

**TESTIMONY**  
**HB 2421, HD2**

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: FUEL, Environmental response, energy and food security tax

BILL NUMBER: HB 2421, HD-2

INTRODUCED BY: House Committee on Finance

**BRIEF SUMMARY:** Amends HRS section 243-3.5 to rename the environmental response tax the environmental response, energy and food security tax. The tax on each barrel of petroleum product shall be 5 cents on each barrel of petroleum product that is aviation fuel and \$1.05 on each barrel that is not aviation fuel shall be deposited into the environmental response revolving fund (HRS section 128D-2); 55 cents shall be deposited into the energy security special fund (HRS section 201-12.8); 10 cents shall be deposited into the energy systems development special fund (HRS section 304A-2169); and 35 cents shall be deposited into the proposed agricultural development and food security special fund (HRS section 141-\_\_\_\_\_).

Amends HRS section 243-7 to provide that the fuel tax shall not be applicable to the sale of petroleum product used by a provider of commercial air transportation to transport persons or property.

Adds a new section to HRS chapter 141 to establish an agricultural development and food security special fund which shall be used for: (1) the awarding of grants to farmers for agricultural production or processing activity; (2) the acquisition of real property for agricultural production or processing activity; (3) the improvement of real property, irrigation systems and transportation networks necessary to promote agricultural production or processing activity; (4) the purchase of equipment necessary for agricultural production or processing activity; (5) conducting of research on and testing of agricultural products and markets; (6) the promotion and marketing of agricultural products grown or raised in the state; and (7) any other activity intended to increase agricultural production or processing that may lead to reduced importation of food, fodder, or feed from outside the state.

Establishes the Hawaii economic development task force within the department of business, economic development and tourism (DBEDT) whose purpose is to facilitate the accelerated adoption and completion of renewable energy projects, energy efficiency programs, agricultural infrastructure and development. The task force shall consist of: (1) the director of DBEDT or designee; (2) the chairperson of the board of agriculture or designee; (3) the director of the office of planning or designee; (4) the chairperson of the board of land and natural resources or designee; (5) the dean of the UH college of tropical agriculture and human resources or designee; (6) the speaker of the house of representatives or designee; (7) the president of the senate or designee; and (8) a representative from each county's economic development board. Requires the task force to submit a report of its findings, recommendations, and proposed legislation to the 2012 legislature. The task force also shall submit a follow-up report to the 2012 legislature which shall include a description of the activities funded by the environmental response, energy, and food security tax, progress made toward energy and food self-sufficiency, and additional action necessary to achieve energy and food self-sufficiency. The Hawaii economic development task force shall cease to exist on June 30, 2012.

Adds a new section to HRS chapter 196 to establish a Hawaii clean energy initiative program within DBEDT to manage the state's transition to a clean energy economy.

Makes various appropriations of unspecified amounts for the various programs, positions, and purposes of the measure.

EFFECTIVE DATE: July 1, 2020

STAFF COMMENTS: This measure proposes to rename the environmental response tax the environmental response, energy and food security tax. 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 to \$1.05 on barrels of petroleum product that are not aviation fuel and maintains the 5 cents per barrel on aviation fuel. Five cents of the tax on each barrel, including all tax revenues received under this section for the sale of aviation fuel, shall be deposited into the environmental response revolving fund; 55 cents of the tax on each barrel shall be deposited into the energy security special fund; 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund; and 35 cents of the tax on each barrel shall be deposited into the agricultural development and food security special 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 classic 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 what 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. Proponents ought to be ashamed that they are promoting a less than transparent tax increase in the burden on families all in the name of environmental protection and food security. This proposal is nothing more than another bureaucratic boondoggle that merely expands the size of government at the expense of working families and small businesses struggling to survive in this economy and trying to make ends meet. While the proposed measure establishes a Hawaii economic development task force, a Hawaii clean energy initiative program, a renewable energy branch, as well as additional positions for DBEDT for the stated purposes, it is questionable why these goals are not addressed by the "qualified experts" of DBEDT. The measure also establishes yet another special fund - the agricultural development and food security special fund.

In addition, it should be remembered that the State Auditor has singled out the environmental response revolving 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 programs should not compete for general funds like all other programs which benefit the community as a whole. And while the legislation describes various activities for which the funds in the new special fund can be expended, it is the newly establish economic development task force that will specify the types of programs that will benefit from the fund.

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 set a sunset deadline by which these programs are to be general-fund financed and the tax repealed. The measure also seems to imply that the funds in the new special fund will be used to leverage federal funds through grants and other appropriations. If that is the case, the legislature already has the ability to appropriate state funds to be used as matching funds for federal aid and grants.

Lawmakers should not only be concerned about the impact that the increase in the barrel tax will have on motor fuel, but on the cost of living in general. Because this is a tax at the front end of the consumer chain, it will be imbedded in everything that is consumed in the state. And because it is at the front end, it will tend to pyramid the cost of goods and services as each business in the chain adds his or her mark-up to an increased base price. Thus, now is hardly a time to add such a tax that will cause prices to rise at the retail level because its imposition is at the raw product level. Proponents argue that this tax will only amount to a couple of cents for every gallon of gasoline. Indeed that argument is the simplistic approach that these supporters have taken with very little understanding of economics and how businesses must accommodate the increase in costs that the barrel tax represents. Because this is a tax on energy which is a significant component of a business' overhead, that additional cost will have to be recovered in the base price of the goods and services sold and consume to which the business and each subsequent business will add its mark-up. So as the base price of a product or service is increased because of the increased energy cost, the subsequent selling price will be all that much more. As costs rise, so will prices and as prices rise, consumers will be forced to buy less to accommodate the increased cost of the bare necessities. Further, the goods and services produced in Hawaii which must compete on the world market will become less and less competitive as the increased cost of doing business exacerbates the cost which must

be charged just to recover costs.

Given that this proposal amounts to a tax increase, 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 contributed 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 feathers 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

Proponents of this measure point out that this measure will help Hawaii become more energy self-sufficient and we will stop sending more and more money out of the state because Hawaii is so dependent on fossil fuels. On the other hand, they also point to the fact that the U.S. Department of Energy has designated Hawaii as the number one state for the potential of shifting its energy resources to renewable. If that is the case, then there should be federal funds available to build the necessary infrastructure for renewable energy sources. While making the shift to renewable energy sources, as well as providing support for sustainable agriculture in the state is nice to have, it would come at a terrible price especially in the current economy. Of particular note is the substantial amount of federal funds available for alternate energy and energy conservation projects under the American Recovery and Reinvestment Act (ARRA), the federal stimulus package.

Not only does this measure represent a major tax increase at a bad economic time, it also creates another huge public bureaucracy riddled with a plethora of new programs. Given the current struggle over the state's budget, this is not a time to expand government. If advocates of this measure want to adopt this new public bureaucracy, then they should be asked what the state can do without from its current panoply of programs and services.

