunaga & Members of the Committee,

The Hawaii Farm Bureau Federation is the largest general agriculture organization in the State of Hawaii with over 1600 members Statewide. We **“Support HB 611 HD 1”** our members our directly affected by taxation and we respectfully ask you to offer the GET tax exemption to all agricultural products shipped, loaded and transported within the state of Hawaii.

As the livestock industry is critical to Hawaii’s agriculture industry they should be included in the definition for this exemption. The language of this bill will create inclusive language for all agricultural commodities.

We are not clear on why non-Hawaii agriculture products are afforded the same exemption as Hawaii grown products; therefore we ask the committee to clarify the intent behind this language. The exemption for Hawaii grown products needs to be continued; however non-Hawaii products should **“not”** be given the same exemption if the products are imported for sale within the State, this will encourage the purchase of Hawaii Grown. The percentages may not be substantial however every dollar a local producer saves will help their economic sustainability and level the playing field between Hawaii producers & imported agricultural products. Considering Hawaii agricultural producers dollars are kept within the State of Hawaii; not exported we urge the benefits to be applied to Hawaii’s producers.

Thank you for the opportunity to testify on this issue.

Respectfully,

Hawaii Farm Bureau Federation



March 22, 2009

Chair Carol Fukunaga
Senate Committee on Economic Development and Technology
Hawaii State Senate
State Capitol, Room 016
Honolulu, HI 96813

RE: HB 611, HD 1, Proposed SD 1, Relating to Taxation

Dear Chair Fukunaga and members of the Senate Economic Development and Technology Committee:

The Hawai'i Alliance of Nonprofit Organizations (HANO) appreciates the need to better understand the financial impact that tax credits and exemptions have on the state budget. We are confident that upon further exploration of HRS 237-23, the Department of Taxation, along with the Department of Business Economic Development and Tourism will determine in 2014 that the tax exemption to charitable organizations is well justified.

Nonprofits are tax-exempt because they provide a social good that government would otherwise have to furnish. Nonprofits are able to provide these services more economically and efficiently than the state, but taxing them would add tremendously to their costs and hinder their ability to serve the community.

This bill also proposes that a technical advisory group be formed made up of only state departments to study the exemptions and credits and to make recommendations to the Department of Taxation and Department of Business Economic Development and Tourism. We strongly suggest that community-based groups like HANO be included in the technical advisory group to provide relevant and critical data on the nonprofit sector that will better inform the decision-making process.

HANO unites and strengthens the nonprofit sector as a collective force to improve the quality of Hawai'i. It works in the areas of leadership and convenings, advocacy and public policy, research and information, communications, professional development and products and capacity building services for its members.

We understand the intent of HB 611 HD 1, SD 1, but would be further comforted if reference to HRS 237-23 was removed entirely from the bill. Thank you for the opportunity to provide testimony.

Lisa Maruyama
President and CEO

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

FROM: Dyan M. Medeiros, Chair
Family Law Section, Hawai'i State Bar Association
E-Mail: d.medeiros@hifamlaw.com
Phone: 524-5183

HEARING DATE: March 23, 2009 at 1:15 p.m.

RE: AMENDED Testimony Opposing HB611, HD1, proposed SD1 In Part

Good afternoon Senator Fukunaga, Senator Baker, and members of the Committee. My name is Dyan Medeiros. I am an attorney who concentrates her practice in Family Law. I am also the current Chair of the Family Law Section of the Hawaii State Bar Association. I am here today in my capacity as the Chair of the Family Law Section¹ to testify against HB611, HD1, proposed SD1 insofar as it applies to HRS §237-24(7).

For the reasons described below, I believe that SD1 should be amended to exempt HRS §237-24(7) from the review and automatic repeal required just as it currently exempts HRS §237-24(6) from such review and automatic repeal.

HRS §237-24(7) exempts alimony (and similar payments) from the general excise tax. HB611, HD1, SD1 would repeal the exemption in HRS §237-24(7), effective December 31, 2010, if the Department of Taxation fails to submit a complete and accurate evaluation of the exemption.

Under HRS §237-13, the General Excise Tax is to be levied, assessed, and collected “against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified...”. (Emphasis added.)²

¹ This testimony reflects the position of the Family Law Section only and does not necessarily represent the view of the Hawai'i State Bar Association as a whole.

² HRS §237-13 then identifies those businesses and activities as “manufacturers”, “business of selling tangible personal property; producing”, “contractors”, “theaters, amusements, radio broadcasting stations, etc.”, “sales representatives, etc.”, “service business”, “insurance producers”, “receipts of sugar benefits payments”, and “other business”.

