LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
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DEPUTY DIRECTOR

STATE OF HAWAII
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SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TAXATION
TESTIMONY REGARDING SB 2932 SD 1
RELATING TO ENVIRONMENTAL RESPONSE TAX

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 12, 2008
TIME: 1:15PM
ROOM: 224

This bill increases the State Environmental Response Tax to $0.25 per barrel of petroleum product. The bill also provides that an unspecified amount be used for concerns relating to drinking water.

The Senate Committee on Energy & Environment amended the bill by defecting its effective date.

The Department has **<u>no comments</u>** on this legislation.

The increased environmental response tax will increase the annual revenue of the Environmental Response Revolving Fund by approximately $7.0 million dollars. Current receipts on the 5-cent per barrel tax are $1.74 million. Increasing the tax an additional 20-cents will raise the receipts by $1.74 million x 4 = $7.0 million.

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

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 ECONOMIC DEVELOPMENT AND TAXATION
Tuesday, February 12, 2008
1:15 PM
State Capitol, Conference Room 224

in consideration of

SB 2932 SD1
RELATING TO ENVIRONMENTAL RESPONSE TAX.

Chair Fukunaga, Vice Chair Espero, and Members of the Senate Committee on Economic Development and Taxation.

Senate Bill No. 2932 SD1, Relating to Environmental Response Tax, addresses the funding stream for State Energy programs by increasing the state environmental response tax from 5 cents a barrel to 25 cents a barrel. The purpose of the ERRF remains unchanged and includes funding for energy conservation and alternative energy development. We note, however, that this increase in the Environmental Response Tax was not included in the Executive's Supplemental Budget, and request that this tax not displace the priorities contained in that budget.

Over the last five years, the annual budgeted General Fund appropriation to the State's energy program has averaged about $1.2 million. I would say this amount of funding is disproportionate compared to the broad role and responsibilities of the energy program. As you know, over the past several years, legislative measures have increased the scope and breadth of activity in Hawaii's energy sector. Federal funding has supported the state's energy program at a level twice of the annual state general fund funding, via the federal State Energy Program and competitive grant funding. As the result, two-thirds of the state energy program's staff is federally funded. Federal funding sources are diminishing, and are expected to be practically exhausted within the next 3 to 4 years.

The newly created federal partnership with the State of Hawaii, the Clean Energy Initiative, will bring new sources of funding to energy initiatives in Hawaii, but these will be program focused, and not designed to replace the federal SEP funding that is expiring. Moreover, the partnership will require state matching funds to conduct important work in support of the state's goals for energy security. These opportunities will make staff support an imperative and will increase the requirements of the staff beyond the already strained workload.

While the structure of the State's energy program is fairly stable and resilient, the resources that the program has existed on to date are coming to an end, and new sources of funding do need to be identified and aligned in a transition for the successful implementation of the Hawaii Clean Energy Initiative.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR OF HAWAII

CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

S.B. 2932, SD1, RELATING TO ENVIRONMENTAL RESPONSE TAX

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 12, 2008
1:15p.m.

Department's Position: The Department of Health appreciates the intent of this bill to provide financial support for energy conservation, alternative energy development, and global warming initiatives. However, the Department respectfully opposes the bill.

Fiscal Implications: Amending HRS Section 243-3.5 to raise the per barrel oil tax from the present 5-cents to 25-cents to fund energy conservation, alternative energy development, and global warming efforts, will increase tax revenues from approximately $1,700,000 in FY 2007 to approximately $8,500,000 annually in the Environmental Response Revolving Fund (ERRF) (about $1,7000,000 per 5 cents).

Purpose and Justification: The bill is designed to have the Environmental Response Revolving Fund (ERRF) collect monies for alternative energy, energy conservation, global warming initiatives, and other efforts.

In general, the Department strongly supports the development of clean energy, independent from fossil fuels, and the reduction of greenhouse gas emissions. We support adequate funding to advance those goals, consistent with administration budget priorities. However, we do not support a fee increase.

Additionally, the Department is concerned that a substantial increase in the oil tax revenues may lead to even greater expenditures for energy-related purposes, which would strain our ability to carry out our statutorily mandated functions to be ready to respond to oil spills and hazardous substance releases and the funds support of 38 positions.

We ask that any appropriation avoid an adverse impact the priorities in the Executive Supplemental Budget.

Thank you for the opportunity to testify on this important measure.

Mattson C. Davis
Kona Brewing Company
75-5629 Kuakini Hwy. Kailua Kona, HI 96740
Phone (808) 334-1133

Thursday, February 7, 2008

Ladies and gentlemen:

*I hereby submit the following testimony regarding **SB2455, SB 2744 and SB2932**. The SENATE Energy and Environment Committee is set to hear this bill on Thursday, January 31, 2008 at 2:15 pm in Senate Conference Room 414.*

I would appreciate if you would make and deliver appropriate number of copies of my testimony to Room 414 for this hearing. Thank you.

