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DIRECTOR OF HEALTH

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In reply, please refer to:
File:

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

H.B. 1360, RELATING TO MOTOR VEHICLES

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

February 5, 2009
9:00 a.m.

Department's Position: The Department appreciates the intent of this measure; however, given the implementation issues of this bill and the current fiscal difficulties, it is not prudent to pursue enactment at this time.

Fiscal Implications: No funding and permanent position counts have been provided. It is unknown at this time as to the amount of funding and personnel required to develop and administer the program.

Purpose and Justification: In an effort to address global climate change, this bill requires the Department of Health to adopt and implement rules by January 1, 2011, similar to California's new motor vehicle emission standards for passenger cars, light duty trucks, and medium duty passenger vehicles. The rules are to be periodically reviewed and updated consistently with California's program and may be expanded to regulate other vehicle classes.

California's Low Emissions Vehicle, Phase II program, otherwise known as LEV II-Pavley, is a comprehensive program for regulating greenhouse gases (GHGs), as well as ozone precursors (nonmethane organic gases, nitrogen oxides), carbon monoxide, particulate matter, and hazardous air emissions from new motor vehicles. Although the Department supports the reduction of vehicle emissions, the bill has a number of legal and execution issues that may affect implementation within the state.

The federal Clean Air Act (CAA) limits which states can copy California standards. Under the CAA, essentially there are only two types of cars that are allowed to be manufactured in the U.S., those that meet "federal" emissions standards and those that meet "California" standards. Section 177, of the CAA allows only non-attainment states, or states that do not meet the federal health standards, for opting into the stricter California vehicle standards as a means to further help these states become compliant. Non-attainment states are typically mandated to have a mobile source program for regulating vehicle emissions, where opting into California's program can be more readily accommodated. Since Hawaii has historically met federal health standards and has generally been classified attainment, there is uncertainty whether Hawaii as with other non-attainment states is legally allowed to opt into California's mobile source program.

Irrespective of the legal uncertainty, if Hawaii is allowed to opt into California's program, the bill does not provide any funding or position counts to implement the mobile source program that would need to be built from the ground up. Adoption and implementation of this extensive program with no resources make this measure impossible to fulfill.

The Department suggests referring this matter to the Greenhouse Gas (GHG) emissions reduction task force, established under Act 234 of the 2007 Legislature. The task force is expected to prepare a work plan and a regulatory scheme by December 2009, and should be given the opportunity to review the various options, including the adoption of California's program for reducing GHG emissions from motor vehicles. Also, with the condition of the economy, it would be more prudent to wait and see how California's and the other states' vehicle programs develop to avoid any startup problems that may be encountered. It should be easier to opt into a vehicle program at a later date as legal issues are resolved and the vehicle manufacturers are complying and producing the lower emitting vehicles.

Thank you for this opportunity to testify.

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MEMORANDUM

TO: Representative Hermina Morita
Chair, Committee on Energy &Environmental Protection

FROM: Gary M. Slovin

DATE: February 4, 2009

RE: **H.B. 1360 – Relating to Motor Vehicles**
Hearing: Thursday, February 5, 2009 @ 9:00 a.m., Room 325

I am Gary Slovin testifying on behalf of the Alliance of Automobile Manufacturers ("Alliance"). The Alliance strongly opposes H.B. 1360, calling for the implementation of the California Low Emissions Vehicle Program – or CA LEV – in Hawaii.

The Alliance is a trade association representing eleven car and light truck manufacturers including: BMW, Chrysler, Ford, GM, Jaguar Land Rover, Mazda, Mitsubishi, Mercedes-Benz, Porsche, Toyota, and Volkswagen.

To begin a discussion of the technical and policy implications associated with CA LEV, it is important to understand the three components of the program.

The first component is the Low Emission Vehicle program, or LEV II. LEV II regulates smog and ozone-forming emissions such as exhaust $PM_{2.5}$, NOx, volatile organic compounds, carbon monoxide, and air toxics.

The second component is the Zero Emission Vehicle Mandate, or ZEV Mandate. The ZEV Mandate is a battery-powered/hydrogen fuel cell mandate also intended to reduce smog and ozone-forming emissions.

These two smog and ozone forming emissions provisions in the California program provide NO MEASURABLE environmental or clean air benefit beyond the existing federal program, called Tier 2, which Hawaii already follows. Often the adoption of the CA LEV standards is painted as an effort to "clean the air;" however, that misrepresents the benefit that the CA LEV program provides. A new car is a clean car –

whether it is sold in California or Hawaii, and both the California and federal programs provide a 70% reduction in tailpipe emissions.