Last year, a similar measure that increased the tax to \$1 was passed by the legislature and vetoed by the governor. The governor's veto message stated that "it raises taxes on Hawaii residents and businesses by an estimated \$31 million per year at a time when the community can least afford these taxes. Just like the many struggling families and business owners across our state, we must prioritize expenditures on a budget and then learn to live within our means." Clearly this measure, which would expand government along with additional taxes and fees, is totally unacceptable.

For a legislature that is controlled by elected officials who prattle that they are advocates for the poor, this bill will hurt the poor the most. For elected officials who whine over the cost of affordable housing or better yet bemoan the homeless problem, this bill will ensure that even more residents will end up living on the beach. Sure it is fashionable to be "green" and an advocate for sustainability, but one has to ask at what price? Unless lawmakers are willing to surrender their pet programs in the name of sustainability and food security, this measure just adds to the burden of taxes of the people of Hawaii. While lawmakers scrounge the bottom of the barrel to find a solution to end "furlough Fridays," are they more than willing to entertain such a huge tax increase for something other than education?

It is interesting to note that in all the drafts of this measure, a provision is made to exempt aviation fuel used for the transportation of freight and passengers from the state fuel tax under HRS chapter 243.

HB 2421, HD-2 - Continued

Perhaps the sponsors of this measure wanted to address the concern that the tax on fuel would give rise to another veto of this measure. What it does reflect is an ignorance of the fact that aviation fuel used for intrastate travel is already subject to the state fuel tax and proceeds are placed in the airports special fund. This becomes a source of funding for the airport facilities that the intrastate carriers utilize and, therefore, is appropriate under federal law. What is not acceptable is a tax imposed on aviation fuel the proceeds of which will not directly benefit the airlines as is the case of the barrel tax.

Digested 3/12/10

March 12, 2010

SENT VIA EMAIL

Hawaii State legislature  
State Capital  
Honolulu, Hawaii 96813

Support Testimony for **H.B. NO. 2421 HD2**  
**Relating To Government**  
**Food & Energy Security**

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

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Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair  
Senator J. Kalani English, Vice Chair

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Senator Carol Fukunaga, Chair  
Senator Rosalyn H. Baker, Vice Chair

Monday, March 15, 2010, 3:00 PM., Conference Room 229, State Capitol

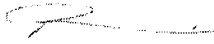
Aloha Chairs Hee, Gabbard, Fukunaga and All Committee Members!

**Enterprise Honolulu, the Oahu Economic Development Board, strongly supports H.B 2421 HD2**, – to create a new Council and Task Force to provide direction and governing authority for Hawai'i's food and energy security. This legislation gives Hawai'i the ability to turn two of our largest economic problems and threats into two of our most significant new opportunities, food and energy security.

The current draft allows for a portion of the funds to go to the Hawaii State General Fund for 1 year. While this isn't the intent of the bill, in light of the economic crisis Hawaii is currently experiencing this is an acceptable use for one year (only) as the Task force is assembled and analyzes appropriate projects.

**Enterprise Honolulu, the Oahu Economic Development Board, supports HB 2421 HD2.** We are committed to working with you to help make this legislation a reality.

Sincerely,

  
Pono Shim  
President and CEO

  
**ENTERPRISE**  
HONOLULU  
THE BUSINESS CLIMATE OF PARADISE

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tel (808) 537-4508  
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Testimony of The Nature Conservancy of Hawai'i  
(Provided by Mark Fox, Director of External Affairs)  
Supporting with Amendments H.B. 2421, HD2 Relating to Government  
Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Senate Committee on Energy and Environment  
Senate Committee on Economic Development and Technology  
Monday, March 15, 2010, 3:00PM, Rm. 229

The Nature Conservancy **supports with the attached amendments** H.B. 2421, HD2, particularly the imposition of a reasonable tax increase on imported petroleum as a smart way to support Hawaii's energy security goals, incentivize innovation and change, promote food security, and help us cope with the effects of climate change.

**We recommend the Committee amend the bill (see attached) to require a small portion, such as 10%, of the barrel fee be used to help communities and our natural resources cope with the inevitable challenges of climate change caused by emissions from burning fossil fuels. We do agree that large the majority of the revenue from the barrel fee should be used to support the state's transition to clean energy, greenhouse gas emission reduction, and energy and food security.**

Climate change is an imminent and unprecedented threat to both natural systems (e.g., forests, coastlines, coral reefs, wetlands) and to every person in Hawai'i that—whether they know it or not—depends on services from the natural environment for their livelihoods, health and welfare. Scientists have examined the evidence and rapid climate change is real; it is clearly caused by human activity; it is already a problem for habitat for plants and animals; and, if sources of CO<sub>2</sub> are not dramatically reduced, climate change could well have catastrophic results for people and their relationship with the natural environment.

Even if we drastically reduce CO<sub>2</sub> emissions now, we will still feel the effects of climate change. In Hawai'i, science is indicating that this may include:

- More frequent and more severe storms;
- Overall, less rainfall and therefore less fresh water;
- Higher temperatures that may affect the health of forested watersheds;
- Climatic conditions even more conducive to invasive plants, insects and diseases;
- Sea level rise and high wave events that will harm coastal areas and cause seawater infiltration into groundwater systems; and
- Ocean acidification that will inhibit the growth of coral reefs.

In addition, to achieving energy security through vastly greater energy efficiency, technology and renewable energy development, we must plan and implement mitigative and adaptive measures to ensure the resilience of our natural and human systems.

**Proposed amendments attached.**

BOARD OF TRUSTEES

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[Proposed amendments from The Nature Conservancy highlighted]

HOUSE OF REPRESENTATIVES  
TWENTY-FIFTH LEGISLATURE, 2010  
STATE OF HAWAII

H.B. NO. 2421  
H.D. 2  
S.D. 1

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# A BILL FOR AN ACT

RELATING TO GOVERNMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

## PART I

SECTION 1. The purpose of this Act is to:

- (1) Promote economic development for local food and energy businesses by providing necessary funding, guidance, and infrastructure;
- (2) Ensure Hawaii is energy and food self-sufficient and sustainable to the maximum extent feasible; and
- (3) Help Hawaii's natural resources and population adapt and be resilient to the inevitable challenges brought on by climate change caused by carbon dioxide and other greenhouse gas emissions from burning fossil fuels.

Hawaii is at a crossroads. As the most geographically isolated state in the country, we are dangerously dependent on imports for basic food and energy. We import about eighty-five per cent of our food and ninety-five per cent of our energy. It has been estimated that Hawaii exported \$8,600,000,000 for food and oil in 2008, and every dollar exported is a lost opportunity to support and invest in local businesses. Our dependence on imports also exposes residents and businesses to volatile food and energy costs as oil prices fluctuate.

In addition, the mass consumption of fossil fuels, driven by our dependence on food and energy imports, contributes to climate change and the deterioration of the environment, including severe storm events, less rainfall, warmer temperatures that favor invasive species, a rise in sea levels, and ocean acidification that hampers coral growth. These climate changes will likely impose major, but not fully understood, costs and other impacts on Hawaii's people and the natural capital we depend upon to support our lives in the middle of the Pacific Ocean. Nowhere is it more obvious than in remote islands like Hawaii that our lives and economy are intertwined with the health and function of the natural world around us.