TO: THE SENATE ENERGY and ENVIRONMENT COMMITTEE, Senator Ron Menor, Chair, Senator Gary L Hooser, Vice-Chair

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

SUBJECT: Testimony relating to RENEWABLE ENERGY TECHNOLOGIES and ENVIRONMENTAL RESPONSE TAX (***SB2455, SB 2744 and SB2932***) - set to be heard on 1/31/2008 at 2:15 pm in Conference Room 414

I support each of these three bills, which support incentives for clean energy technology growth in Hawaii. A support for moving Hawaii into a more energy secure and environmentally responsible State.

I encourage this committee to approve ***SB2455, SB 2744 and SB2932*** and hasten their passage.

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

Respectfully submitted,

Mattson C. Davis
President / CEO
Kona Brewing Company

LIFE OF THE LAND

Ua Mau Ke Ea O Ka `Aina I Ka Pono

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COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION
Chair: Senator Carol Fukunaga
Vice-Chair: Senator Will Espero

Tuesday, February 12, 2008
1:15 p.m.
Conference Room 224

Bill: SB 2932 SD 1 Environmental Response Revolving Fund

Aloha Chair Fukunaga, Vice Chair Espero and Members of the Committee,

Life of the Land is Hawai`i's own environmental and community action group advocating for the people and the `aina since 1970. Our mission is to preserve and protect the life of the land through sustainable land use and energy policies and by promoting open government through research, education, advocacy, and litigation.

SB 2932 SD1 states that "the legislature further finds that there is a clear nexus between oil consumption and greenhouse gas environmental impact. Currently, a 5-cent fee is charged for every barrel of oil sold in the State. This fee is deposited into the environmental response revolving fund, a fund that was set up to provide emergency funding for rapid response in the event of a large oil spill. The fund was later amended to allow it to be used for other environmental and energy purposes, including addressing concerns relating to global warming. The purpose of this Act is to increase the environmental response tax to 25 cents per barrel to provide needed funding for energy conservation and alternative energy development, global warming initiatives, and other programs pursuant to section 128D, Hawaii Revised Statutes."

There is an even greater nexus between palm oil, other agrofuels, and coal, which all produce far more greenhouse gases than petroleum.

Perverse federal laws impose a tax on imported ethanol while giving a production tax credit to importers of biodiesel, even if it is subsequently exported after being blended with one part in 500 with imported diesel.

Both state law and federal law fail to target the major greenhouse gas emitters. Both state and federal laws subsidize petroleum oil while taxing it. Truly bizarre.

Hopefully we can understand the science before the climate change point of no return.

ALOHA
Petroleum, Ltd.

TESTIMONY TO THE
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION
ON
S.B. 2932, SD1 RELATING TO
ENVIRONMENTAL RESPONSE TAX
on Tuesday, February 12, 2008 at 1:15 p.m.

By
Robert Maynard
President and Chief Executive Officer
Aloha Petroleum, Ltd.

Chair Fukunaga and Members of the Senate Committee on Economic Development and Taxation, I am Robert Maynard, President and Chief Executive Officer of Aloha Petroleum, Ltd.

Aloha Petroleum opposes Senate Bill 2932, SD1, which increases the state environmental response tax on petroleum from five cents to twenty-five cents on each barrel of petroleum product sold in order to increase funding available for energy conservation, alternative energy development, global warming initiatives, and other programs pursuant to section 128D, HRS.

Aloha Petroleum supports programs such as energy conservation, alternative energy development, and global warming initiatives; however, it opposes a five-fold increase in the environmental response tax because Hawaii drivers should not be burdened with this additional tax on gasoline and higher gas prices in Hawaii.

Thank you for the opportunity to testify in opposition to Senate Bill 2932, SD1.

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Sierra Club
Hawai'i Chapter
PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION
February 12th, 2008, 1:15 P.M.

TESTIMONY IN STRONG SUPPORT OF SB 2932 SD1 WITH AMENDMENT

Chair Fukunaga and members of the Committee:

The Sierra Club, Hawai`i Chapter, with 5500 dues paying members statewide, supports SB 2932 SD1, providing needed funding for clean energy and global warming initiatives through an increase in the oil barrel surcharge. We ask that this committee amend this measure to have a start date that is effective upon the bill's approval.

The concept behind SB 2932 is to help "internalize" the external costs of certain activities; in this case, charge a fee for products that are damaging to the environment and use that money to help mitigate the damage. The link is quite clear between the use of petroleum products and corresponding impacts on our fragile island environments—not only in oil spills, which was the original impetus for the environmental response tax, but also in runoff from the roads our cars drive on, in degraded air quality, and in greenhouse gas emissions and climate change. Currently, the Department of Health is desperately under-funded and lacks the resources to adequately deal with these environmental impacts. Most critically, the newly established Greenhouse Gas Emissions Reduction Task Force—the group charged with developing the roadmap to achieve dramatic reductions in statewide greenhouse gas emissions—needs resources and staffing to complete their work. This measure would provide additional funds for their efforts.

