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Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development and Tourism  
before the  
**SENATE COMMITTEES ON TRANSPORTATION AND ENERGY and  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**  
Wednesday, February 14, 2018  
1:15 p.m.

State Capitol, Conference Room 225

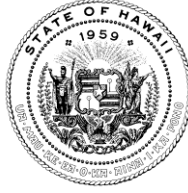
in consideration of  
**SB2752**  
**RELATING TO ENERGY EFFICIENCY.**

Chairs Inouye and Baker, Vice Chairs Espero and Tokuda, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) strongly supports SB2752, with the objective of creating a sub-fund under the umbrella of the Green Energy Market Securitization (GEMS) Loan Fund and converting \$50,000,000 of the [GEMS] fund into a revolving line of credit providing any state agency or department access to low-cost financing to install energy efficiency measures on an on-going basis.

This bill will provide all state agencies the opportunity to deploy energy efficiency that both decreases utility bill expenses for the state and assists with meeting the state's energy efficiency goals.

Thank you for the opportunity to offer these comments in support of SB2752.



**DAVID Y. IGE**  
GOVERNOR

**DOUGLAS S. CHIN**  
LIEUTENANT GOVERNOR

**STATE OF HAWAII  
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**CATHERINE P. AWAKUNI COLÓN**  
DIRECTOR

**JO ANN M. UCHIDA TAKEUCHI**  
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**TO THE SENATE COMMITTEES ON  
TRANSPORTATION AND ENERGY  
AND  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**

**TWENTY-NINTH LEGISLATURE  
Regular Session of 2018**

**Wednesday, February 14, 2018  
1:15 p.m.**

**TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF  
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER  
AFFAIRS, TO THE HONORABLE LORRAINE R. INOUE, CHAIR,  
THE HONORABLE ROSALYN H. BAKER, CHAIR,  
AND MEMBERS OF THE COMMITTEES**

**SENATE BILL NO. 2752 – RELATING TO ENERGY EFFICIENCY.**

**DESCRIPTION:**

This measure creates a \$50,000,000 revolving line of credit sub-fund under the umbrella of the Green Energy Market Securitization (“GEMS”) loan fund for any state agency or department to finance energy efficiency measures. This measure is a companion to H.B. 2325.

**POSITION:**

The Division of Consumer Advocacy (“Consumer Advocate”) offers comments on this bill.

COMMENTS:

The Consumer Advocate observes that the proposed Hawaii Revised Statutes (“HRS”) section 196-65(b)(2), creating a \$50 million sub-fund to specifically fund energy efficiency measures for any state agency or department, will not directly benefit hard-to-reach customers or decrease the cost of electric utility service for all. However, the Consumer Advocate acknowledges savings to the state general fund, via lower electricity costs, could reach many of the same utility customers in the form of lower taxes.

The Consumer Advocate also observes that this bill does not include any language that ensures that funded energy efficiency measures are cost-effective. The Consumer Advocate believes that including clear guidance that any proposed use of the green infrastructure loan program must be cost-effective will require adequate evaluation to ensure that sufficient savings in electricity costs will allow using general revenue savings resulting from those cost-effective energy efficiency measures to repay the loan plus the stated cost of interest. Including a provision requiring cost-effective energy efficiency measures would facilitate: 1) the “health” of the proposed sub-fund as well as whole green infrastructure fund; 2) mitigating potential adverse impacts to electricity consumers that may be asked to replenish the green infrastructure funds if adequate repayment from past loans are not received; and 3) mitigating the possibility that general funds might need to be encumbered to repay the loans. Language requiring cost-effective energy efficiency measures could be inserted in HRS section 196-65(b)(2) and read as: “Creating a \$50,000,000 sub-fund, as a revolving line of credit under the umbrella of the green energy market securitization loan fund, for any state agency or department to obtain low-cost financing to install cost-effective energy efficiency measures.”

Thank you for this opportunity to testify.



