

**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
THEODORE E. LIU
Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON WAYS AND MEANS

Thursday, February 21, 2008

9:30 AM

State Capitol, Conference Room 211

in consideration of

SB 2455 SD1
RELATING TO RENEWABLE ENERGY TECHNOLOGIES.

Chair Baker, Vice Chair Hooser, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) appreciates SB 2455 SD1 that provides renewable energy technology system tax credits for installations of hydrogen energy systems. There have been many good ideas introduced this legislative session that support the State's economic development goals. We note, however, that this tax credit was not included in the Executive's Supplemental Budget, and request that this tax credit not displace the priorities contained in that budget.

The use of renewable hydrogen technologies is an important component in Hawaii's ability to transition to a clean energy future. However, we have concerns with this measure because these technologies are generally at an early stage of commercialization and should be required to meet equipment and installation standards to ensure the deployment of appropriate technologies. Other states - including Oregon, California, and New York - with similar

incentives for fuel cell systems, have addressed these concerns by requiring a certification process and/or that systems meet performance and safety standards and have multi-year warranties.

We defer to the Department of Taxation on interpretation, administration, and revenue impact of the proposed tax credit.

Thank you for the opportunity to offer these comments.

testimony

From: kailuakona3000@gmail.com on behalf of Guy Toyama [guy@h2-techs.com]
Sent: Tuesday, February 19, 2008 7:01 PM
To: testimony
Subject: Feb 21, 9:30 am Room 211, Ways and Means Committee SB2455_SD1

Ladies and gentlemen:

*I hereby submit the following testimony regarding **SB2455**. The SENATE Ways and Means Committee is set to hear this bill on Thursday, February 21, 2008 at 9:30 am in Conference Room 211.*

I would appreciate if you would make and deliver appropriate number of copies of my testimony for this hearing. Thank you.

TO: THE SENATE WAYS and MEANS COMMITTEE, Senator Rosalyn Baker, Chair; Senator Shan Tsutsui, Vice-Chair

FROM: **Guy Toyama, H2 Technologies, Inc.**

SUBJECT: Testimony relating to RELATING TO RENEWABLE ENERGY TECHNOLOGIES (**SB2455_SD1**)
- set to be heard on 2/21/2008 at 9:30 am in Conference Room 211

I support this bill which I believe will help move Hawaii into a more energy secure and environmentally responsible State. I agree that tackling the issue of transportation fuel will help reduce a major financial burden on the people of Hawaii is good for this State. This bill will help make the purchase of a hydrogen energy system affordable, helping the citizens of Hawaii with easing the burden of high transportation fuel costs as well as help us to rely less on imported fuel sources.

Finally, I support this bill because its intent is to foster production of hydrogen from a renewable energy source such as solar, wind, geothermal, etc.

I encourage this committee to approve **SB2455_SD1** and hasten its passage.

Thank you very much for your consideration of my views and my testimony on this bill.

Respectfully submitted,

Guy Toyama
Chief Operating Officer
H2 Technologies, Inc.
www.h2-techs.com
Tel: 808-938-6325
Email: guy@h2-techs.com

2/19/2008

testimony

From: Keith Davenport [konakeith@yahoo.com]
Sent: Tuesday, February 19, 2008 9:21 PM
To: testimony
Subject: WAM committee 2/21/2008 SB2455_SD1 9:30am Room 211

Ladies and gentlemen:

I hereby submit the following testimony regarding SB2455. The SENATE Ways and Means Committee is set to hear this bill on Thursday, February 21, 2008 at 9:30 am in Conference Room 211.

I would appreciate if you would make and deliver appropriate number of copies of my testimony for this hearing. Thank you.

TO: THE SENATE WAYS and MEANS COMMITTEE, Senator Rosalyn Baker, Chair; Senator Shan Tsutsui, Vice-Chair

FROM: Keith W. Davenport Kailua Kona

SUBJECT: Testimony relating to RELATING TO RENEWABLE ENERGY TECHNOLOGIES (SB2455_SD1) - set to be heard on 2/21/2008 at 9:30 am in Conference Room 211

I support this bill which I believe will help move Hawaii into a more energy secure and environmentally responsible State. I agree that tackling the issue of transportation fuel will help reduce a major financial burden on the people of Hawaii is good for this State. This bill will help make the purchase of a hydrogen energy system affordable, helping the citizens of Hawaii with easing the burden of high transportation fuel costs as well as help us to rely less on imported fuel sources. The key is to generate H2 using a cheap clean source of power.