It is the third component – the proposed fuel economy standards – that most people associate with CA LEV. These standards are also referred to as California's greenhouse gas emissions standards, AB 1493, or the Pavley standards. Current law does not allow any state, including California, to enforce California's fuel economy standards at this time for reasons outlined below.

The automobile industry shares the goals of H.B. 1360 – a clean environment, energy independence, and greatly reduced greenhouse gas emissions. We just disagree on the methods of achieving them. The Alliance strongly supports an aggressive, comprehensive, and national approach to the climate change issue as opposed to the California standards, which will likely result in product restrictions, relinquishes Hawaii's authority to California, and establishes a patchwork of constantly changing regulations.

The Alliance's commitment to reducing greenhouse gas emissions through a national solution lead to the Alliance's strong support of the Energy Independence and Security Act of 2007, or EISA.

The centerpiece of EISA is a requirement that automakers achieve an unprecedented minimum 40 percent increase in Corporate Average Fuel Economy (CAFE) standards by 2020, resulting in a minimum 30 percent reduction in CO_2 emissions. It is important to emphasize the word *minimum* as EISA calls for regulatory agencies to set standards through 2020 based on the maximum feasible technology available to auto manufacturers.

In April 2008, the National Highway Traffic Safety Administration, or NHTSA, responded to EISA and released its proposal for national fuel economy standards through 2015. This proposal calls for an annual 4.5 percent increase in fuel economy over a five year period, far exceeding the 3.3 percent annual increase proposed by Congress in EISA. ***NHTSA's proposed rule sets federal fuel economy standards for the car and light truck fleet that are higher than CA LEV's proposed standards in model years 2011, and then again in 2013 – 2015.***

While the single, national standard that was established by EISA and is being promulgated by NHTSA is shaping up to be just as effective as California's

proposed fuel economy program, it still provides the flexibility necessary for automakers to meet the aggressive standards.

On January 26, President Obama directed the Department of Transportation (DOT) and NHTSA to quickly finalize the new CAFE standards for model year 2011. In order to adhere to appropriate lead time requirements for manufacturers, the model year 2011 standards must be finalized by March 30, 2009. Additionally, President Obama directed DOT and NHTSA to thoroughly review the proposed standards for subsequent model years to ensure that all comments and legal considerations are reflected in the final rule.

The auto industry shares President Obama's urgency in finalizing these standards and would further encourage DOT and NHTSA to release all model year standards simultaneously.

With the adoption of EISA in December 2007, U.S. EPA recognized the establishment of a strong national program and denied California's request to implement its own fuel economy regulations as part of the existing CA LEV program. This action prohibits California and all other states from implementing CA LEV's proposed fuel economy regulations at this time.

Again, on January 26, President Obama directed EPA to review its decision regarding California's waiver request; however the outcome of that review remains in question. The President's assurance that he's seeking a "comprehensive approach that makes our economy stronger and our nation more secure," positively reflects the auto industry's position that EISA is the appropriate mechanism to regulate transportation sector greenhouse gases, not the California standards.

Until a resolution is reached on the California waiver, states that adopt CA LEV will only be able to implement its smog and ozone forming emissions programs, which again, provide no environmental benefit above and beyond the existing federal emissions program.

In lieu of all the recent federal activity pertaining to both state and national fuel economy standards and the arguments outlined above, the Alliance believes that implementing CA LEV through H.B. 1360 is the wrong public policy choice for the following reasons:

1. **The California program will result in product restrictions.**

   You may be asking why automakers believe EISA is better than California's proposed fuel economy standards. The answer is simple. California's program is too aggressive too soon for the time frame automakers need to design and launch our vehicles. The only cost-effective way to comply with California's program is to ***restrict the sale of specific vehicles***.

   A national standard allows manufacturers to balance Hawaii's fleet, which leans toward trucks, against California's fleet, which leans toward cars. The California standards call for each state to conform to California's designated fuel economy averages. In order to comply in Hawaii, automakers will likely rely on product restrictions. This will severely limit the availability of the light trucks and SUVs that Hawaii residents favor.

2. **The ZEV Mandate is the most expensive regulation in the history of the California Air Resources Board.**

   The latest estimate by CARB is that this regulation may cost upwards of $1 billion dollars for just the six largest automakers alone for "zero emission vehicles" every single year. And this is just in California.