Alimony payments have nothing to do with the recipient's business or other activities. Alimony payments are a form of income and are made by one spouse to the other during and/or after their divorce case based on the financial need of the recipient spouse and the ability of the payor spouse to contribute to that need.

Alimony payments are a transfer of income earned by one spouse (or former spouse) to the other spouse (or former spouse). As such, they are appropriately subject to income tax. (Alimony payments are already subject to federal and state income tax. They are tax deductible by the payor and taxable as income to the recipient.)

This bill would tax the recipient of alimony (usually the former wife) twice. The alimony recipient will then have less money to meet his or her needs and the needs of his or her family. All this bill achieves is the taking of more money (at the rate of 4.712% on Oahu and 4.166% on the Neighbor islands) from Hawai'i's families and the giving of that money to the State. This will place an unreasonable financial burden on those families that can least afford such a burden.

It makes little sense to impose the general excise tax on alimony payments. It would be the same as imposing the general excise tax on wages or salaries paid by an employer. The proposed SD1 specifically exempts HRS §237-24(6) from the review and automatic repeal required by the bill presumably because it makes no sense to subject wages or salaries to the general excise tax. HRS §237-24(7) should be added to the exemption for the same reason.

Thank you for the opportunity to testify in opposition to part of HB611, HD1 proposed SD 1.

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN OPPOSITION TO HB 611, HD 1, PROPOSED SD 1,
RELATING TO TAXATION

March 23, 2009

Via e mail: edttestimony@capitol.hawaii.gov
Honorable Senator Carol Fukunaga, Chair
Honorable Senator Rosalyn H. Baker, Vice Chair
Committee on Economic Development and Technology
State Senate
Hawaii State Capital, Conference Room 016
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: HB 611, HD 1,
PROPOSED SD 1,
Relating to Taxation

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

Thank you for the opportunity to testify in opposition to HB 611, HD 1, Proposed SD 1, relating to taxation.

Our firm represents the American Council of Life Insurers (“ACLI”), a national trade association whose three hundred forty (340) member company’s account for 94% of the life insurance premiums and 94% of the annuity considerations in the United States among legal reserve life insurance companies. ACLI member company assets account for 93% of legal reserve company total assets. Two hundred fifty-three (253) ACLI member companies currently do business in the State of Hawaii.

Section 8(a) of the Proposed SD 1 of the bill (pages 50-51) directs the Department of Taxation (“DOTAX”) and the Department of Business, Economic Development and Tourism (“DBEDT”) to perform an evaluation of general excise tax credits and tax exemptions and to submit its report to the Legislature. In the case of Section 237-24, which provides exemptions relating to life insurance death benefits, accidental death benefits, disability insurance payments and amounts received under life insurance, endowment or annuity contracts, other than the death benefit payable under a life insurance policy, and long term care insurance (“Insurance Proceeds”), the report is to be submitted to the Legislature 20 days prior to the 2011 Legislative Session. The two departments are tasked with evaluating “the fiscal impacts and economic benefits” of the current exemption granted to Insurance Proceeds from the general excise tax.

Hon. Senator Carol Fukunaga, Chair
Hon. Senator Rosalyn H. Baker, Vice Chair
Committee on Economic Development and Technology
State Senate
Re: HB 611, HD 1, Proposed SD 1, Relating to Taxation
March 23, 2009
Page 2

Section 8(a) of the bill automatically repeals the exemption on Insurance Proceeds on December 31, 2011, unless, presumably, DOTAX and DBEDT (in its report) recommend otherwise (page 51, at lines 5-15, and page 52, at lines 1-3).

Taxing these proceeds is unprecedented. No state in the union taxes Insurance Proceeds; nor does the United States Government.

ACLI generally believes that as a matter of public policy, the State of Hawaii should encourage individuals to provide for their own financial security and the financial security of their families and others who are dependent upon them for their financial support and well being. Life and disability insurance and annuities which provide an income that you cannot outlive, provide individuals with this protection.

If a family is unable to provide for their own protection and support in the event of a loved one's death, sickness or injury, the State will need to spend its scarce resources for these purposes.

For the foregoing reasons, ACLI strongly opposes HB 611, HD 1, Proposed SD 1, and requests that as respects the taxation of Insurance Proceeds this Committee defer passage of this bill. Again, thank you for the opportunity to testify in opposition to HB 611, HD 1, Proposed SD 1.