DAVID Y. IGE  
GOVERNOR

GWEN S. YAMAMOTO LAU  
EXECUTIVE DIRECTOR

## HAWAII GREEN INFRASTRUCTURE AUTHORITY

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**Testimony of Gwen Yamamoto Lau, Executive Director  
Hawaii Green Infrastructure Authority**  
before the  
**SENATE COMMITTEES ON TRANSPORTATION AND ENERGY &  
and  
COMMERCE, CONSUMER PROTECTION AND HEALTH**  
Wednesday, February 14, 2018 at 1:15 P.M.  
State Capitol, Conference Room 225

in consideration of  
**SENATE BILL NO. 2752  
RELATING TO ENERGY EFFICIENCY**

Chair Inouye, Chair Baker, Vice Chair Espero, Vice Chair Tokuda and Members of the Transportation and Energy and Commerce, Consumer Protection and Health Committees:

Thank you for the opportunity to testify and provide comments on Senate Bill 2752, relating to energy efficiency. This bill proposes to create a sub-fund under the umbrella of the Green Energy Market Securitization (“GEMS”) loan fund and convert \$50.0 million into a revolving line of credit available for any state agency or department to obtain low-cost financing to install energy efficiency measures. As the Legislature’s intent of the GEMS fund was to be available for the underserved (i.e. low and moderate-income homeowners, renters and nonprofits) and as the Hawaii Public Utilities Commission’s Order no. 32318 requires that at least 51% of the GEMS funds benefit said underserved, if approved, the Department of Education’s existing \$46.4 million loan should be included under the \$50.0 million revolving line. The Hawaii Green Infrastructure Authority **strongly supports** this bill.

Using the expected benefits of the GEMS loan provided to the Department of Education (“DOE”) as a benchmark, the long-term impact of this financing mechanism is meaningful and measurable. Additionally, while, according to the *State of Hawaii Energy Efficiency Potential Study: Project 1448*, the DOE was the second largest consumer of electricity in the State, there are a number of other state agencies and departments that would benefit from a similar financing arrangement.

Reducing energy consumption and energy costs in state buildings would significantly and positively contribute to the achievement of Hawaii’s energy efficiency portfolio standard (“EEPS”) goals, while reducing and controlling costs for Hawaii’s taxpayers.

Thank you for this opportunity to testify and offer support and comments for SB 2752.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Establish GEMS Sub-Fund to Loan to State Agencies

BILL NUMBER: SB 2752; HB 2325

INTRODUCED BY: SB by KOUCHI by request; HB by SAIKI by request

EXECUTIVE SUMMARY: Creates a \$50,000,000 revolving line of credit sub-fund under the umbrella of the Green Energy Market Securitization (GEMS) loan fund for any state agency or department to finance energy efficiency measures. If the GEMS program is to be allowed to live, it must be able to make loans at commercially reasonable rates at commercially reasonable terms. If loans are to be repaid out of reduced utility costs, what happens if the utility rates go down and the reduction in utility costs fails to materialize?

SYNOPSIS: Adds definitions of “energy efficiency measures,” “revolving line of credit,” and “sub-fund” to section 196-61, HRS.

Amends section 196-62, HRS, to allow the Hawaii Green Infrastructure Authority to make loans to government entities, and sets aside a \$50 million revolving fund to be used exclusively for this purpose.

Specifies that loans to government agencies shall be issued at an interest rate of 3.5% per annum, and that loans are to be repaid “using general revenue savings resulting from reduced utility costs as a result of the implementation of energy efficient lighting and other energy efficiency measures.”

EFFECTIVE DATE: July 1, 2018.

STAFF COMMENTS: This is an Administration-sponsored measure backed by the Department of Business, Economic Development, and Tourism, and designated BED-09 (18).

The Green Energy Market Securitization or GEMS program is a financing program that was supposed to provide loans at a low interest rate to finance alternative energy systems and other clean energy improvements for those, such as nonprofits and individuals with lower credit scores, who might not be able to get other kinds of financing. Governor Abercrombie signed the program into law, after which a 2014 bond issue raised \$150 million for the program.