Finally, I support this bill because its intent is to foster production of hydrogen from a renewable energy source such as solar, wind, geothermal, etc.

I encourage this committee to approve SB2455_SD1 and hasten its passage.

Thank you very much for your consideration of my views and my testimony on this bill.

Respectfully submitted,

Keith W. Davenport
Kailua Kona

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**In Support of Hawaii Senate Bill 2455
Relating to Renewable Energy Technologies that expands the renewable energy
technologies tax credit to include hydrogen energy systems**

To: Senate Ways and Means (WAM) committee
Hawaii State Legislature

From: Rich Romer
IdaTech plc
63065 N.E. 18th Street
Bend, OR 97701
518-729-0161

Thursday, February 21, 2008
9:30a.m.
Conference Room 211

I represent IdaTech plc and am testifying in support of SB2455. IdaTech is a global leader in the development and manufacture of clean and reliable proton exchange membrane (PEM) fuel cell solutions for telecommunications, commercial and industrial backup power. IdaTech's technologies provide solutions for a wide range of applications from portable to off grid power and directly support efforts towards sustainable energy.

SB2455 is an important piece of legislation that can benefit the State of Hawaii and the fuel cell industry. Stationary fuel cell systems are available today and are being deployed in many applications. With the proper incentives, fuel cells systems can play an integral role in our future energy infrastructure.

One current application for stationary fuel cell systems is the mission critical backup power market. Deployed on telecommunications networks and in commercial UPS applications, the systems displace valve regulated lead acid batteries and backup power generators by providing (i) improved reliability (ii) lower emissions (GHG and noise) and (iii) extended run operation. Extended run time is significant in light of the Federal Communications Commission's recent ruling that cell phone towers must have at least 8 hours of on-site backup capability⁽¹⁾.

Operating on hydrogen or hydrogen rich fuels, fuel cells provide a significant reduction in emissions compared to backup power generators typically deployed on telecommunication networks. With the proper incentives, fuel cells are expected to increase their share of the mission critical backup power market and expand in the base load, peak shaving and specialty vehicle applications.

⁽¹⁾ *Katrina Panel Order*, 22 FCC Rcd 10541 (2007).

FUEL CELL DESCRIPTION

A fuel cell is an electrochemical device in which a fuel and an oxidant are combined to produce electricity and heat. With two electrodes separated by an electrolyte, a fuel cell is similar to a battery, except that it operates as long as fuel and air are supplied. Because the fuel is converted to electricity electrochemically, without combustion, the process is highly efficient, clean and quiet.

HOW A PEM FUEL CELL OPERATES

A fuel cell is comprised of two chambers — the anode and the cathode — separated by a membrane. Hydrogen is fed into the anode where the atoms release their electrons when reacting with a platinum catalyst on the membrane. The anode chamber becomes flooded with free electrons and with hydrogen protons (hydrogen atoms stripped of their electrons). The positively charged hydrogen protons pass through the membrane into cathode. The electrons exit the anode and flow into an external electrical circuit. After running through the circuit, the electrons re-enter the fuel cell on the cathode side, completing the electrical path. In the cathode, the hydrogen protons that passed through the membrane combine with the free electrons and with oxygen molecules to produce water and heat.

STATIONARY FUEL CELL BENEFITS

Stationary fuel cells are better suited for intermittent power demand (e.g., backup power) compared to incumbent combustion-based generating technologies for the following reasons:

- Lowest environmental impact of any power generation system using similar fuels
- High quality power produced
- Ease of siting at or near the point of use
- Unattended operation, low maintenance, high availability
- Ability to cycle on and off and follow the load to meet the power demand
- Minimal permitting and installation time.