Sincerely yours,

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation

By: _____
OREN T. CHIKAMOTO
ochikamoto@chctlaw.com
Direct: 808.524.9630

OTC:skuw

cc Joann Waiters, Esq.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
CHRISTOPHER G. PABLO
ANNE T. HORIUCHI
MIHOKO E. ITO

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
cpablo@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com

MEMORANDUM

TO: Senator Carol Fukunaga
Chair, Committee on Economic Development and Technology
Hawaii State Capitol, Room 016

FROM: Gary M. Slovin

DATE: March 22, 2009

RE: H.B. 611, H.D. 1, proposed S.D. 1 – Relating to Taxation
Hearing: Monday, March 23, 2009 at 1:15 p.m.

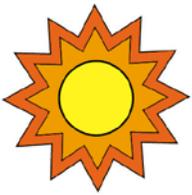
Dear Chair Fukunaga and Members of the Committee on Economic Development and Technology:

I am Gary Slovin, testifying on behalf of Covanta Energy Group, the operator of the HPOWER waste-to-energy facility at Campbell Industry Park.

Covanta respectfully opposes H.B. 611, H.D. 1, proposed S.D. 1, to the extent that Section 8 at page 56, lines 9-14 may result in the repeal of the tax exemption for a) air pollution control facilities and b) solid waste processing, disposal, and electric generating facilities. These tax exemptions apply to the operations of the HPower waste-to-energy plant in Campbell Industrial Park. Much of the tax that would be imposed through the repeal of these sections would be borne by taxpayers of the City and County of Honolulu. Accordingly, the repeal of the exemptions would not increase the funds available to reduce the deficits being faced by both State and County governments. For these reasons, we oppose the automatic repeal of the exemptions that would occur, should the Department of Taxation fail to properly submit its evaluation of these tax exemptions.

Thank you very much for the opportunity to submit comments.

March 22, 2009
Page 2



INTER-ISLAND SOLAR SUPPLY

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TESTIMONY OF INTER-ISLAND SOLAR SUPPLY
IN REGARD TO H.B. 611 HD1 PROPOSED SD1, RELATING TO TAXATION
BEFORE THE SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY
MONDAY, MARCH 23, 2009

Chair Fukunaga, Vice-Chair Baker and members of the committee, my name is Cully Judd and I represent Inter-Island Solar Supply, a wholesale distributor of renewable energy systems and components established in 1975, and presently doing business on Oahu, Maui, and the Big Island.

Inter-Island Solar Supply (IISS) supports the intent of the proposed SD1 to H.B. 611 HD1, and would like to offer the following amendments to Part II which, if adopted, would improve achievement of the bill's objectives.

PART II, SECTION 7, p. 39. IISS commends the committee for adopting the analysis methodology used by DBEDT for its analysis of the renewable energy technologies credits as documented in the Report of the Energy-Efficiency Policy Task Force in 2002.

PART II, SECTION 10(a),(b),(c),(d). IISS suggests that the term found in the various subsections “[~~fiscal impacts and economic benefits~~]” be replaced with “fiscal and economic impacts, net of the foregone opportunities resulting from the investment in the credit or exemption.”

Justification. Not all economic impacts may be beneficial. Changing the language makes the analysis more neutral. Expanding the scope of the analysis by including the opportunity costs foregone will provide a more meaningful analysis.

PART II, SECTION 10(f)(1), p. 57. IISS recommends that DBEDT’s furnish DOTax an “economic and fiscal impact analysis, not just an “economic impact analysis”.

Justification. It is important for DBEDT analysis to include a fiscal impact component. This was the methodology used in the Report of the Energy-Efficiency Policy Task Force in 2002. Without a fiscal component to DBEDT’s analysis, there are two possible outcomes: a fiscal impact will not be analyzed or DOTax will perform the analysis. Without a fiscal impact analysis, the legislature have incomplete information. If DOTax performs the fiscal analysis, the results will overstate the cost to the State because DOTax scope is limited to an accounting perspective and not an investment perspective. Historically, DOTax has only looked at the cost of the credit and has ignored the benefits of the credit, such as GET collections from the sale, income tax collections from the jobs created, and additional GET collections from purchases resulting from keeping money in the State.

I respectfully request this committee to adopt the changes proposed above. Thank you for the opportunity to testify.