   But the ZEV Mandate isn't just expensive for manufacturers – it requires a commitment by the state for the infrastructure necessary to support the advanced technology vehicles mandated in this regulation. Hydrogen fueling stations and battery electric charging stations are necessary if the state adopts a program that mandates electric and hydrogen fuel cell vehicles.

3. **Hawaii should not cede its regulatory authority to California.**

   CA LEV is a California program designed by California legislators and regulators – none of whom are accountable to Hawaii or its residents. By adopting CA LEV, Hawaii is ceding its authority to a state that is vastly different and tying itself to all future regulatory changes that California makes.

EISA applies a high standard to all 50 states that is good for both consumers and energy security. Individually, states also have an important role to play in addressing transportation sector greenhouse gases. Among other initiatives, the Alliance

believes that states can supplement the federal government's work by incentivizing the purchase and use of alternative fuel and advanced technology vehicles, as well as investigate fleet modernization programs to get older, higher emitting vehicles off the road.

Our engineers have been handed a very challenging mandate in EISA. We ask that you allow our experts to work towards achieving EISA's aggressive goal without being sidelined by the burden of complying with individual state programs designed to meet the same goal. The Alliance asks that you hold H.B. 1360 in committee.

The Alliance has extensive information regarding our position on CA LEV. For more information please contact Laura Dooley with the Alliance, or contact Gary Slovin, the Alliance's local representative.

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B 9:00 2/4

HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION

February 5, 2009

House Bill 1360 Relating to Motor Vehicles

Chair Morita and members of the House Committee on Energy and Environmental Protection, I am Rick Tsujimura, representing General Motors Corporation (GM). GM opposes HB 1360, legislation that proposes to require adoption of the California vehicle emissions standards.

GM, as well as its trade association the Alliance of Automobile Manufacturers which includes other major automobile manufacturers, supports a nationwide program to address fuel economy and greenhouse gas emissions, and we are ready to work with the Obama Administration on developing a strong national program. We have already seen fuel economy standards proposed by the previous Administration that are tougher than California standards on trucks, and about the same for the car plus truck fleet combined. And as the Obama Administration considers the final standards that it will issue, it will be guided by the Energy Independence and Security Act of 2007 that requires that the Federal government adopt standards that are the maximum feasible.

In the meantime, GM is continuing to develop and bring to market advanced technologies to reduce emissions and improve fuel efficiency, and bringing forward these advanced technologies nationally and globally – not just in California. For smog-forming emissions, today's new vehicles, whether Federally certified or California certified, are 99% cleaner compared to pre-control vehicles. For fuel efficiency and greenhouse gas emissions, GM is aggressively pursuing a broad array of technologies over the near-, mid-, and long-term. For example, GM continues to increase production of vehicles equipped with Active Fuel Management, a technology that shuts off fuel to cylinders when full power from the engine is not needed. GM has developed multiple hybrid propulsion systems which are being deployed in a variety of models ranging from mid-size cars to SUVs and pickups to buses. The Saturn Vue Green Line, Saturn Aura Green Line and Chevy Malibu, are equipped with the GM Hybrid System and are available today. The Chevy Tahoe, GMC Yukon and Cadillac Escalade full size hybrid SUVs, and Chevy Silverado and GMC Sierra full-size pickups, all equipped with the 2-Mode Hybrid System, are also on the market now. And GM is developing the Chevy Volt as fast as it can, with introduction expected late in 2010. The Chevy Volt is an extended range electric vehicle, traveling 40 miles on a single charge of electricity from the battery. It is also equipped with a small internal combustion engine that kicks-in only to provide energy to the battery to extend the range. And GM has placed over 100 Chevy Equinox fuel cell vehicles in service by the end of 2008 as part of a program known as Project DriveWay, the largest program of its type to date. These vehicles will provide valuable customer feedback that will be used to help guide future fuel cell vehicle development.

With all of these advanced technologies, the point is that GM is developing them for national and global markets. These technologies are not being developed solely for states that

have adopted California standards. In terms of advanced technology vehicle availability, fuel economy, and reductions in greenhouse gas and smog-forming emissions, Hawaii has nothing to gain by adopting California's emission standards. But it does have something to lose.

Flex-fuel vehicles powered by E85 ethanol, a technology that can do the most to reduce petroleum usage and greenhouse gas emissions in the near-term, are being restricted in all states that have adopted California standards. This is due to the inflexible nature of California's smog emission standards. No manufacturer has achieved California's most stringent smog emission standard category, Super Ultra Low Emission Vehicle or SULEV, which is required for about 40% of a manufacturer's fleet. This is an impediment to GM's plans to provide more and more FFVs to consumers. GM has over 3.5 million E85 FFVs on U.S. roads today. GM is building about 500,000 E85 FFVs annually, and expects to increase production by over 50% by 2010. And by 2012, GM has committed to making half of its North American production as E85 FFVs. GM is also actively working with businesses and governments in numerous states to get E85 refueling stations installed. Fueling FFVs with E85 represents the best opportunity to reduce greenhouse gas emissions, particularly in the near-term. Instead of gasoline, if an FFV is refueled with E85 with the ethanol being derived from corn, greenhouse gas emissions are reduced by about 20%[1]. Refueling with E85 with the ethanol being derived from cellulosic sources reduces greenhouse gas emissions by over 60%[2]. Unfortunately, GM expects the sales restrictions for E85 FFVs to increase once California adopts its third generation of smog-emission standards, LEV III. And if Hawaii were to adopt California standards it would be bound to adopt LEV III as well, and for that matter any other changes that California makes in the future as Hawaii would be required to maintain identical standards to California's.

In conclusion I want to reiterate that GM supports the goals of Hawaii to reduce emissions and improve fuel economy. GM disagrees that the right approach for achieving these goals is by adopting the California program. GM supports a national program to address both vehicle emissions and vehicle fuel efficiency. GM believes that petroleum-based fuels can no longer be the single source of energy for automobiles. Policies need to support alternative fuels and vehicles and not restrict their use. GM is working aggressively to become part of the solution with our many efforts on pushing advanced technology forward. But this must be combined with policies to help consumers adopt this technology, and make alternative fuels available to consumers to enable them to utilize these fuels.

Thank you for the opportunity to present this testimony.

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[1] Michael Wang, Argonne National Laboratory.
[2] Ibid.

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EEPtestimony

From: Dave Rolf [drolf@hawaiidealer.com]
Sent: Wednesday, February 04, 2009 9:18 AM
To: EEPtestimony
Subject: HADA testimony in OPPOSITION to HB1360, sked. for hearing 9 a.m. 2-5-09 Conf. Room 325, view in print format

February 4, 2009

Testimony in OPPOSITION of HB1360
Presented to the House Committee Energy and Environmental Protection

At the hearing 9 a.m. Wednesday, Thursday, February 5, 2009
In Conference Room 325, Hawaii State Capitol

Submitted by David H. Rolf, for the Hawaii Automobile Dealers Association
Hawaii's Franchised New Car Dealers

Chair Morita and members of the committee,

Background

The Hawaii Automobile Dealers Association has worked with members of Congress to help create a national standard for fleet mileage requirements to address clean air issues and the need to help the country and our state move away from fossil fuels.

Any patchwork, state-by-state, approach to reaching a solution would be problematic in that it would slow the already significant efforts made toward energy independence. The Corporate Average Fuel Economy (CAFE) standards in place now give domestic automakers breathing room to develop high mileage cars while maintaining financial, albeit wobbly, viability.

For the reasons that such a piecemeal approach may topple America's much needed manufacturing base for new vehicles, HADA opposes this bill.

In 2007, Congress passed the Energy Independence and Security Act (EISA), a law that increased the CAFE standard by 40 percent, to at least 35 mpg by 2020. Because increasing fuel economy is the only way to significantly decrease greenhouse gas (GHG) emissions from motor vehicles, this new standard will decrease GHG tailpipe emissions by 30 percent by 2020.

Pursuant to EISA, a new fuel economy standard was proposed (to be finalized by the Obama administration no later than April 2009) that is higher than California's (31.6 mpg v. 31.3 mpg).

Individual state efforts to regulate fuel economy by regulating GHG emissions from motor vehicles are unnecessary since the passage of EISA and will undermine the new CAFE law.

This effort, led by the California Air Resources Board (CARB):

Creates a Patchwork – CARB's regulation will result in a patchwork of state regulatory regimes, as compliance with their regulation is based on what each automaker delivers for sale in each "California" state. What an automaker "delivers for sale" varies because

consumer demand for certain vehicles differs from state to state, meaning compliance in California is no guarantee of compliance in any other state.

Exemptions – CARB's regulation exempts until 2016 (and then regulates these now exempt automakers at a lesser standard) major global manufacturers.

Vehicle Rationing – To comply with CARB's regulation, every automaker must sell the "right" mix of vehicles – some vehicles above the standard and some vehicles below the standard. If consumers do not buy the right mix of vehicles, the only realistic way for an automaker to comply will be to ration sales of certain models, or deeply discount other models. Both options distort the market and hurt dealers.

Cross-Border Sales Loophole – Because of vehicle rationing, consumers will go to other states to purchase vehicles unavailable in their state. Except in Rhode Island, vehicles bought in one state and registered in another are unregulated under CARB's regulation. This loophole is non-existent under CAFE.

For these reasons, and others, we respectfully urge that HB1360 be held.

Respectfully submitted,

The Hawaii Automobile Dealers Association

David H. Rolf

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NEW ENERGY PARTNERS, INC.

E. KYLE DATTA
President

February 4, 2009

Testimony on HB 1360

Dear Chairperson Morita, Vice Chair Coffman,
and members of the Committee on Energy and Environmental Protection,

I am the former Managing Director of the Rocky Mountain Institute, former partner in the Energy Practice of Booz Allen & Hamilton, and most recently former CEO of US Biodiesel. My testimony is based on over 20 years experience in private sector on energy strategy and energy policy.

I am testifying in favor of HB 1360, which adopts the Clean Car Emissions standards adopted in California. Arizona, Connecticut, Maine, Maryland, Massachusetts, New jersey, New Mexico, New York, Oregon, Pennsylania, Rhode Island, Vermont, and Washington. Collective, these 13 states represent over half the U.S. population.

As I had discussed in the Blue Planet Briefing on January 12th, the Obama administration has requested the EPA to issue a ruling on the ability of states to regulate tailpipe emissions of greenhouse gases under the Clean Air Act. The Supreme Court has already ruled that such regulation is not preempted by the federal fuel economy law (CAFÉ). The prior Bush Administration had prevented the EPA from issuing such a ruling .

While the U.S. auto industry has devoted considerable resources to blocking the states from passing these laws, using the same arguments you will hear today from HADA, the economic crisis has changed the situation considerably. On December 19, 2008, the U.S. government agreed to give Chrysler and General Motors as $13.4 billion dollar emergency loan. The will receive another $4 billion on February 17th as part of the $350 billion bailout package. All the U.S automaker executives (including Ford) have petitioned the government for additional funds to retool their factories to make clean cars, precisely the cars that are required under the Clean Car Emissions standards. Chrysler and General Motors must submit plans for their reorganization by March 31st. The Obama Administration has insisted that these plans include measures to radically increase the fuel efficiency of their fleets and reduce carbon emissions. We are in the midst of the transformation of the auto industry.

It is unconscionable for the auto industry to simultaneously demand a bailout due to their stubborn reliance on gas guzzling cars the public is now refusing to buy, and then oppose setting standards for new cars that are more fuel efficient with lower emissions.

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This is precisely the time for Hawaii to add its voice to the other states, since it sends a clear policy signal to stimulate market demand for clean, fuel efficient vehicles. As more states join the initiative, this becomes the *de facto* national standard, and avoids the political gridlock in Washington created the minority party's refusal to address climate change. Passing the bill now, also sends a clear signal to Detroit that their restructuring plan must include retooling their factories to produce the clean cars Americans want and need.

In specific rebuttal to the HADA testimony, we note the following:

- If 50% of the population, representing the majority of the market of automobiles have passed standards, then automakers will be retooling the majority of their fleets to meet these standard, and this will cover most, if not all, vehicle types

- Due to this broad retooling, vehicle rationing is highly unlikely since the majority of vehicles offered will meet the standard.

- Cross Border leakage in Hawaii is not a very likely concern for state legislatures due to transportation costs.

Beyond the national policy benefits of passing this legislation, there are several important benefits to the state of Hawaii.

First, the majority of our oil is used in transportation, and we will simply be unable to meaningfully reduce our oil dependence unless the we adopt efficiency standards for automobiles that go beyond CAFÉ. Second, Hawaii will be unable to meet its climate change targets adopted by the legislature in Act 234 without addressing transportation efficiency.

Now is the time to act, to join the rest of the country in showing leadership in energy independence and economic revitalization.

~~We are excited about this opportunity and believe that Booz·Allen & Hamilton is well qualified to assist you with the effort. We bring a combination of industry insight, broad strategy experience, and quantitative capabilities that are needed to complete the assignment. This combination of resources allows us to deliver strategic thinking that is grounded in practical business foundations.~~

NEW ENERGY PARTNERS, INC.

E. Kyle Datta
President

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