CONCLUSION

We support SB2455 and the inclusion of fuel cells as hydrogen energy systems as part of a portfolio of clean energy technologies that will ultimately lead to a sustainable future for the State of Hawaii.

testimony

From: Stefanie Gubser [stefanie@konabrewingco.com]
Sent: Wednesday, February 20, 2008 12:13 PM
To: testimony
Cc: kailuakona3000@gmail.com
Subject: WAM committee 2/21/2008 SB2455_SD1 9:30am Room 211

TO: THE SENATE WAYS and MEANS COMMITTEE, Senator Rosalyn Baker, Chair; Senator Shan Tsutsui, Vice-Chair

FROM: **Mattson C. Davis, President & CEO, Kona Brewing Company**

SUBJECT: Testimony relating to RELATING TO RENEWABLE ENERGY TECHNOLOGIES (*SB2455_SD1*)
- set to be heard on 2/21/2008 at 9:30 am in Conference Room 211

I support this bill which I believe will help move Hawaii into a more energy secure and environmentally responsible State. I agree that tackling the issue of transportation fuel will help reduce a major financial burden on the people of Hawaii is good for this State. This bill will help make the purchase of a hydrogen energy system affordable, helping the citizens of Hawaii with easing the burden of high transportation fuel costs as well as help us to rely less on imported fuel sources.

Finally, I support this bill because its intent is to foster production of hydrogen from a renewable energy source such as solar, wind, geothermal, etc.

I encourage this committee to approve *SB2455_SD1* and hasten its passage.

Thank you very much for your consideration of my views and my testimony on this bill.

Respectfully submitted,

Stefanie Gubser for Mattson C. Davis
President & CEO
Kona Brewing Company

Stefanie Gubser
Executive Assistant
Kona Brewing Company
Phone: (808) 334-1133
Fax: (808) 334-1884
www.KonaBrewingCo.com

STATEMENT OF PLUG POWER INC. ON SB2455

**In Support of Hawaii Senate Bill 2455
Senate Draft 1, Relating to Renewable Energy Technologies**

To: Senate Committee on Ways and Means
Hawaii State Legislature

From: Katrina Fritz Intwala
Plug Power Inc.
518-738-0369

Thursday February 21, 2008
9:30pm
Conference Room 211

I represent Plug Power Inc. and am testifying in support of SB2455. Plug Power is a leader in the development of on-site energy systems utilizing fuel cells for stationary power applications and emergency backup power. Plug Power espouses the values of sustainability and is commercializing fuel cell systems that contribute to the United States' energy independence.

The Committee cannot underestimate the importance that this legislation will have on the State of Hawaii. Renewable energy technologies, including ultra-clean technologies such as fuel cells, are critical in addressing natural disasters, resource depletion and global environmental degradation. Plug Power believes that we as a nation currently have an opportunity to make a great difference to our economy, to our world position, and to the environment. The dollar costs associated with transforming our energy market are extraordinary, and the regulatory challenges daunting. We face an upcoming change in our energy situation that is related to worldwide adverse environmental impacts and the growing scarcity of natural resources. As we move from a centralized energy distribution model to a mosaic of centralized and distributed generation based on fossil fuels, wind, biomass, solar, nuclear and others, we will require inspired leadership from our government over an extended period of time. To maintain our competitive advantage, the U.S. and the State of Hawaii must be a technological leader in the emergence of this economic opportunity.

Attached is a letter from 25 national environmental organizations supporting a federal tax credit for fuel cells and solar. Similarly, in New York, a coalition of environmental groups and clean energy producers submitted formal testimony to the New York Public Service Commission, urging that fuel cells should be included within that State's Renewable Portfolio Standard. This coalition included the American Lung Association of New York, NRDC, New York PIRG, Sierra Club Atlantic Chapter, Union of Concerned Scientists, the American Wind Energy Association, and the Solar Energy Industries Association.

STATIONARY FUEL CELL DESCRIPTION

A stationary fuel cell is an on-site power generation system that electrochemically combines hydrogen with oxygen in the air to form electricity. Hydrogen fuel can be generated by electrolyzing water with low-cost off-peak electricity, or with electricity obtained from renewable sources such as solar, wind, or biomass. This makes such fuel cell systems highly

STATEMENT OF PLUG POWER INC. ON SB2455

efficient as well as environmentally friendly. The heart of the stationary PEM fuel cell system is the stack, which is comprised of the same technology as is used in most fuel cell vehicle applications.