Although Hawaii has available renewable resources like solar, wind, ocean, and geothermal energy, we as a community have not taken full advantage of alternative-energy and energy-efficiency solutions to make the state more energy-independent. As an example, despite year-round sunshine, only thirty per cent of Hawaii's residents have solar water heaters.

Similarly, many acres of highly productive agricultural lands are not being farmed. Currently, Hawaii has a fresh supply of produce for no more than ten days. Ninety per cent of the beef, sixty-seven per cent of fresh vegetables, sixty-five per cent of fresh fruits, and seventy per cent of all milk consumed in the state are imported. While Hawaii may never produce one hundred per cent of its food, the risks and costs to society for dependence on imported food cannot be ignored.

Like energy, producing local food would reduce Hawaii's demand for fossil fuels, keep money in our community, and decrease the state's vulnerability to food-supply disruptions caused by natural disasters or worldwide economic events.

Now is the time for bold action to squarely address Hawaii's energy and food requirements and plan for and address the inevitable effects of climate change. It will require long-term commitment, dedication, and the investment of capital and human resources by government, the private sector, and Hawaii's people to dramatically shift our present course of importing food and energy toward a more energy-independent and agriculturally sustainable society. As a state and as a people, we must decide whether we will continue to be dependent on external sources for our basic needs, or whether we will build, invest in, and develop the capacity to become food- and energy-independent, as well as ensure the resiliency of our communities and natural environment to the inevitable impacts of climate change

The legislature finds that it is in the best interests of Hawaii's people to build the capacity we need to become energy- and food-self-sufficient and protect the health and function of our environment. As discussed in the "Hawaii 2050 Sustainability Plan and Hawaii Clean Energy Initiative," Hawaii has all the necessary assets to significantly improve the state's energy and food sustainability and independence over the next twenty years if appropriate personnel resources and funding are used wisely. To succeed, the state must ensure that our long-term strategy is well-resourced, coordinated, and focused.

This Act creates a Hawaii economic development task force to accelerate and support public and private efforts to make Hawaii energy- and food-self-sufficient, consistent with the "Hawaii 2050 Sustainability Plan, the Hawaii Clean Energy

Initiative," and other government and community planning efforts. The Hawaii economic development task force shall:

- (1) Recommend priorities for government agencies and the legislature to consider in determining how funds may be allocated;
- (2) Develop new, or modifying existing, strategies to implement and achieve the purposes of this Act; and
- (3) Identify the economic development, workforce, and consumer-education issues relating to the production of food and energy.

The legislature intends for the Hawaii economic development task force to take an interdisciplinary approach to seeking the most efficient and effective pathways for interagency coordination. The Hawaii economic development task force shall work collaboratively with all levels of government and the private and nonprofit sectors to address water, land, regulatory, and natural-resource issues intertwined with food and fuel production. This approach ensures that energy and food policy development will be integrated within the overall economic, social, environmental, and cultural aspects of society. With an understanding of these overlapping goals and resources, the state can maximize the opportunities to ensure food and energy security for generations to come.

The Act also:

- (1) Establishes a clean energy initiative to manage the state's transition to a clean energy economy;
- (2) Establishes an agricultural development and food security special fund to fund activities intended to increase agricultural production or processing that may lead to reduced importation of food, fodder, or feed from outside the state; and
- (3) Appropriates funds for the climate change task force established under Act 20, Special Session Laws of Hawaii 2009, to study the effects global warming will have on the economic well-being, public health, natural resources, and environment of Hawaii; and
- (4) Establishes a program to implement measures to protect Hawaii's natural resources and to ensure their resilience and ongoing ability to deliver services such as fresh water, sediment control, shoreline protection, and food in the face of the inevitable challenges brought on by climate change caused emissions from burning fossil fuels;.

The legislature finds that undertaking this important task of energy and food security and natural resource protection requires a long-term commitment and the investment of substantial financial resources. To that end, this Act also

increases the per-barrel tax on petroleum products under the environmental response, energy, and food security tax, formerly known as the environmental response tax, and it appropriates funds from that tax for the energy and food security and natural resource protection initiatives established by this Act.

PART II

ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD SECURITY TAX

SECTION 2. Section 128D-2, Hawaii Revised Statutes, is amended to read as follows:

**"§128D-2 Environmental response revolving fund; uses.**

(a) There is created within the state treasury an environmental response revolving fund, which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, all interest attributable to investment of money deposited in the fund, moneys ~~[generated by]~~ deposited in the fund from the environmental response, energy, and food security tax [established in] pursuant to section 243-3.5, and moneys allotted to the fund from other sources [~~provided that when the total balance of the fund exceeds \$20,000,000, the department of health shall notify the department of taxation of this fact in writing within ten days. The department of taxation then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be discontinued beginning the first day of the second month following the month in which notice is given to the department of taxation. If the total balance of the fund thereafter declines to less than \$3,000,000, the department of health shall notify the department of taxation which then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be reinstated beginning the first day of the second month following the month in which notice is given to the department of taxation~~].

(b) Moneys from the fund shall be expended by the department for response actions and preparedness, including removal and remedial actions, consistent with this chapter; provided that the revenues generated by the [~~"environmental response tax" and]~~ environmental response, energy, and food security tax deposited into the environmental response revolving fund:

(1) Shall [~~also~~] be used:

(A) For oil spill planning, prevention, preparedness, education, research, training, removal, and remediation; and

- (B) For direct support for county used oil recycling programs; and
- ~~[(C) For deposit into the energy security special fund, established under section 201-12.8, as may be appropriated by the legislature; and]~~
- (2) ~~May~~ Shall also be used to support environmental protection and natural resource protection programs, including ~~[but not limited to]~~ energy conservation and alternative energy development, and to address concerns related to air quality, global warming climate change, watershed protection and management, coastal and marine protection and management, 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 and funding for the acquisition by the State of a soil remediation site and facility."

SECTION 3. Section 201-12.8, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]~~ **§201-12.8** ~~[+]~~ **Energy security special fund; uses.** (a) There is created within the state treasury an energy security special fund, which shall consist of:

- (1) The portion of the environmental response, energy, and food security tax specified under section 243-3.5;
- ~~[-1-]~~ (2) Moneys appropriated to the fund by the legislature;
- ~~[-2-]~~ (3) All interest attributable to investment of money deposited in the fund; and
- ~~[-3-]~~ (4) Moneys allotted to the fund from other sources.