Recently, in Order No. 34930, the Hawaii Public Utilities Commission (PUC) focused on how the GEMS program was coexisting with another ratepayer-funded program, which you may know as Hawaii Energy. That’s the same Hawaii Energy that sends you a little chart every month showing how your energy use compares against that of (1) your neighbors, and (2) your *energy efficient* neighbors.

Back in 2014, the PUC was asked to, and did, approve a Green Infrastructure Fee that went on everyone’s utility bill. For residents, it started at about \$1.50 per month and is now down to

\$1.18 after periodic readjustments. The \$150 million, after all, needs to be paid back with interest. The PUC noted that ratepayers were also paying a Public Benefits Fee of about \$5 a month to fund Hawaii Energy and it didn't want to whammy ratepayers again, so it directed that the PBF be reduced by the GIF...temporarily. The PUC made it clear that it wanted the shortfall in the PBF to be paid back. Quickly. So as not to disrupt the energy efficiency programs that Hawaii Energy was carrying out.

GEMS, however, wasn't accomplishing the lofty goals that were set for it. Of the \$150 million borrowed on the bond market, a measly 3%, or \$5 million, had been loaned out as of July 31, 2017. The 2017 legislature, by Act 57, SLH 2017, required GEMS to loan \$46.4 million to the Department of Education to cool the schools, but that wasn't helpful to GEMS because it also provided that the loan was to be at zero interest. Since its inception, GEMS administrative and program costs were nearly \$2.8 million, against revenues just shy of \$1 million. "If HGIA [the Hawaii Green Infrastructure Authority, which administers GEMS] does not collect loan repayments, with interest," the PUC said, it "in the long term, will be unable to support itself."

The PUC noted that Hawaii Energy claimed to have saved consumers over \$1 billion in energy bill savings to date, with every dollar of investment generating \$9 in benefits.

The PUC concluded that "HGIA has not demonstrated the ability to replenish the PBF," and that the prospects for GEMS repaying the revenue that it borrowed from the PBF are dim unless the PUC acts now. Therefore, it said, the dollars that GEMS gets from its loan repayments and such will be used to repay the PBF, starting *now*. And, these payments will be made *before* funding GEMS program administrative costs. Apparently, the GEMS staff had better get those green infrastructure loans deployed and get that interest coming in if they want to get paid.

What does this mean?

If you are a legislator, this is not just a wake-up call. The GEMS program has been a disaster from its inception, and the PUC has basically said that it expects the program to crash and burn. The program does not simply need polishing; it needs radical surgery if it is to survive. And, given the other pressing needs that our government faces, it may be that the correct decision is to cut our losses and scrap the program before the fallout from its death throes takes out other programs and agencies.

This bill, by walling off one-third of GEMS' funding for the exclusive use of state agencies, could be an opportunity – or another train wreck. Particularly troublesome is the language in section 9 of the bill: "Beginning with fiscal year 2018-2019, and annually thereafter, the department or agency shall begin to repay the loan pursuant to section 6 using general revenue savings resulting from reduced utility costs as a result of the implementation of energy efficient lighting and other energy efficiency measures." Because general law can and does specify what in a contract can be enforced, there is some question whether section 9 would allow an agency to avoid repaying a loan from GEMS if either (1) it does not achieve reduced utility costs, or (2) it doesn't know whether it has achieved reduced utility costs due to the energy efficiency measures it implements. What happens, for example, if the price of bunker fuel jumps precipitously,

resulting in a sharp rise in electricity rates? The energy efficiency measures could be working splendidly, but there will be no reduced utility costs.

If GEMS is to be allowed to survive, it needs the ability to make its loans at commercially reasonable rates and terms.

Our first recommendation, therefore, is that section 9 of the bill be deleted. It's nice to know that energy efficiency measures are in fact paying for themselves, but the risk of that being the case needs to be on the borrower, not on the lender.

