

Honolulu, Hawaii

April 12, 2010

RE: H.B. No. 2421
H.D. 2
S.D. 2
C.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2421, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO GOVERNMENT,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to promote economic development for Hawaii's locally produced food and energy industries, ensure food and energy self-sufficiency, and address environmental challenges relating to climate change, by providing the necessary funding, guidance, and infrastructure.

Specifically this measure, among other things:

- (1) Removes the cap on the balance in the Environmental Response Revolving Fund;
- (2) Renames the "environmental response tax" the "environmental response, energy, and food security tax"



(Barrel Tax) and increases the amount of the tax from five cents to \$1.55 per barrel of petroleum product;

- (3) Exempts aviation fuel from the Barrel Tax;
- (4) Establishes a fuel tax exemption for petroleum products used by commercial air transportation providers;
- (5) Allocates moneys collected by the Barrel Tax to the:
 - (A) Environmental Response Revolving Fund (five cents);
 - (B) Energy Security Special Fund (ten cents);
 - (C) Energy Systems Development Special Fund (ten cents);
and
 - (D) Agricultural Development and Food Security Special Fund (30 cents);
- (6) With respect to the Energy Security Special Fund:
 - (A) Authorizes expenditures therefrom:
 - (i) To meet objectives of the Hawaii Clean Energy Initiative Program, including supporting the Department of Business, Economic Development, and Tourism's (DBEDT) energy division, including funding staff positions; and
 - (ii) To fund, to the extent possible, the Greenhouse Gas Emissions Reduction Task Force, Climate Change Task Force, and grants to economic development boards in each county and county economic development agencies to meet the objectives of the Hawaii Clean Energy Initiative Program;
 - and
 - (B) Requires DBEDT to report annually to the Legislature on the status of programs and activities funded by the Energy Security Special Fund;



- (7) Establishes the Hawaii Economic Development Task Force and:
- (A) Requires the task force to facilitate the adoption and completion of renewable-energy projects, energy-efficiency programs, and agricultural infrastructure and development;
 - (B) Appropriates an unspecified amount from the Energy Security Special Fund to support the task force; and
 - (C) Requires the task force to submit reports to the Legislature on its findings and recommendations, including activities funded by the Barrel Tax and the progress made toward energy and food self-sufficiency;
- (8) Establishes the Agricultural Development and Food Security Special Fund and:
- (A) Authorizes expenditures therefrom for activities intended to increase agricultural production and processing, including research on and testing of agricultural products and markets, promotion of agricultural products grown or raised in Hawaii, and funding of agricultural inspector positions in the Department of Agriculture (DOA);
 - (B) Requires DOA to report annually to the Legislature on the status of programs and activities funded by the Agricultural Development and Food Security Special Fund; and
 - (C) Appropriates therefrom unspecified amounts for, among other things: Varroa mite control and eradication, pest inspection and quarantine activities by DOA, expansion of DOA's Food Safety and Security Program, and DOA agricultural inspector positions;
- (9) Establishes the Hawaii Clean Energy Initiative Program to manage the state's transition to a clean energy economy and, among other things:
- (A) Requires the program to design, implement, and administer certain activities;



- (B) Prior to taking any action, requires DBEDT to develop a plan of action that promotes effective prioritization and focusing of efforts consistent with the State's energy programs and objectives; and
 - (C) Requires DBEDT to report annually to the Legislature on the status and progress of new and existing clean energy initiatives;
- (10) Appropriates an unspecified amount from the Energy Security Special Fund for the Climate Change Task Force and the Greenhouse Gas Emissions Reduction Task Force;
 - (11) Authorizes the Governor to establish positions necessary to manage energy projects funded by federal grants;
 - (12) Effective June 30, 2015, repeals amendments made relating to the Environmental Response Revolving Fund; Energy Security Special Fund; the Environmental Response, Energy, and Food Security tax on a barrel of petroleum product, the allocations of the tax, the exemption of aviation fuel from the tax; the fuel tax exemption for petroleum products used by commercial air transportation providers; and the establishment and uses of the Agricultural Development and Food Security Special Fund; and
 - (13) Provides for unexpended moneys remaining in the Agricultural Development and Food Security Special Fund upon its repeal, to lapse to the credit of the general fund.

Your Committee on Conference finds that this bill is such a critical component in the state's successful transition to energy and food self-sufficiency and preparing for the inevitable effects of climate change that its expedited passage is deemed appropriate. However, this bill contains appropriation provisions. Article VII, Section 9, of the Hawaii Constitution prohibits, with a few exceptions, the passage on final reading of appropriation bills before the supplemental appropriations bill is transmitted to the Governor. Further, your Committee on Conference finds that the language in the bill amending section 243-3.5, Hawaii Revised Statutes, is sufficiently explicit to exempt aviation fuel from the Barrel Tax. Accordingly, your Committee on Conference has amended this bill by, among other things:



- (1) Reducing the Barrel Tax to \$1.05 from \$1.55 and revising the allocation of the tax on each barrel of petroleum products as follows:
 - (A) 15 cents from 10 cents to the Energy Security Special Fund; and
 - (B) 15 cents from 30 cents to the Agricultural Development and Food Security Special Fund;

provided that any remaining balance shall be deposited to the credit of the general fund;

- (2) Deleting provisions relating to appropriations as follows:
 - (A) Appropriating from the Energy Security Special Fund unspecified sums to the:
 - (i) Hawaii Economic Development Task Force;
 - (ii) Climate Change Task Force; and
 - (iii) Greenhouse Gas Emissions Reduction Task Force;and
 - (B) Appropriating from the Agricultural Development and Food Security Special Fund unspecified sums for various pest control efforts, the Livestock Revitalization Program, water distribution systems, and agricultural inspector positions;
- (3) Adding a provision directing the Department of Business, Economic Development, and Tourism to study and analyze the Barrel Tax, including its amount and allocation, and its impact on accomplishing the goals and objectives of this bill and submit annual reports of its findings, recommendations, and any necessary proposed legislation to the Legislature at least 20 days prior to the convening of a regular session commencing with the 2011 Regular Session and ending with the 2015 Regular Session; and
- (4) Deleting the fuel tax exemption for petroleum products used by commercial air transportation providers;



- (5) Making technical, nonsubstantive amendments for style, consistency, and clarity.

Inasmuch as the following appropriation provisions of H.B. No. 2421, H.D. 2, S.D. 2:

- (1) Section 8 (an unspecified appropriation sum from the Energy Security Special Fund for the Hawaii Economic Development Task Force);
- (2) Section 10 (unspecified appropriation sums from the Agricultural Development and Food Security Special Fund for various pest control efforts, the Livestock Revitalization Program, water distribution systems, and agricultural inspector positions);
- (3) Section 12 (an unspecified appropriation sum from the Energy Security Special Fund for the Climate Change Task Force); and
- (4) Section 13 (an unspecified appropriation sum from the Energy Security Special Fund for the Greenhouse Gas Emissions Reduction Task Force),

were deleted to constitutionally permit the expeditious passage of this bill, your Committee on Conference respectfully requests the House Committee on Finance and the Senate Committee on Ways and Means to include the substance of the aforesaid bill sections in the supplemental budget and appropriate the necessary amount of funds to accomplish their respective purposes.

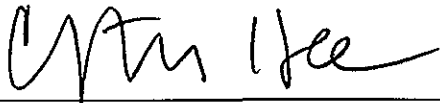
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2421, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2421, H.D. 2, S.D. 2, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE



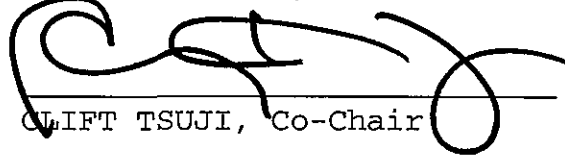
CLAYTON HEE, Chair



HERMINA MORITA, Co-Chair



MIKE GABBARD, Co-Chair



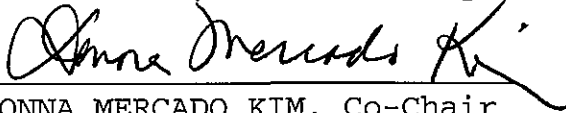
CLIFT TSUJI, Co-Chair



CAROL FUKUNAGA, Co-Chair



MARCUS R. OSHIRO, Co-Chair



DONNA MERCADO KIM, Co-Chair



**Record of Votes of a
Conference Committee**

Bill / Concurrent Resolution No.: HB 2421, HD 2, SD 2	Date/Time: 4 / 12 / 10 10:27a
--	---

The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
---	---

Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	✓				MORITA, Hermina M., Co-Chr.	✓			
GABBARD, Mike, Co-Chr.	✓				TSUJI, Clift, Co-Chr.	✓			
FUKUNAGA, Carol, Co-Chr.			✓		OSHIRO, Marcus R., Co-Chr.	✓			
KIM, Donna Mercadò, Co-Chr.	✓				COFFMAN, Denny	✓			
KOKUBUN, Russell S.	✓				WOOLEY, Jessica	✓			
					THIELEN, Cynthia				✓
TOTAL	4	1	0	0	TOTAL	5	0	1	0

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
---	--

Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
--	---

Distribution: **Original** **Yellow** **Pink** **Goldenrod**
 File with Conference Committee Report House Clerk's Office Senate Clerk's Office Drafting Agency