(b) ~~[Moneys]~~ Subject to legislative appropriation, moneys from the fund ~~[shall]~~ may be expended by the department of business, economic development, and tourism for the following purposes and ~~[shall be]~~ used for no other purposes, except for those set forth in this section:

- (1) To support ~~[its]~~ the Hawaii clean energy initiative program, including its energy division and projects that ensure dependable, efficient, and economical energy, promote energy self-sufficiency, and provide greater energy security for the ~~[State, and]~~ state;
- (2) To fund the renewable energy facilitator pursuant to section 201-12.5 and any other positions necessary for the purposes of paragraph (1) as determined by the legislature ~~[-]; and~~
- (3) To fund, to the extent possible, the greenhouse gas emissions reduction task force, climate change task force, grants-in-aid to the economic development

boards of each county, and grants-in-aid to economic development agencies of each county to meet the stated objectives of the Hawaii clean energy initiative program.

(c) The department of business, economic development, and tourism shall submit a report to the legislature, no later than twenty days prior to the convening of each regular session, on the status and progress of existing programs and activities and the status of new programs and activities funded by the energy security special fund. The report shall also include:

- (1) The spending plan of the energy security special fund;
- (2) All expenditures of energy security special fund moneys; and
- (3) The targeted markets of the expenditures, including the reason for selecting those markets; the persons to be served; and the specific objectives of the expenditures, including measurable outcomes."

SECTION 4. Section 243-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

"§243-3.5 Environmental response, energy, and food security tax; uses. (a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed [at times provided in section ~~128D-2~~] a state environmental response, energy, and food security tax [of 5 cents] on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user [7] of petroleum product, other than a refiner [7, of petroleum product,]. The tax shall be \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel shall be [used pursuant to section ~~128D-2~~ to address concerns relating to drinking water.] deposited into the environmental response revolving fund established under section 128D-2;
- (2) ~~55~~ 50 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8;
- (3) 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169; and
- (4) ~~35~~ 30 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-  
; and

(5) 10 cents of the tax on each barrel shall be deposited into the climate change resilience and adaptation special fund established under section 195D- .

The tax imposed by this subsection shall be paid by the distributor of the petroleum product."

2. By amending subsection (c) to read:

"(c) Notwithstanding section 248-8 to the contrary, the environmental response, energy, and food security tax collected under this section shall be paid over to the director of finance for deposit ~~[into the environmental response revolving fund established by section 128D-2-]~~ as provided in subsection (a)."

SECTION 5. Section 243-7, Hawaii Revised Statutes, is amended to read as follows:

**"§243-7 Tax not applicable, when.** (a) This chapter requiring the payment of license fees shall not be held or construed to apply to fuel imported into the ~~[State]~~ state in interstate or foreign commerce while and so long as such fuel is beyond the taxing power of the State, nor to any such fuel exported or sold to the government of the United States or any department thereof for official use of the government, nor to any fuel exported or sold to another licensed distributor; but every distributor shall be required to report such imports, exports, and sales as provided by this chapter and in such detail as the department of taxation shall require.

(b) This chapter shall not apply to the sale of liquid fuel sold or used in the ~~[State]~~ state for ultimate use by an intra-county ferry service that serves a county with a population of less than five hundred thousand residents and that includes at least three islands inhabited by permanent residents.

(c) This chapter shall not apply to the sale of a petroleum product that is used by a provider of commercial air transportation to transport persons or property."

SECTION 6. Section 304A-2169, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The special fund shall be funded by:

(1) Appropriations from the legislature; ~~[and]~~

(2) The portion of the environmental response, energy, and food security tax specified under section 243-3.5; and

~~[(2)]~~ (3) Investment earnings, gifts, donations, or other income received by the ~~[+]~~Hawaii natural energy~~[-]~~ institute."

### PART III

#### HAWAII ECONOMIC DEVELOPMENT TASK FORCE

SECTION 7. (a) There is established the Hawaii economic development task force within the department of business, economic development, and tourism for administrative purposes.

The purpose of the Hawaii economic development task force shall be to facilitate the accelerated adoption and completion of renewable-energy projects, energy-efficiency programs, agricultural infrastructure and development, and other measures to meet the purposes of this Act. The Hawaii economic development task force shall develop and maintain a broad overview of energy and food security issues that apply an interdisciplinary approach to ensure that Hawaii's energy and food policy and program development is integrated within the overall economic, social, environmental, and cultural aspects of society. The Hawaii economic development task force shall, with the assistance of the department of business, economic development, and tourism:

- (1) Identify and review each state and county agency's policy objectives, mandates, organizational structure, and resources to address energy and food security issues;
- (2) Identify all federal and private funds available to the State and counties to address energy and food security issues;
- (3) Identify effective measures for interagency cooperation, coordinate efforts with the counties, and promote public- and private-sector partnerships to achieve the objective of energy and food security;
- (4) Identify existing programs and agreements addressing energy and food security that may be enhanced through legislation;
- (5) Investigate alternative institutional mechanisms to promote the efficient execution and implementation of a multi-year strategy to achieve energy and food security;
- (6) Investigate the streamlining of administrative processes to accelerate and achieve energy and food security;
- (7) Provide an appropriate forum for all affected or interested parties to address energy and food security issues;
- (8) Recommend appropriate legislation resulting from its findings to improve, accelerate, and achieve the objective of energy and food security;
- (9) Review whether:
  - (A) The apportionment of the environmental response, energy, and food security tax among the funds listed under section 243-3.5, Hawaii Revised Statutes, is appropriate;
  - (B) The apportionment should be changed; and



(C) Any additional special, trust, or revolving fund should receive a share of the tax;

and

(10) Perform any other function necessary to effectuate the purposes of this part.

(b) The Hawaii economic development task force shall consist of the following members:

- (1) The director of business, economic development, and tourism or the director's designee, who shall chair the Hawaii economic development task force;
- (2) The chairperson of the board of agriculture or the chairperson's designee;
- (3) The director of the office of planning or the director's designee;
- (4) The chairperson of the board of land and natural resources or the chairperson's designee;
- (5) The dean of the University of Hawaii college of tropical agriculture and human resources or the dean's designee;
- (6) The speaker of the house of representatives or the speaker's designee;
- (7) The president of the senate or the president's designee; and
- (8) A representative from each county's private economic development board.

(c) The Hawaii economic development task force's members shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(d) In the performance of its duties, the Hawaii economic development task force shall consult with appropriate private, nonprofit, community, and government stakeholders.

(e) The department of business, economic development, and tourism may contract with the University of Hawaii for any services to support the work of the Hawaii economic development task force.

(f) The Hawaii economic development task force shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2011.

The task force shall also submit a follow-up report to the legislature no later than twenty days prior to the convening of the regular session of 2012. The report shall include a description of the activities funded by the environmental response, energy, and food security tax, progress made toward

energy and food self-sufficiency, and any additional action necessary to achieve energy and food self-sufficiency.

(g) The Hawaii economic development task force shall cease to exist on June 30, 2012.