Our second recommendation is that the interest rate not be fixed at 3.5%. A commercially reasonable rate needs to be negotiated, and it needs to be above the program's actual cost of capital. If it is not, the PUC, in pursuit of its fiduciary duties, may well enter even more restrictive orders that further hamstring the GEMS program.

Our third recommendation is to revisit the "loan" appropriated to the Department of Education under Act 57, SLH 2017. GEMS must be able to charge a commercially reasonable interest rate, and must be able to make loans on commercially reasonable terms, to the Department of Education the same as any other state agency.

Digested 2/11/2018



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COMMITTEE ON TRANSPORTATION AND ENERGY

Senator Lorraine R. Inouye, Chair  
Senator Will Espero, Vice Chair

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair  
Senator Jill N. Tokuda, Vice Chair

Wednesday, February 14, 2018  
1:15 pm  
Conference Room 225

SB 2752 RELATING TO ENERGY EFFICIENCY

Comments

Aloha Chairs Inouye and Baker, Vice Chairs Espero and Tokuda, and Members of the Committees

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 47 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

**Life of the Land does not oppose the subject of the bill but believes the preamble should be fixed or deleted.**



The PUC simply copied the language proposed by the Legislature. But the following sentence makes it look like the PUC decided on policy:

*“Though government agencies were not named as underserved by the Hawaii public utilities commission in the green energy market securitization program, the Hawaii public utilities commission acknowledged that the green energy market securitization program was not intended to be exclusively dedicated to underserved customers.”*

The preamble asserts that it is hard for governmental agencies to get funding, and thus they have a lot in common with economically-challenged ratepayers:

*“Government agencies can be classified with those ratepayers who are hard-to-reach with traditional market-competitive financing agreements due to procurement limitations and the obligation to include contractual provisions that make the continuation of contracts contingent upon the allocation of funds.”*

Mahalo,

Henry Curtis  
Executive Director



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SENATE COMMITTEES ON TRANSPORTATION & ENERGY AND COMMERCE, CONSUMER  
PROTECTION, & HEALTH

Wednesday, February 14, 2018 — 1:15 p.m. — Room 225

**Ulupono Initiative Supports SB 2752, Relating to Energy Efficiency**

Dear Chair Inouye, Vice Chair Espero, Chair Baker, Vice Chair Tokuda, and Members of the Committees:

My name is Murray Clay and I am Managing Partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and better management of waste and fresh water. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

**Ulupono supports SB 2752**, which creates a revolving line of credit sub-fund for state government agencies under the green energy market securitization (GEMS) loan fund, because it aligns with our goal of increasing the production of clean, renewable energy in Hawai'i.

Ulupono believes this bill will help deploy GEMS funds faster as now state departments will be able to qualify for financing its internal energy efficiency projects. This could further provide additional flexibility for GEMS, one of the key issues that the GEMS program has encountered in its brief existence.

Ulupono is also supportive of this bill and will remain so as long as the GEMS funds are deployed as originally intended – with a payback structure – to help continuously replenish the fund and adhere to standard business practices.

As Hawai'i's energy issues become more complex and challenging, we appreciate these committees' efforts to look at policies that support renewable energy production.

Thank you for this opportunity to testify.

Respectfully,

*Investing in a Sustainable Hawai'i*



Murray Clay  
Managing Partner

**SB-2752**

Submitted on: 2/13/2018 1:12:02 PM

Testimony for TRE on 2/14/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying on behalf of OCC Legislative Priorities Committee of the Democratic Party of Hawaii	Support	No

Comments:

COMMITTEE ON TRANSPORTATION AND ENERGY

Senator Lorraine R. Inouye, Chair  
Senator Will Espero, Vice Chair

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Senator Rosalyn H. Baker, Chair  
Senator Jill N. Tokuda, Vice Chair

**Re: SB2752 - RELATING TO ENERGY EFFICIENCY.**

Wednesday, February 14, 2018 1:15 p.m., Conference Room 225

I am writing in **STRONG OPPOSITION** to SB2752, which would create a “sub-fund” revolving line of credit to allow taxpayer-supported state agencies or departments to raid the utility-customer-backed Green Energy Market Securitization (GEMS) loan program of \$50,000,000 to install energy efficiency measures that should be funded out of the state’s general fund.