Such a "conservation" tax on a barrel of oil of $0.25 is approximately the same as a carbon tax of $0.50 per ton of CO_2 (23 lbs CO_2 produced per gallon oil, 42 gallons per barrel). It would have a marginal impact on petroleum users, yet significantly increase the Department's ability to protect Hawaii's environment that is adversely impacted by petroleum use. Consider, for example, that European countries currently have carbon taxes as high as $5.00 per ton.

The impact of CO_2 emissions alone from one barrel oil is much greater than the proposed tax. The Gas Company, in their Integrated Resource Plan, attempted to quantify the externalities (impacts not reflected in the market costs of an activity) per ton of pollutant. They examined environmental, energy security, macroeconomic and employment, and social and cultural externalities. Their results are shoking: the low estimate was $10/ton CO_2, the mid-range was $27/ton CO_2, and the high was $77/ton CO_2 (The Gas Company, 1999. *The Gas Company Integrated Resource Plan Report*, Jan 28, 1999 Draft, Honolulu.). This measure, as amended with the suggested $0.25 per barrel tax, is effectively a $0.50 per ton carbon dioxide tax—well short of what is needed, but a step in the right direction.

Senate Bill 2932 is common sense policy that encourages resource conservation and increases our ability to protect Hawaii's environment by making the "polluter pay."

Thank you for the opportunity to testify.

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Jeff Mikulina, Director

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: FUEL, Increase state environmental response tax

BILL NUMBER: SB 2932, SD-1

INTRODUCED BY: Senate Committee on Energy and Environment

BRIEF SUMMARY: Amends HRS section 243-3.5(a) to increase the state environmental response tax from 5 cents to 25 cents per barrel.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. This measure proposes to increase the tax from by 5 cents to 25 cents per barrel to provide additional revenue for the expanded purposes of the fund.

It should be remembered that the environmental response tax was initially adopted for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund, including environmental protection and natural resource protection programs, such as energy conservation and alternative energy development, to address concerns related to air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

It should be noted that the enactment of the barrel tax for the environmental response revolving fund is the classical effort of getting one's foot in the door with a palatable and acceptable tax rate with the possibility of increasing the tax rate once it is enacted which is being proposed by this measure. Because the tax is imposed at the front end of the product chain, the final consumer does not know that the higher cost of the product is due to the tax. Thus, there is little, if any, accountability between the lawmakers who enacted the tax and the vast majority of the public that ends up paying the tax albeit indirectly.

It should be remembered that the State Auditor has singled out this particular fund as not meeting the criteria established and recommended that it be repealed. The Auditor criticized the use of such funds as they hide various sums of money from policymakers as they are not available for any other use and tend to be tacitly acknowledged in the budget process. More importantly, it should be recognized that it is not only the users of petroleum products who benefit from a cleaner environment, but it is the public who benefits. If this point can be accepted, then the public, as a whole, should be asked to pay for the clean up and preservation of the environment.

Funds deposited into a revolving fund are not subject to close scrutiny as an assumption is made that such funds are self-sustaining. It should be remembered that earmarking of funds for a specific program represents poor public finance policy as it is difficult to determine the adequacy of the revenue source for the purposes of the program. To the extent that earmarking carves out revenues before policymakers can evaluate the appropriateness of the amount earmarked and spent, it removes the accountability for those funds. There is no reason why such a program should not compete for general funds like all other programs which benefit the community as a whole.

Rather than perpetuating the problems of the barrel tax, it should be repealed and all programs that are funded out of the environmental response fund should be funded through the general fund. At least program managers would then have to justify their need for these funds. By continuing to special fund these programs, it makes a statement that such environmental programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

If it is a matter that no funds in this fiscal environment have been set aside to address federal environmental mandates, then consideration should be given to first prioritizing how the money that is already in the fund is to be spent and then to set a sunset deadline by which these programs are to be general fund financed and the tax repealed.

Given that this proposal amounts to a tax increase of 500%, can its sponsors hold their heads high when they return to their constituents and tell them that while their colleagues rant and rave about the collusive petroleum industry ripping off motorists at the pump that they themselves contribute to not only the high cost of gasoline, but also the high cost of electricity to light our homes to the pricey take-out lunch because the cost of that energy will increase even more with this proposal. While lawmakers would like to preen their feather that they are oh-so eco friendly and environmentally concerned, they do so at a cost to the taxpayer. While tax increases are unacceptable in these difficult times, this proposal is especially reprehensible as it hides behind the skirt of being environmentally concerned and it hides behind the shadow of businesses that will end up with the blame of ripping off the consumer yet again. Voters going to the polls this November should be reminded of these lawmakers who are digging their hands even deeper into the taxpayers' pocketbooks.

Digested 2/11/08