STATIONARY FUEL CELL BENEFITS

- In backup applications, fuel cells can provide power for critical infrastructure such as communication systems and water utilities.
- Fuel cell systems are designed to stringent standards developed by the telecommunications industry that qualify equipment under extreme environmental conditions and requires specific levels of technological resiliency including temperature extremes, wind-driven rain, altitude, earthquake and ballistics tolerance.
- When fueled by hydrogen from a renewable energy source such as solar, wind, or hydropower, or if the fuel source is bio-fuel like ethanol from plant wastes, CO2 emissions are net zero.
- Fuel cells can provide highly reliable electricity. Some studies estimate that power quality and reliability issues cost our economy alone as much as \$150 billion per year in lost materials and productivity, while others have reported estimates as high as \$400 billion per year.
- Because fuel cells provide electricity at the site of consumption, they reduce the load on the existing transmission and distribution system. Siting the fuel cells at the point of consumption also avoids the line losses (up to 15%) inherent in moving electricity and provides an alternative to costly and unattractive traditional power lines. Provides critical backup when grid power is unavailable due to weather related outages and can carry the load at the site of consumption until grid power is restored.

CONCLUSION

Hawaii has taken a leadership role in adopting new energy technologies. We support SB2455 and the inclusion of fuel cells as part of a portfolio of clean energy technologies that will ultimately lead to a sustainable future for the State of Hawaii.

American Lung Association • Apollo Alliance • Audubon Society • Business Council for Sustainable Energy • Clean Air Watch • Clear the Air • EarthJustice • Environment & Energy Study Group • Environmental Defense • Environmental Working Group • Friends of the Earth • Greenpeace • Interfaith Environmental Council • National Association of State Energy Officials • National Environmental Trust • National Parks Conservation Association • National Wildlife Federation • Natural Resources Defense Council • Northeast States for Coordinated Air Use Management • Physicians for Social Responsibility • Public Citizen • Sierra Club • Southern Alliance for Clean Energy • Union of Concerned Scientists • U.S. Green Building Council • U.S. PIRG

April 19, 2007

Re: *Securing America's Energy Independence Act*, HR 550

Dear Chairman Rangel & Ranking Member McCrery

On behalf of our members, we are writing to urge your support and co-sponsorship of the *Securing America's Energy Independence Act*.

The *Securing America's Energy Independence Act* would extend existing solar and fuel cell credits for eight years. This responsible, forward-looking bill would provide the stability these industries need to make major new investments, serve as a down payment on efforts to address global warming, reduce air pollution, help relieve our national energy crunch and create quality, high-paying technology jobs.

The United States possesses some of the best solar resources in the world, and it is time that we start putting the sun to work for all Americans. Solar energy is a clean renewable energy source. It helps us reduce the use of high cost natural gas used for water heaters and peak electricity production. Additionally, the distributed nature of solar power relieves strains on our over-taxed transmission system and thereby improves grid integrity to safeguard against grid failure.

Fuel cells for certain applications are providing early adopters with clean, quiet and efficient power. Extension of the investment tax credit will not only provide stability and certainty for the industry, it will help hasten the introduction of other fuel cell applications, as improved supply chains bring down component costs and supplier competition spurs innovation.

You have an opportunity to provide energy leadership, diversify our energy portfolio and expand America's clean, carbon-smart energy industry. Passage of a long-term investment tax credit is forecasted to produce billions of dollars of new investment, tens of thousands of jobs, and trillions of cubic feet of avoided natural gas consumption and the consumer savings that come with it.

We ask you to demonstrate your support for carbon-smart, increasingly affordable and independent renewable energy by supporting and cosponsoring the *Securing America's Energy Independence Act*, HR 550.