- The GEMS lending program has been mismanaged and proven to be an unmitigated disaster since its inception.
- Because GEMS has been so wildly unsuccessful, the Legislature through Act 57, has already raided utility-customer-backed funds to “loan” the DOE \$46,400,000 **interest-free**; this expressly places a public expense obligation on utility customers who are already on the hook to repay the borrowed \$150,000,000 in bonds in the GEMS lending pool **with interest** through a non-by-passable monthly fee on everyone’s electric bill.
- The PUC recently noted the following deficiencies in Hawaii Green Infrastructure Authority (“HGIA” or the “Authority”) GEMS’ operations:<sup>1</sup>
  - The Authority can’t seem to keep staff: the first lasted three months; the second less than eight months; and the third left after less than a year.
  - No local bank initially expressed interest in participating in HGIA’s residential PV loan product; the one that eventually did was replaced in less than four months by a second that, among other things, couldn’t navigate the time differences between Hawaii and Wisconsin and didn’t understand how trust properties worked, with the result that “83% of applications received during the first six months were declined or withdrawn.”<sup>2</sup>

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<sup>1</sup> PUC Order No. 34864, filed in Docket 2014-0135 on 10/12/2017 at 8-12.

<sup>2</sup> HGIA Motion to Suspend Program Notification and Modification Processes, filed 7/21/2017, at 15.

- Out of 43 applications for non-profit PV loans, exactly zero were issued “due to the design of the financing structure.”<sup>3</sup>
- The Commercial Energy Efficiency Product suffered from a “disconnect”<sup>4</sup> between a minimum project size requirement (\$1 million) and a GEMS requirement that it was limited to non-profits and small businesses.
- HGIA declined the single small business PV loan product it received.
- SB2752 does not meet the requirements of Section 37-52.3, HRS: there is no explanation why the \$50,000,000 line of credit could not be more constitutionally implemented under the general fund appropriation process.
- That this bill attempts to portray state agencies as “underserved” and “hard to reach” because they have chosen not to “invest in energy efficient improvements” defies all reason and logic.<sup>5</sup>
- Finally, while SB2752 would impose an interest rate of 3.5%, there is no discussion regarding whether this would be sufficient to cover the utility-customers’ obligation to repay the interest owed on GEMS-issued bonds and accompanying allocated administrative costs.

Really?

The Tax Foundation of Hawai`i has the correct solution: don’t make a bad situation worse, kill this bill and then pull the plug on this ruinous GEMS program.<sup>6</sup>

Sally Kaye  
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Lana`i City, HI 96763

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<sup>3</sup> Order No. 34864 at 11.

<sup>4</sup> *Id.* at 12.

<sup>5</sup> SB2752: “Though government agencies were not named as underserved by the Hawaii public utilities commission in the [GEMS] program [,] state agencies constitute a significant component of energy consumption in Hawaii, [and] investment in energy efficiency improvements by government agencies has been limited. **[G]overnment agencies can be classified with those ratepayers who are considered hard to reach** with traditional market-competitive financing agreements, due to procurement limitations and the obligation to include contractual provisions that make the continuation of contracts contingent upon the allocation of funds.” (Emphasis added.)

<sup>6</sup> <https://www.tfhawaii.org/wordpress/blog/2016/08/gems-as-a-target-for-raiding/> : “The GEMS program should be evaluated to determine whether there is a realistic need for this program, and if not figure out how to shut it down, return the remaining money in the fund back to the bondholders, stop the bleeding, and **take away the potential for raiding.**” (Emphasis added.)