SECTION 8. Notwithstanding section 201-12.8(b), Hawaii Revised Statutes, there is appropriated out of the energy security special fund the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2010-2011 for the purpose of supporting the work of the Hawaii economic development task force. The appropriation shall be made from the portion of the environmental response, energy, and food security tax that is deposited into the energy security special fund.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

#### PART IV

##### AGRICULTURAL DEVELOPMENT AND FOOD SECURITY

SECTION 9. Chapter 141, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§141- Agricultural development and food security special fund; establishment. (a) There is established within the state treasury the agricultural development and food security special fund.

(b) The following moneys shall be deposited into the special fund:

- (1) The portion of the environmental response, energy, and food security tax specified under section 243-3.5;
- (2) Any appropriation by the legislature into the special fund;
- (3) Any grant or donation made to the special fund; and
- (4) Any interest earned on the balance of the special fund.

(c) Subject to legislative appropriation, moneys in the special fund may be expended for the following purposes:

- (1) The awarding of grants to farmers for agricultural production or processing activity;
- (2) The acquisition of real property for agricultural production or processing activity;
- (3) The improvement of real property, irrigation systems, and transportation networks necessary to promote agricultural production or processing activity;
- (4) The purchase of equipment necessary for agricultural production or processing activity;
- (5) The conduct of research on and testing of agricultural products and markets;

- (6) The promotion and marketing of agricultural products grown or raised in the state; and
- (7) Any other activity intended to increase agricultural production or processing that may lead to reduced importation of food, fodder, or feed from outside the state.

(d) The department of agriculture shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the status and progress of existing programs and activities and the status of new programs and activities funded under the agricultural development and food security special fund. The report shall also include:

- (1) The spending plan of the agricultural development and food security special fund;
- (2) All expenditures of agricultural development and food security special fund moneys;
- (3) The targeted markets of the expenditures, including the reason for selecting those markets;
- (4) The persons to be served; and
- (5) The specific objectives of the expenditures, including measurable outcomes."

SECTION 10. There is appropriated out of the agricultural development and food security special fund the sum of \$ \_\_\_\_\_ or so much thereof as may be necessary for fiscal year 2010-2011 for the purpose of supporting the following projects:

- (1) \$ \_\_\_\_\_ for Varroa mite control and eradication efforts;
- (2) \$ \_\_\_\_\_ for the operation of pest inspection, quarantine, eradication, biosecurity, and monitoring programs, related facilities, and the execution of emergency remedial measures when pests are detected in the course of inspection and quarantine activities by the department of agriculture;
- (3) \$ \_\_\_\_\_ for the expansion of the food safety and security program administered by the department of agriculture;
- (4) \$ \_\_\_\_\_ for the livestock revitalization program under chapter 155D, Hawaii Revised Statutes;
- (5) \$ \_\_\_\_\_ for improvements to the lower Hamakua ditch in Hawaii county;
- (6) \$ \_\_\_\_\_ for the construction of an agricultural water main distribution pipeline in the upcountry Maui watershed;
- (7) \$ \_\_\_\_\_ for the construction of the Kealahou pipeline in the upcountry Maui watershed; and

- (8) § for the planning phase of the state agricultural water use and development plan.

The sum appropriated shall be expended by the department of agriculture for the purpose of this section. Any part of the sum appropriated in this section may be used to match federal funds.

PART V

HAWAII CLEAN ENERGY INITIATIVE

SECTION 11. Chapter 196, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§196- Hawaii clean energy initiative program. (a)

There is established within the department of business, economic development, and tourism, a Hawaii clean energy initiative program to manage the state's transition to a clean energy economy. The clean energy program shall design, implement, and administer activities that include:

- (1) Strategic partnerships for the research, development, testing, deployment, and permitting of clean and renewable technologies;
- (2) Engineering and economic evaluations of Hawaii's potential for near-term project opportunities for the state's renewable energy resources;
- (3) Electric grid reliability and security projects that will enable the integration of a substantial increase of electricity from renewable-energy resources;
- (4) A statewide clean energy public education and outreach plan to be developed in coordination with Hawaii's institutions of public education;
- (5) Promotion of Hawaii's clean and renewable resources to potential partners and investors;
- (6) A plan, to be implemented from 2011 to 2030, to transition the state to a clean energy economy; and
- (7) A plan, to be implemented from 2011 to 2030, to assist each county in transitioning to a clean energy economy.

(b) Prior to the initiation of any activities authorized under subsection (a), the department of business, economic development, and tourism shall develop a plan of action with the intent of promoting effective prioritization and focusing of efforts consistent with the state's energy programs and objectives.

(c) The department of business, economic development, and tourism shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on

the status and progress of new and existing clean energy initiatives. The report shall also include:

- (1) The spending plan of the Hawaii clean energy initiative program;
- (2) All expenditures of energy security special fund moneys; and
- (3) The targeted markets of the expenditures, including reasons for selecting those markets, the persons to be served, specific objectives of the program, and program expenditures, including measurable outcomes."

PART VI

**CLIMATE CHANGE RESILIENCE AND ADAPTATION**

SECTION 12. Chapter 195D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§195D- Climate change resilience and adaptation special fund; establishment. (a) There is established within the state treasury the climate change resilience and adaptation special fund.

(b) The following shall be deposited into the special fund:

- (1) The portion of the environmental response, energy and food security tax specified under section 243-3.5;
- (2) Any appropriation by the legislature into the special fund;
- (3) Any grant or donation made to the special fund; and
- (4) Any interest earned on the balance of the special fund.

(c) Subject to legislative appropriation, moneys in the special fund may be expended to promote the resilience and adaptation of indigenous plants, animals, aquatic life, and their associated ecosystems to ensure their ongoing health, function and ability to deliver public services such as fresh water, sediment control, shoreline protection, and food in the face of the effects of global climate change, including but not limited to the following:

- (1) The awarding of grants to governmental and non-governmental entities and individuals;
- (2) The acquisition of real property;
- (3) The protection, management and restoration of forests, watersheds, coastal resources, and fresh water and marine ecosystems;
- (4) The restoration of forests for the purposes of carbon sequestration and other ecosystem services;
- (5) The purchase of necessary equipment;
- (6) The conduct of necessary research and planning;

(7) To fund, to the extent possible, the climate change task force; and

(8) Any other activity intended to preserve the function and health of natural systems to adapt and be resilient to the effects of climate change.

(d) The department shall manage the special fund, including any expenditures from the fund, in consultation with the division of forestry and wildlife, the division of aquatic resources, the natural area reserve system commission, the forest stewardship commission, and the University of Hawaii Center for Island Climate Adaptation and Policy."

(e) The department shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the status and progress of existing programs and activities, and the status of new programs and activities funded under the climate change resilience and adaptation special fund. The report shall also include the spending plan of the climate change resilience and adaptation special fund, all expenditures of climate change resilience and adaptation special fund moneys, the specific objectives of the expenditures, and measurable outcomes."

SECTION 13. There is appropriated to the department of land and natural resources out of the climate change resilience and adaptation special fund the sum of \$                    or so much thereof as may be necessary for fiscal year 2010-2011 to carry out the purposes of this part.