Very truly yours,

American Lung Association

Apollo Alliance

Audubon Society

Business Council for Sustainable Energy

Clean Air Watch

Clear the Air

EarthJustice

Environment & Energy Study Group

Environmental Defense

Environmental Working Group

Friends of the Earth

Greenpeace

Interfaith Environmental Council

National Association of State Energy Officials

National Environmental Trust

National Parks Conservation Association

National Wildlife Federation

Natural Resources Defense Council

Northeast States for Coordinated Air Use Management

Physicians for Social Responsibility

Public Citizen

Sierra Club

Southern Alliance for Clean Energy

Union of Concerned Scientists

U.S. Green Building Council

U.S. PIRG

cc: Speaker Pelosi, Leader Boehner, Chairman Neal, Ranking Member English,
Members of the Committee on Ways and Means

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Hydrogen energy system**BILL NUMBER:** SB 2455, SD-1**INTRODUCED BY:** Senate Committee on Energy and Environment

BRIEF SUMMARY: Amend HRS section 235-12.5 to allow each individual or corporate income taxpayer to claim a tax credit for a hydrogen energy system. Single-family residential property shall be eligible for a credit of 35% of the actual cost of the system or \$5,000 per unit, whichever is less. A system for a multi-family residential property is eligible for a credit of 35% of the actual cost or \$10,000, whichever is less. A system for a commercial property is eligible for a credit for 35% of the actual cost or \$15,000, whichever is less.

Defines "hydrogen energy system" for purposes of the measure. Makes conforming amendments to Act 240, SLH 2006.

EFFECTIVE DATE: Tax years beginning after December 31, 2007

STAFF COMMENTS: It appears that this measure is proposed to encourage taxpayers to use hydrogen energy systems in the state by allowing taxpayers to claim a 35% tax credit for the cost of a system.

While some may consider an incentive necessary to encourage the use of energy conservation devices, including hydrogen energy systems, it should be noted that the high cost of these energy systems limits the benefit to those who have the initial capital to make the purchase. Currently, a 5kW hydrogen energy system costs between \$15,000 and \$29,000 depending on the options and application. It is doubtful that the state credits alone will encourage many more taxpayers to switch to the hydrogen energy systems proposed by this measure, given that hydrogen technology is rapidly developing and at a relatively high cost to acquire. Until the technology can make hydrogen energy systems affordable to the general public, no subsidy short of 100% will convince users to convert.

Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars albeit out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as kind about the expenditure of these funds when schools go wanting for books and repairs, or for the lack of space prisoners are sent off to the mainland for incarceration or there isn't enough money for substance abuse treatments?

Utilizing tax credits other than to alleviate an excessive tax burden cannot be justified and is of a questionable benefit relative to the cost for all taxpayers. If lawmakers want to encourage the use of hydrogen energy systems by reducing the cost of such systems, then a direct appropriation to subsidize that cost would be more accountable and transparent.

Digested 2/20/08



National Hydrogen Association

1211 Connecticut Ave NW, Suite 600

Washington, DC 20036-2701 U.S.A

Phone: 202-223-5547

Fax: 202-223-5537

Email: info@HydrogenAssociation.org

In Support of Hawaii Senate Bill 2455

Renewable Energy Technologies; Tax Credit; Hydrogen Energy Systems

To: Senate Committee on Ways and Means
Hawaii State Legislature

From: Jerome Hinkle

National Hydrogen Association; 1211 Connecticut Ave., NW; Washington, DC 20036
202-223-5547

Thursday February 21, 2008

9:30 am

Conference Room 211

The National Hydrogen Association would like to enthusiastically support S.B. 2455.

The NHA represents a wide variety of energy, auto and hydrogen and fuel cell companies, universities and research institutions. For 20 years we have supported research, development, testing and commercialization of a broad family of technologies and systems to help make the hydrogen economy a reality. We believe in the necessity of establishing markets for clean, efficient and sustainable hydrogen and fuel cell systems that contribute to our energy independence and economic growth.

The Committee cannot underestimate the importance of this legislation to the State of Hawaii. Renewable energy technologies, including ultra-clean technologies such as hydrogen and fuel cells, are critical in addressing energy supply security, resource depletion and global environmental degradation.

The NHA believes that we as a nation now have the opportunity to make a great difference to our economy, our position in the world, and the global environment. The dollar costs associated with transforming our energy markets are extraordinary, and the regulatory challenges daunting. Direct offshore wealth transfers for our oil import bill are likely to exceed \$3 trillion over the next ten years. Against the backdrop of growing energy demand, we face dramatic change in our energy situation, adverse worldwide environmental impacts and the growing scarcity of natural resources. As we move from a centralized energy distribution model to a mosaic of domestic, centralized and distributed generation based on fossil fuels, wind, biomass, solar, nuclear and others, we will need inspired leadership from our government over an extended period of time. To maintain our competitive advantage, the U.S. and the State of Hawaii must be technological leaders in the emergence of these economic opportunities.

Hawaii has a proud history of supporting innovative hydrogen and fuel cell legislation in the U.S. Congress, first through the dedicated efforts of Senator Spark Matsunaga in the 1990s and now thanks to Senator Daniel Akaka. Senator Akaka was extensively involved in the formation of the *Spark M. Matsunaga Hydrogen Act of 2005*, which is Title VIII. Hydrogen of the *Energy Policy Act of 2005*.

A number of groups representing environmental concerns have argued that tax credits should not be extended to fuel cells using hydrogen derived from fossil fuels because they are not strictly

“renewable.” The legislature should focus on the results that it intends to achieve with the tax credit, rather than the label. If the title of the tax credit included the words “sustainable” or “clean” or “efficient” or “climate-friendly,” then there would be little debate as to whether fuel cells would be eligible.

The position previously taken by environmental groups in Hawaii is out of step with environmental groups and clean energy producers elsewhere. In New York, a coalition of environmental groups and clean energy producers recently submitted formal testimony to the New York Public Service Commission urging that fuel cells should be included within that State’s Renewable Portfolio Standard. This coalition included the American Lung Association of New York, Natural Resources Defense Council, New York Public Interest Research Group, Sierra Club Atlantic Chapter, Union of Concerned Scientists, the American Wind Energy Association, and the Solar Energy Industries Association.

The coalition took a common sense, long-term approach to the definition of “renewable” and explained, referring to fuel cells, that: “some resources must go through a development phase before they can reach full sustainability.” The environmental groups concluded that, “Because fuel cells will play an integral role in a future hydrogen economy, it is imperative to develop the conversion technology.” They also supported the inclusion of fuel cells using natural gas and similar products “as a bridge technology toward a future in which fuel cells will have access to pure hydrogen.”

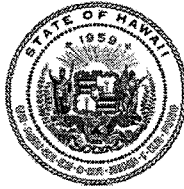
The arguments in the bill are convincing. Hydrogen and fuel cell systems also provide an opportunity, as others have observed, to help smooth the variability in wind and solar electricity production by storing renewable electricity for use at any time of day. This also helps distributed fuel cell generation or vehicles or generating turbines to work effectively upstream of congested nodes on the grid, enabling higher capacity factors and more cost effective utilization of existing power infrastructure. And we would encourage the Committee to consider applying these incentives to available bridge technologies for direct hydrogen combustion, in addition to fuel cell applications. Some vehicle and small engine retrofit equipment is available now, and production hydrogen multifuel vehicles are close to mass production—offering commercial opportunities to develop the necessary hydrogen supply infrastructure.

CONCLUSION

Hawaii has a long tradition of taking a leadership role in adopting new energy technologies. We support S.B. 2455 and the inclusion of hydrogen and fuel cells as part of a portfolio of clean energy technologies that will ultimately lead to a sustainable future for the State of Hawaii.

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

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SENATE COMMITTEE ON WAYS & MEANS

TESTIMONY REGARDING DECISION MAKING AGENDA FOR FEBRUARY 21, 2008

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

DATE: FEBRUARY 21, 2008

TIME: 9:30AM

ROOM: 211

Contained in this testimony are the Department of Taxation's (Department) comments on the Senate Committee on Ways & Means' decision-making agenda for February 21, 2008. Because each measure is before the Committee for decision-making only, the Department's comments are in summary fashion for your convenience—

I. SB 2829, SD 1, RELATING TO TAXATION (SSTP)

This bill provides implementing legislation for the Streamlined Sales & Use Tax Agreement (SSUTA).

The Department takes **no position on the merits of the SSUTA** and stands on its prior testimony submitted to the Committee on Economic Development & Taxation. However, the Department **opposes the redirection** of general excise tax receipts from the general fund to a special fund. The Department points out the following comments:

Delayed Effective Date—The delayed effective date of the bill is appreciated, but the delay may not be long enough to allow these changes to be fully integrated into the computer systems of the Department. A longer delayed effective date would give time for practitioners and businesses to adjust to these changes. Given the challenges the Department would face integrating such large, wholesale changes into its operations, longer than two years may be more realistic of a time frame. The delayed effective date would also provide time to obtain approval from the National SSTP Governing Board to assure that Hawaii's amendments conform to the SSUTA. This is very important since Hawaii's general excise tax is not a sales tax.

Frequent Changes to the SSUTA Will Require Legislative Action—The legislature needs to be aware that the SSUTA is not a static document. It has undergone substantial and frequent

changes since it was adopted on November 12, 2002. It has been amended 11 times.¹ Each change requires member States to possibly amend its law in order to remain in conformity with the SSUTA.

Revenue Impact—The bill would increase revenues by about \$10 million annually. However, joining the SSUTA would entail start-up costs and annual recurring costs. The Department is presently re-examining SSTP implementation costs. The expansion of the GET exemption for blind, deaf, and disabled taxpayers would cost about \$500,000 annually.

II. **SB 2838, SD 1, RELATING TO TAXATION (ELECTRONIC REFUND DEPOSIT)**

This legislation requires the Department to implement necessary procedures to allow e-filing taxpayers to request a direct deposit of refunds to up to three accounts. The Department has **concerns** with this legislation and provides the following comments—

Bill Must Allow Deposit Only Into Certain Accounts—The Department requests that the bill be amended to allow an electronic deposit into only those bank accounts that receive an electronic refund request at the federal level. The amendments made to this measure based upon comments by the Department rely heavily upon federal electronic tax information. If a taxpayer is allowed to insert different accounts than those provided to the IRS, this legislation could have a much greater impact on Department resources and could cost much more to implement.

Appropriation—An appropriation to finance the computer and form costs associated with this measure is necessary. At this time, the Department requests an appropriation in the amount of \$89,000 to carry out the purposes of this proposal.

III. **SB 2819, SD 1, RELATING TO INTRA-COUNTY FERRY SERVICE (Fuel Tax Exemption)**

This legislation exempts sales of fuel to an intra-county ferry service from the fuel tax. The Department takes **no position** on this legislation and offers the following comment for technical correctness

Inappropriate Statutory Placement— The current mechanics of this bill are counterintuitive and it does not make sense to include an exemption section within the assessment section of the license tax. The Department still believes that an exemption for an intra-county ferry service should be included within the current exemption section provided at HRS § 243-7.

Revenue Estimate—The Department's updated revenue estimate provided to the Committee on Economic Development & Taxation was not incorporated into its committee report, which was cited as \$13,500. This legislation will result in no impact to general fund. Highway fund annual revenue will be decreased by \$21,200, starting FY2009.

¹ November 19, 2003, November 16, 2004, April 16, 2005, October 1, 2005, January 13, 2006, April 18, 2006, August 30, 2006, December 14, 2006, June 23, 2007, September 20, 2007, and December 12, 2007

IV. SB 2816, SD 1, RELATING TO TAXATION (Foreign Trade Zone Exemption)

This legislation exempts fuel purchased from a Foreign Trade Zone by a common carrier that flies interisland from the general excise and use taxes.

The Department takes **no position** on this measure and offers one comment—

Definition of "Interstate Air Transportation"—For consistency throughout the proposal, this term should be defined as: **"Interstate air transportation" includes the transportation of passengers or property by aircraft between two points in the State."**

Revenue Impact— It is the Department's position that this legislation will result in a revenue loss of approximately:

- \$5.1 million loss, FY2009.
- \$5.3 million loss, FY2010.
- \$5.5 million loss, FY2011.

110 million gallons of fuel was sold on Oahu in FY2007. From previous estimates, it was found that approximately 55% of this was of non-exempt fuel. GE revenue from fuel was calculated to be (110 million gallons) * (55% non-exempt) * (\$2.00 / gallon) * (4.00% excise tax rate) = \$4.8 million. This was inflated for the relevant fiscal years.

V. SB 3149, SD 2, RELATING TO HIGHWAYS (Requires GET Deposit)

This legislation, among other things, requires a deposit of general excise tax revenues generated from the manufacture and sale of fuels to be deposited to the highway fund. The Department has **strong concerns** with this legislation.

GET Redirect—The Department is always cautious about policy that redirects general excise tax revenue away from the general fund and into specific special funds. The Department is concerned because the general excise tax represents over one-half of the State's overall operating revenue stream. The Department strongly prefers that a direct appropriation be the means for funding this program so that the amount may be budgeted and prioritized just as any other program.

Administrative Issues—The Department also points out that tracking the specific fuel revenues as contemplated by this measure is likely unworkable. The Department does not track the gross proceeds of sales of fuel to the extent requested in this measure. The Department would need an appropriation for computer and form enhancements, as well as additional time, in order to capture the data requested in this measure.

Revenue Estimate—This legislation will result in the following general fund losses:

- **FY2009 (loss): \$36.8 million**
- **FY2010 (loss): \$78.0 million**

- **FY2011 (loss): \$79.1 million**

The taxable gallonage from fiscal year 2007 was used to derive the excise tax receipts derived from the selling of these fuels. Note that gasoline was mostly subject to the GE exemption for alcohol-based fuels, and that oil and gas refining has a special GE exemption for multiple refineries in multi-step refining processes. The revenue impact of each fuel was calculated by:

$(\text{Gallons sold in FY07}) * [(\text{Avg retail price}) * (\text{Retail GE } \{4\% \text{ or } 0\% \}) + (\text{Avg wholesale price}) * (\text{Wholesale GE})]$. The impacts of the individual fuels were summed to get the total revenue impact.

For FY 2010 / FY 2011, the repeal of the GE exemption for ethanol-blended fuels was added to the total.

VI. SB 2455, SD 1, RELATING TO RENEWABLE ENERGY TECHNOLOGIES (Extends Credit to Hydrogen)

This legislation extends the current Renewable Energy Technologies Income Tax Credit to include hydrogen energy systems. The Department has **no additional comments** on this measure.

This bill's revenue estimate is estimated to be minimal. There is no marketed product known that would provide power via hydrogen for residential or commercial use. This leaves commercial R&D as the only probable user of the credit. However previous department rulings regarding this credit dictate that "all additions adding to an existing system shall be treated as one installation" (TIR 07-02). This minimizes the impact due to the \$35,000 limit. With the further consideration that the device must be powered by a renewable energy source, the number of adopters would probably be very low, if any.

VII. SB 2623, RELATING TO RENEWABLE ENERGY TECHNOLOGIES (Extends Credit to Solar)

This legislation amends the current Renewable Energy Technologies Income Tax Credit, by adding a new definition for "solar electric energy systems." The Department **does not like this additional definition** and prefers that a definition in this credit focus on what is put into a machine rather than an approach based upon what the machine creates.

Based upon the Department's estimates, this legislation will not have an impact on the general fund.

VIII. SB 2764, SD 2, RELATING TO ETHANOL FACILITY TAX CREDIT (Removes Caps)

This legislation provides the Ethanol Facilities Tax Credit to large and small refineries for the first 15 million gallons of ethanol produced and eliminates certain caps. The Department of Taxation (Department) takes **no position** on this legislation.

This legislation will currently result in an indeterminate revenue estimate because the credit caps are blank. The amount of revenue loss is dependent upon the change in the annual credit limit. This is currently unspecified.

IX. SB 2986 SD 1, RELATING TO REFUNDABLE RENEWABLE ENERGY TAX CREDIT (Makes Renewable Energy Technologies Tax Credit Refundable)

This measure amends the Renewable Energy Technologies Income Tax Credit by allowing the credit to be refundable for those that have little Hawaii taxable income. The Department of Taxation (Department) **strongly supports** this Lingle-Aiona Administration measure as a policy to encourage additional investment in renewable energy technologies.

Annual revenue loss is estimated to be \$41,000, starting in fiscal year 2009.

X. SB 3215, SD 2, RELATING TO BIODIESEL (Biodiesel Production Incentives)

This legislation, among other things, provides tax incentives for biodiesel production facilities. The Department of Taxation (Department) provides **comments** on this legislation.

Income Tax Exemption—The Department notes that the income tax exemption is vague. It is unclear whether the tax exemption applies to 100% of income derived from the processing of oil seed produced in the State or to 100% of all income from any facility that processes any amount of oil seed produced in the State.

Revenue Impact—Due to the blanks, this bill will result in an indeterminate revenue loss.