LATE TESTIMONY

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
ON
SENATE BILL NO. 3230

January 31, 2008

RELATING TO ENERGY

Senate Bill No. 3230 would provide additional financing for the energy program of the Department of Business, Economic Development and Tourism, by establishing the Energy Security Special Fund and a new energy security tax.

The Energy Security Special Fund would be used to promote energy self-sufficiency and energy security for the State.

The special fund would be funded through legislative appropriations, interest earnings, moneys generated by the energy security tax, and other moneys made available from other sources. The bill appropriates an unspecified amount in general funds in FY 09 to be deposited into the special fund.

The energy security tax would impose a tax on each barrel of petroleum product sold by a distributor. The tax imposed shall be paid by the distributor of the petroleum product.

We do not support this bill. As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 or 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether the fund will be self-sustaining.

TESTIMONY TO THE
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
ON
S.B. 3230 RELATING TO ENERGY
By
Robert Maynard
President and Chief Executive Officer
Aloha Petroleum, Ltd.

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Chair Menor and Members of the Senate Committee on Energy and Environment

I am Robert Maynard, President and Chief Executive Officer of Aloha Petroleum, Ltd.

Aloha Petroleum opposes Senate Bill 3230, which establishes the energy security special fund and an energy security tax of fifteen cents on each barrel of petroleum product sold in order to provide additional funding for energy programs within the Department of Business, Economic Development and Tourism ("DBEDT").

Aloha Petroleum supports DBEDT's energy programs; however, it opposes the creation of a new tax because Hawaii drivers should not be burdened with this additional tax on gasoline and higher gas prices in Hawaii in order to support DBEDT's energy programs.

Thank you for the opportunity to testify in opposition to Senate Bill 3230.

LEGISLATIVE

TAXBILLSERVICE LATE

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SUBJECT: FUEL, Energy security tax

BILL NUMBER: SB 3230; HB 3444 (Identical)

INTRODUCED BY: SB by English; HB by Morita, Caldwell, Carroll, Karamatsu, Nishimoto, Rhoads, Shimabukuro, Takai, Takumi, Wakai, Sagum

BRIEF SUMMARY: Adds a new section to HRS chapter 243 to provide for the imposition of an energy security tax of 15 cents on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user. The tax shall be paid by the distributor of the petroleum product.

Delineates procedures for the payment and recordkeeping of the tax by distributors and provides that the energy security tax collected shall be paid over to the director of finance for deposit into the proposed energy security fund.

Adds a new section to the HRS to create an energy security special fund. When moneys in the fund exceed $10 million from all sources delineated, the energy security tax shall cease to be imposed until the balance in the fund declines to less than $5 million, at which time the tax will be reinstated. The fund shall be used by the department of business, economic development and tourism for its energy program as enumerated.

Appropriates an unspecified amount of general funds for fiscal 2009 for deposit into the energy security special fund.

Appropriates an unspecified amount out of the energy security special fund for fiscal 2009 for the purposes of this act.

EFFECTIVE DATE: July 1, 2008

STAFF COMMENTS: This measure proposes to impose an energy security tax of 15 cents on each barrel of petroleum product sold by a distributor to any retail dealer or end user with the proceeds deposited in the proposed energy security special fund. Section 1 of this measure states that the energy program within the strategic industries division of the department of business, economic development and tourism (DBEDT) requires additional funding due to its expansion and declining federal funding, and declining oil overcharge fund sources which has resulted in diminished program budgets and reduced staff positions. The measure further states that increased state funding is necessary to support core energy program funding.

It should be noted that the establishment of the funding mechanism proposed in this measure, the energy security tax, to provide additional revenue to allow the energy program of the strategic industries division of DBEDT operate, sets this program area apart from other state agencies or programs which are funded through the budget and appropriation process. By establishing a specific tax to fund this program area allows this program to bypass the normal budgetary process. If such a program is deemed a priority, then a direct appropriation for this program of work should be directly funded rather than through the back door method as proposed by this measure.

While proponents of the measure may argue that the proposed energy security tax parallels the environmental response tax which also taps each barrel of petroleum product sold, it should be noted that the State Auditor has singled out the environmental response fund as not meeting the criteria established and the Auditor 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.

It should also be noted that funds deposited into a special 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.

To a large extent this proposal represents the arrogance of lawmakers to merely pass on tax increases to their constituents without the courage to be held accountable for the tax increase by hiding it deep within the product chain so that it is not apparent to the ultimate consumer. Instead the "blame" for the price increase is aimed at the business selling to the final consumer. The hypocrisy of lawmakers decrying the "highest gasoline prices in the nation" while proposing a tax increase on the front end of what eventually will be sold at the gas pump is pitiful.

Rather than perpetuating the problems of the barrel tax, the existing environmental response tax 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.

Digested 1/31/08