#### PART VII

#### CLIMATE CHANGE TASK FORCE

SECTION 14. There is appropriated out of the energy security special fund, established pursuant to section 201-12.8, Hawaii Revised Statutes, the sum of \$                    or so much thereof as may be necessary for fiscal year 2010-2011 for the climate change task force established pursuant to Act 20, Special Session Laws of Hawaii 2009.

The sum appropriated shall be expended by the office of planning within the department of business, economic development, and tourism for the purposes of this part.

SECTION 15. There is appropriated out of the climate change resilience and adaptation special fund, the sum of \$                    or so much thereof as may be necessary for fiscal year 2010-2011 for the climate change task force established pursuant to Act 20, Session Laws of Hawaii 2009.

The sum appropriated shall be expended by the office of planning within the department of business, economic development, and tourism for the purposes of this part.

PART VIII

GREENHOUSE GAS EMISSIONS REDUCTION TASK FORCE

SECTION 16. There is appropriated out of the energy security special fund, established pursuant to section 201-12.8, Hawaii Revised Statutes, the sum of \$                    or so much thereof as may be necessary for fiscal year 2010-2011 for the greenhouse gas emissions reduction task force established pursuant to Act 234, Session Laws of Hawaii 2007.

The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this part.

PART VIIIIX

SECTION 17. Subject to the availability of federal funding for energy programs provided by grants, and subject to the constraints, oversight, and reporting requirements of those federal programs, the governor is authorized to establish positions necessary to accomplish the management of those energy projects funded by federal grants; provided that the positions shall be exempt from chapters 76 and 89, Hawaii Revised Statutes; and provided further that the governor shall submit a report to the legislature on all positions established as of December 31 and June 30 of each fiscal year that the positions exist and are occupied.

PART IX

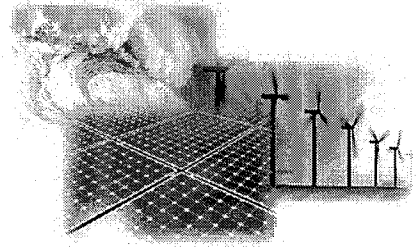
SECTION 18. On June 1, 2011, the director of finance is authorized to transfer from the energy security special fund to the general fund the sum of \$10,000,000 or so much thereof as may be necessary for fiscal year 2010-2011.

PART XI

SECTION 19. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 21. This Act shall take effect on July 1, 2020.



**SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**

March 15, 2010, 3:00 P.M.  
Room 229  
(Testimony is 8 pages long)

**TESTIMONY IN STRONG SUPPORT OF HB 2421 HD2, SUGGESTED AMENDMENTS**

Chairs Hee, Gabbard, and Fukunaga and members of the committees:

The Blue Planet Foundation strongly supports House Bill 2421 HD2, providing for funding of food and energy security through a surcharge on each barrel of oil imported into Hawai'i. We believe this is keystone clean energy policy that will enable much of the energy transition to the preferred future Hawai'i has been seeking for generations. The critical elements of Hawai'i's clean energy future—energy efficiency, smart-grid infrastructure, planning and implementation—require up-front investment.

Blue Planet believes the best way to provide investment funds is by tapping the source of our problem—imported oil—to fund clean energy programs. This measure will help enable Hawai'i's clean energy future while creating good paying, local jobs in the high-tech renewable energy and energy efficiency fields. Further, according to market research commissioned by Blue Planet, over two-thirds of Hawai'i residents support paying an additional amount on their energy bills (with the mean equivalent to a \$5 per barrel tax) if the revenue was dedicated to Hawai'i's clean energy future.

We appreciate and support the amendments made by the previous committees. However, to truly accelerate Hawai'i's transition to energy independence, Blue Planet proposes the following four amendments to HB 2421 HD2:

- Increase the oil tax to \$5 per barrel (yielding approximately \$150 million annually).
- Expand the uses of the barrel tax to include the following programs:
  1. Double the capacity of the existing energy efficiency Public Benefit Funds Administrator (regulated by the Public Utilities Commission), including increasing



and adding efficiency incentives such as appliance buy-back programs, free home energy audits, solar water heater and compact fluorescent / LED rebates, and other efficiency programs;

2. Fund independent **distributed renewable energy grid connection studies** as required by the utility (via Rule 14H)—currently a major disincentive to grid interconnection by private clean energy developers; and
3. Fund county energy office positions.
  - Sunset the aviation fuel exemption on January 1, 2015.
  - Ensure that the aviation fuel exemption applies only to aviation fuel, not simply for fuels that aviation companies use for ground transportation and other non-flying uses.

Blue Planet would also support expanding the barrel tax to include other carbon fuel imports such as coal.

*Proposed amendment language is included at the end of the testimony.*

#### ***Rationale for Barrel Tax Policy in 2010***

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If we truly want to rapidly transition Hawai'i to energy independence, we have to be prepared to invest in that preferred future today. We cannot afford to wait until the economy recovers and the price of oil returns to triple-digits as it did in 2008.

Hawai'i is the most dependent state in the nation on imported oil. Some 50 million barrels are imported annually, nearly 80% of which originate from foreign sources<sup>1</sup>. In addition, over 805,000 tons of coal are imported into our state<sup>2</sup>. These sources provide power for over 92% of Hawaii's electricity generation. The combustion of these resources also contributes over 23 million tons of climate changing greenhouse gas into our atmosphere annually<sup>3</sup>. Hawaii's economic, environmental, and energy security demand that we reduce the amount of fossil fuel imported and consumed in Hawai'i. To that end, new policies and sources of funding are critically needed that will dramatically increase energy efficiency, build our smart energy infrastructure with storage, and develop clean, renewable, and indigenous energy sources.

A \$5 per barrel tax on oil would provide the needed funding for clean energy and efficiency research, planning, implementation to transition to our preferred clean energy future. As we

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<sup>1</sup> The State of Hawaii Data Book, 2007

<sup>2</sup> *Ibid.*

<sup>3</sup> ICF International. Inventory of Greenhouse Gas Emissions and Sinks in Hawaii: 1990 and 2007. December 2008.

dramatically expand our clean energy capacity in Hawai'i, the real economic benefits of this carbon surcharge will far outweigh the additional burden it may present.

### *Barrel Tax is Smart Tax Policy*

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A barrel fee (or "carbon tax") is smart tax-shifting policy that discourages fossil fuel use while providing a source of revenue for clean energy planning and implementation. The concept behind the measure 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.

Unlike many other taxes, the barrel tax is largely avoidable by most residents. Energy efficiency, conservation, and switching to clean sources of power all reduce the burden of the tax. In fact, most residents could reduce the amount of barrel tax they pay by installing some compact fluorescent light bulbs at home and ensuring that car tires are properly inflated. Ensuring that a good portion of the oil tax revenues are spent on energy efficiency measures will help reduce the potential regressive nature of the policy.