HO'ŌLA LĀHUI HAWAI'I
P.O. Box 3990; Līhu'e, Hawai'i
Phone: 808.240.0100 Fax: 808.246.9551

DATE: 3/21/09

TO: Economic Development and Technology Committee
The Honorable Senator Carol Fukunaga, Chair
The Honorable Senator Rosalyn H. Baker, Vice-Chair

From: David Peters

OPPOSITION TO HB 611, HD1

03-23-09 1:15 PM in conference room 016.

Ho`ola Lahui Hawai`i is in strong **opposition** to HB 611, HD1 in regards to charging patients for prescription medications and prostheses. While our state is undergoing economic hardship it seems inappropriate to tax health care related matters to generate needed revenues.

It appears that some non-profit organizations providing needed health care to those most in need would also lose their current tax exemption from the General Excise Tax.

We are very understanding as it relates to balancing the budget but it does not appear that this is the best method in helping to achieve that laudable goal.

We urge you not to pass this bill out in its current form as it relates to taxing pharmaceutical, prosthetics, and nonprofit health care providers.

Thank you for the opportunity to submit testimony.

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Monday March 23, 2009 1:15 pm

HB 611 HD 1 Proposed SD1 RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

My name is Darren Strand, and I am writing on behalf of the membership of the Maui County Farm Bureau.

Over the past few years there have been several issues that seem to divide our membership and the public with respect to agriculture. However, at the core level, there are a handful of key issues that are impacting all aspects of agricultural. Some of these are; rising input costs, lack of availability of skilled labor and rising costs to get products to market. Exempting our livestock producers from the GET on interisland product movement would directly address one of these issues.

Maui County Farm Bureau strongly supports the provisions of HB 611 HD1 Proposed SD1 which would exempt Hawaii livestock from General Excise taxes on interisland shipping costs.

The law currently exempts agricultural commodities from G.E.T., and livestock are not included in the chapter's definition of an "agricultural commodity". The language in this bill would rectify this problem.

Thank you for giving me the opportunity to testify in favor of this very important issue.

Darren Strand
President, Maui County Farm Bureau
(808) 871-0388

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Hearing date: Monday March 23, 2009 1:15 pm

HB 611 HD 1 Proposed SD1 RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

My name is William G. Jacintho, and I am a fourth generation Rancher, and the Maui Cattlemen's Association President. The Maui Cattlemen's Association, represents livestock producers from Maui, Molokai, and Lanai. The Association strongly supports the provisions of HB 611 HD1 Proposed SD1 which would exempt Hawaii livestock from General Excise taxes on interisland shipping costs.

The law currently exempts agricultural commodities from G.E.T., and livestock production are not included in the chapter's definition of an "agricultural commodity". The language in this bill would rectify this problem.

Thank you for giving me the opportunity to testify in favor of this very important issue.
William G. Jacintho

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Monday March 23, 2009 1:15 pm

HB 611 HD 1 Proposed SD1 RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

My name is Brendan Balthazar, and I am the owner of Diamond B Ranch. I run a cattle operation on Maui and have leases totaling 6200 acres. I strongly supports the provisions of HB 611 HD1 Proposed SD1 which would exempt Hawaii livestock from General Excise taxes on interisland shipping costs.

The law currently exempts agricultural commodities from G.E.T., and livestock are not included in the chapter's definition of an "agricultural commodity". The language in this bill would rectify this problem. As you all know livestock is an agricultural commodity . Unfortunately the way laws are written and words left out the livestock industry will also be left out. I was not aware that the current way that the G.E.T. is being submitted would only exempt fruits and vegetables. Agriculture products should include everything raised , planted,and grown.

Thank you for giving me the opportunity to testify in favor of this very important issue.

Brendan Balthazar
103 Maha Rd.
Makawao Maui 96768

Monday March 23, 2009 1:15 pm

HB 611 HD 1 Proposed SD1 RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

My name is James Robello. I strongly supports the provisions of HB 611 HD1 Proposed SD1 which would exempt Hawaii livestock from General Excise taxes on interisland shipping costs.

The law currently exempts agricultural commodities from G.E.T., and livestock are not included in the chapter's definition of an "agricultural commodity". The language in this bill would rectify this problem.

Thank you for giving me the opportunity to testify in favor of this very important issue.

Testimony for EDT 3/23/2009 1:15:00 PM HB611

Conference room: 016

Testifier position: support

Testifier will be present: No

Submitted by: Kathleen Yokouchi

Organization: Individual

Address: 3075 Ala Poha Place, #1804 Honolulu, HI

Phone: (808) 833-6222

E-mail: Kathleen.L.Yokouchi@dcca.hawaii.gov

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Comments: