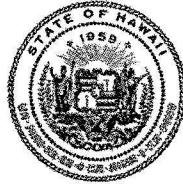


LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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DIRECTOR OF TAXATION

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HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS CONCERNS

TESTIMONY REGARDING HB 3255 RELATING TO TAXATION

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

DATE: JANUARY 31, 2008

TIME: 8:30AM

ROOM: 325

This bill would exempt aviation fuel purchased from a foreign trade zone from the state general excise and use taxes for fuel used in inter-island travel.

The Department of Taxation (Department) takes **no position** on this legislation; however **offers comments and the revenue impact.**

This bill amends the general excise and use tax laws regarding sales of aviation fuel. Importantly, this legislation consists of suggestions the Department has made regarding the taxation of aviation fuel purchased from a foreign trade zone, namely that the exemption be provided for in Chapter 237 and 238, HRS. Presently, aviation fuel purchased in a foreign trade zone is exempt from state taxation for those flights that are bound for an out-of-state or foreign destination. Because these flights are considered within interstate or foreign commerce, taxation is exempt pursuant to federal law.

I. SUBSTANTIVE COMMENTS.

The Department offers the following comments—

ELIMINATE CAPS—The Department does not support caps on credits or exemptions throughout the tax code. The Department is aware of one such cap, which is the Ko Olina credit. However, this credit applies to a far smaller universe of taxpayers. Caps on exemptions specifically are the most difficult to administer because there is no guidance provided in the statute for how to administer them. For example, is the exemption to be claimed on a first-come-first-served basis? Also, tax returns are filed periodically, which could likely result in going over the cap during a given period. Lastly, the caps become more prohibitive as fuel costs rise. The caps remain fixed, while the value of fuel (and the tax dollars generated) increase.

STUDY GROUP—The Department does not object to studying the economic impact of this legislation. However, the Department will be unable to share taxpayer information with the group.

II. REVENUE IMPACT.

Based upon the caps, this legislation will result in a revenue loss of \$3.8 million per year. Please note that the current drafting is ambiguous and could be interpreted to cost as high as \$7.6 million because the \$3.8 million could be interpreted as to apply separately to each tax type.



TOURISM LIAISON

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Written statement of
MARSHA WIENERT
Tourism Liaison
Department of Business, Economic Development & Tourism
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS CONCERNS
Thursday, January 31, 2008
8:30 a.m.
State Capitol, Conference Room 325
in consideration of
HB 3255
RELATING TO TAXATION.

Chair Yamashita and Members of the House Committee on Economic Development and Business Concerns.

The Department of Business, Economic Development and Tourism supports the intent of HB 3255, which exempts from general excise and use taxes the fuel sold for intrastate air transportation by common carriers.

In as much as we support the intent of HB 3255 and believe that the intrastate carriers should have the same exemptions in general excise and use taxes as airlines traveling out-of-state, we are concerned about the cost implications generated by this proposal.

Thank you for the opportunity to comment on HB 3255.

**TESTIMONY OF KEONI WAGNER ON BEHALF OF HAWAIIAN AIRLINES
IN SUPPORT OF H.B. NO. 3255, RELATING TO TAXATION**

January 31, 2008

To: Chairman Kyle T. Yamashita and Members of the House Committee on Economic Development and Business Concerns:

My name is Keoni Wagner and I am the Vice President for Public Affairs for Hawaiian Airlines presenting this testimony on behalf of Hawaiian Airlines in support of H.B. No. 3255.

This bill would provide an exemption from State General Excise Tax for aircraft fuel that is purchased from a foreign trade zone (FTZ) and used to operate interisland flights. It represents our view of a final version of the bill that had general support at the conclusion of the last legislative session. It also includes additional language that sets out a process for measuring the exemption's effects on the airlines and the State. Having seen consensus on this approach as an acceptable way forward last year, we felt this was a logical place to start the discussion this year.

And, because the environment has changed since last year, rather than rely on the bill that remains in the conference committee, we felt it important to revisit a discussion of the issues this year in order to maintain and hopefully strengthen the consensus for a stronger bill this year.

The most significant change in our circumstances from last year to this year is the one that is affecting all carriers: the dramatic increase in the price of fuel. Every penny change in the price of fuel hits Hawaiian's bottom line to the tune of \$1.4 million on an

annual basis, and our average fuel price rose more than 68 cents over the course of last year.

This is why an exemption is more important than ever to the airlines that operate the state's interisland air transportation system, and we respectfully ask your support in passing an exemption this year.

Thank you for the opportunity to testify on this measure.



A I R L I N E S

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Representative Kyle Yamashita, Chair
Representative Glenn Wakai, Vice-chair

Committee on Economic Development and Business Concerns
Thursday, January 31 2008, 8:30 AM

RE: HB 3255 Relating to Taxation

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

My name is Stephanie Ackerman and I am Senior Vice President, Public Relations and Government Affairs, for Aloha Airlines. Aloha supports the general intent of HB3255, however, our preference is for HB2860 which would provide a full exemption on General Excise and Use Tax to Hawaii's inter-island airlines when they purchase jet fuel from a foreign trade zone (FTZ) for flights flown between points within the State of Hawaii.

This would be consistent with Federal law governing foreign trade zones and interstate commerce. More importantly, we believe that failure to grant an exemption for inter-island flights goes against the spirit, if not the letter of Federal law governing foreign trade zones.

We also believe that when Hawaii lawmakers created the exemption for FTZ purchases they did not intend to punish locally based airlines by singling out their fuel purchases for tax purposes. However, the law is not being applied consistently and legislative action is required to remedy the discriminatory practice against Hawaii-based air carriers, who like out-of-state carriers, are engaged in interstate commerce even when flying inter-island.

On behalf of Aloha's more than 3,500 employees, we urge you to do what is fair, by clarifying and expanding the scope of the current GET exemption to include the exemption of fuel from the FTZ for inter-island flights.