A "clean energy" surcharge on a barrel of oil of \$5 is approximately the same as a carbon tax of \$10.45 per ton of carbon dioxide (CO<sub>2</sub>)<sup>4</sup>. It would have a marginal impact on petroleum users, yet significantly increase the state's ability to deliver energy efficiency investments and clean energy project funding. A \$10.35 "carbon fee" is average. Many European countries have carbon taxes that exceed \$10.00 per ton. In 2008, the Canadian province of British Columbia enacted a carbon fee that started at approximately \$8.00 per ton (English) in July, 2008, and increases to \$24 per ton by 2012.

### *Public Support*

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Blue Planet Foundation conducted market research in December 2009 to discern the level of public support for a barrel tax for clean energy investment. The statewide survey of residents found broad support for a barrel tax with over two-thirds supporting a tax of some amount. The average level of support was equivalent to a \$5 per barrel tax. Forty-two percent of residents supported paying an additional \$15 on their monthly energy bills, equivalent to a \$9 per barrel

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<sup>4</sup> At 23 lbs CO<sub>2</sub> produced per gallon oil and 42 gallons per barrel.

tax. These findings should provide comfort to decision makers wrestling with how to develop funding for Hawaii's clean energy future—Hawaii's residents are willing to pay to wean Hawaii from its oil dependence.

### *Limited Exemption for Aviation Fuel*

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In 2009, the interisland air carriers raised objections to the inclusion of jet fuel in the barrel tax. Unlike ground transportation and electricity (and even marine transportation), no ready fuel substitutes exist for jet fuel presently. Blue Planet supports a limited airline fuel exemption with a 5-year sunset date (January 1, 2015) to overcome these concerns. We support a smaller tax on airline fuel to be used for other important purposes, such as inspections.

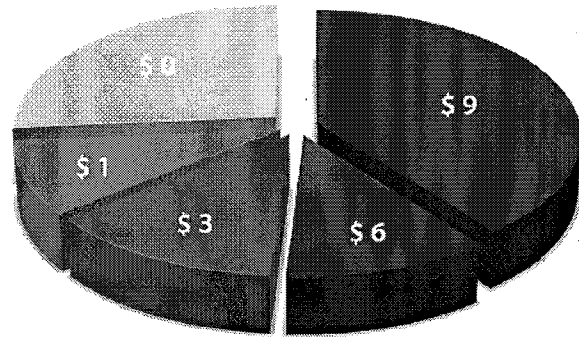
### *Need for Efficiency Funding*

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The revenue developed from the barrel tax must be dedicated to the most effective levers to accelerate the transition to our clean energy future: providing incentives, removing roadblocks, integration planning, and efficiency. Increasing energy efficiency must be a high priority use of these funds, as efficiency is typically the fastest, cheapest, and most effective way to reduce fossil fuel use. Further, efficiency improvements have the broadest resident benefit and are a straightforward way to decrease the impact of the barrel tax.

House Bill 2421 HD2 does not explicitly provide for using the barrel tax revenues for direct energy efficiency programs. Fortunately, a program has been established to administer energy efficiency programs via a third-party administrator under the public utilities commission (PUC). The public benefits fund administrator (PBFA), established in §269-122, receives funds from the public benefits fee charged to the electric utility. This PBFA is held accountable to strict standards on how the funds can be spent, with at least 90% of expenditures to be used on direct efficiency programs and the balance for overhead and management (pursuant to §269-

## Resident Support For Barrel Tax



A total of 500 interviews with registered voters state-wide were conducted between December 3 - 12, 2009. The margin of error for the sample +/- 4.38 percentage-points with a 95% confidence level.

#### **SURVEY QUESTION:**

*"Reducing Hawaii's dependence on imported oil requires investing in new clean energy systems. How much would you be willing to pay additionally per month on your total energy bill (electricity and fuel) if the revenue was dedicated to creating new clean energy systems and reducing dependence on oil"*

122). The current PBFA is under a two-year contract with the PUC. Their performance will be reviewed in terms of measureable and verifiable energy savings per dollar spent.

The PBFA provides incentives and education to accelerate the investment in energy efficiency. The financial support is typically in the form of rebates and incentives to encourage the adoption of efficiency measures. This support has been effective in increasing efficiency, however, the funding is limited; solar rebates on O'ahu this year, for example, are being reduced from \$1000 per installation to \$800. Doubling the current amount of funding to the PBFA would make efficiency improvements more accessible and affordable to a greater number of Hawai'i residents.

While some may believe it is best to wait to fully review the current PBFA before providing additional funding for the program, Blue Planet believes that it is best for this measure to set policy for the long term—that is, ample funding for energy efficiency programs for Hawai'i residents and businesses. The PBFA is the most sensible place to direct oil tax funding to achieve immediate, measureable, verifiable, and accountable decreases in oil consumption.

#### *Amendments*

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While we all likely agree that we need to aggressively increase our energy efficiency and clean energy use in Hawai'i and decrease our reliance on imported crude, we cannot do it with funding for planning, implementation, development, and funding. House Bill 2421 wisely taps the source of our problem—imported oil—to fund clean energy programs.

Proposed amendments to HB 2421 HD2 follow. Blue Planet is happy to work with the Committee to develop appropriate language to accomplish that outcome.

Thank you for the opportunity to testify.

**PROPOSED AMENDED LANGUAGE IN HB 2421 HD2**

SECTION 4. Section 243-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending its title and subsection (a) to read:

"§243-3.5 Environmental response, energy, and food security tax; uses. (a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax of \$5.05 (five dollars and five cents) on each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user, other than a refiner, of petroleum product; provided that each barrel or fractional part of a barrel of petroleum product sold by a distributor to any retail dealer or end user, other than a refiner, of petroleum product that is aviation fuel shall be subject to a state environmental response, energy, and food security tax of 5 cents; provided further that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel, including all tax revenues received under this section for the sale of aviation fuel shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) 100 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8;
- (3) 45 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169;

- (4) 100 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-18;
- (5) 100 cents of the tax on each barrel shall be deposited into the energy efficiency special fund established under section 269- ; and
- (6) 150 cents of the tax on each barrel shall be deposited into the general fund.

The tax imposed by this subsection shall be paid by the distributor of the petroleum product."

**PROPOSED NEW LANGUAGE FOR HB 2421 HD1**

SECTION XXX. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§269- Energy Efficiency special fund; establishment. (a) There is established within the state treasury the energy efficiency special fund.

(b) The following shall be deposited into the special fund:

- (1) The portion of the environmental response, energy, and food security tax specified under section 243-3.5;
- (2) Any appropriation by the legislature into the special fund;
- (3) Any grant or donation made to the special fund; and
- (4) Any interest earned on the balance of the special fund.

(c) Subject to legislative appropriation, moneys in the special fund shall be expended by the public utilities commission for the same purposes as the public benefit fees collected pursuant to section 269-121.

SECTION XXX. Section 269-122, Hawaii Revised Statutes, is amended as follows:

**§269-122 Public benefits fee administrator; establishment.**

(a) The public utilities commission may contract with a third-party administrator, to operate and manage any programs established under section 269-121. The administrator shall not be deemed to be a "governmental body" as defined in section 103D-104[; provided that all moneys transferred to the third-party administrator shall be comprised solely of public benefit fees collected pursuant to section 269-121]. The administrator shall not expend more than ten per cent of the collected public benefits fees or legislative appropriations pursuant to section 269- in any fiscal year, or other reasonable percentage determined by the public utilities commission, for administration of the programs established under section 269-121.

(b) The public benefits fee administrator shall be subject to regulation by the public utilities commission under any provision applicable to a public utility in sections 269-7, 269-8, 269-8.2, 269-8.5, 269-9, 269-10, 269-13, 269-15, 269-19.5, and 269-28, and shall report to the public utilities commission on a regular basis. Notwithstanding any other provision of law to the contrary, the public benefits fee administrator shall not be an electric public utility or an electric public utility affiliate.

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Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Shannon Rudolph  
Organization: Individual  
Address: P. O. 243 Holualoa  
Phone: 808-322-6604  
E-mail: [shannonkona@gmail.com](mailto:shannonkona@gmail.com)  
Submitted on: 3/13/2010

**Comments:**

Please hold HB2421, more details need to be worked out on this one.



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Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: Yes  
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Submitted on: 3/13/2010

**Comments:**

This needs far more thought and consideration as there are several downfalls of using palm oil for electricity generation. Suggest that it be deferred until at least next year, so that more refinement of the rules and regs can be understood and written into law.  
Mahalo!

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 13, 2010 12:37 PM  
**To:** WTLTestimony  
**Cc:** reahawaii@yahoo.com  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: robert rea  
Organization: Individual  
Address: 1151 akipola st kailua  
Phone: 808 2615082  
E-mail: [reahawaii@yahoo.com](mailto:reahawaii@yahoo.com)  
Submitted on: 3/13/2010

Comments:

The bill sounds great: tax oil fund clean energy. However, coal and palm oil biodiesel are far worse in terms of greenhouse gas emissions and Asian palm oil biodiesel practices are causing cultural genocide and ecosystem destruction.

# HB2421

|         |                                |
|---------|--------------------------------|
| Subject | <b>HB2421</b>                  |
| From    | <u>Jeff Sacher</u>             |
| To      | WTLTestimony                   |
| Sent    | Sunday, March 14, 2010 7:42 PM |

Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Committee on Energy and Environment  
Committee on Economic Development and Technology  
Monday, March 15, 2010  
3:00 p.m.  
Room 229

Chairs Hee, Fukunaga and Gabbard.

My understanding is that HB2421 proposes to tax imported petroleum oil; however it will not tax imported coal, imported ethanol and imported palm oil biodiesel which is grown by destroying rainforests.

PLEASE. First work out the details. We're constantly using Band-Aids for problems because so little thought and foresight are used.

I'm writing to ask that you please hold HB 2421.  
Mahalo.  
Jeff Sacher  
Kawaihae, Big Island

---

**From:** patricia blair [cris6369@yahoo.com]  
**Sent:** Saturday, March 13, 2010 2:22 PM  
**To:** WTLTestimony  
**Subject:** HB 2421

HB 2421 as written is not acceptable. Please hold. Sen. Hee, Fukanaga, and Gabbard until 2011 session. Thank you very much. Patricia Blair, 25 Aulike St. Kailua 888-6393

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 13, 2010 2:43 PM  
**To:** WTLTestimony  
**Cc:** gottlieb@hawaii.rr.com  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: support  
Testifier will be present: No  
Submitted by: Alan Gottlieb  
Organization: Hawaii Cattlemen's Council  
Address:  
Phone: 808-306-7769  
E-mail: [gottlieb@hawaii.rr.com](mailto:gottlieb@hawaii.rr.com)  
Submitted on: 3/13/2010

**Comments:**

We support this bill, and we agree with the comments and changes suggested by the Hawaii Farm Bureau Federation.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 13, 2010 3:24 PM  
**To:** WTLTestimony  
**Cc:** peemer@kula.com  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Pamela Polland  
Organization: Individual  
Address: 226 Kulalani Drive Kula, HI 96790  
Phone: 808/878-3220  
E-mail: [peemer@kula.com](mailto:peemer@kula.com)  
Submitted on: 3/13/2010

**Comments:**

Coal and palm oil biodiesel are "bad" in terms of greenhouse gas emissions and Asian palm oil biodiesel practices are causing cultural genocide and ecosystem destruction. We can do better. Please oppose HB2421. Thank you.

---

**From:** Noel J Kent [noelk@hawaii.edu]  
**Sent:** Saturday, March 13, 2010 3:40 PM  
**To:** WTLTestimony  
**Subject:** HB2421

Please do not go forth with this bill. Coal and palm oil are no better than oil (in fact, are worse) than oil for greenhouse gases. Let's put all our political drive and resources in renewables and obtain energy independence from the outside world. This bill does not encourage that. Let it stay in committee. Noel Kent  
Professor UH Manoa

|      |                                  |
|------|----------------------------------|
| From | <u>Gary Andersen</u>             |
| To   | WTLTestimony                     |
| Sent | Saturday, March 13, 2010 4:30 PM |

Esteemed Gentlemen and Gentle lady...(Sorry Ma'am)

Please be so kind as to HOLD HB 2421. Obviously what our state needs is a solid definition of "Clean Energy " to start with. So far, I have found none.

It seems logical that the energy needs, among other infrastructure considerations, should be addressed on an island by island basis with an island by island solution. Concurrently the carrying capacity of each island must be determined.

We cannot continue to demolish and build. Until we know what the carrying capacity of each island is we are engaging in a very unwise practice. I can tell you this, carrying capacity is not an infinite number.

Water conservation warnings, exploding water pipes, and sewage overflows would indicate to even the barely conscious that we, in the middle of the Pacific, need a better plan than that proffered by HB 2321.

Respectfully submitted,

*Gary Andersen*  
61691 Manoa Station  
Honolulu, Hawai'i 96839  
808-988-0900

Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)



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**From:** Brian Bell [reachbrianbell@yahoo.com]  
**Sent:** Saturday, March 13, 2010 7:09 PM  
**To:** WTLTestimony  
**Cc:** Star Bulletin Letters; Honolulu Weekly Letters; Hon-Adv Letters  
**Subject:** TESTIMONY IN STRONG SUPPORT OF HB 2421 HD2

SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY  
March 15, 2010, 3:00 P.M.  
Room 229

TESTIMONY IN STRONG SUPPORT OF HB 2421 HD2

Chairs Hee, Gabbard, and Fukunaga and members of the committees:

I'm writing to voice my support of the proposed \$5 surcharge on each barrel of oil entering Hawaii to be used to fund our clean energy future.

These funds could be used in a variety of ways:

- 1 - For energy efficiency projects with a particular focus on low-income energy efficiency upgrades and solar water heating.
- 2 - To incentivize clean energy investment, smart grid infrastructure improvements, and leveraging federal stimulus dollars for energy projects.

This tax shifting policy will discourage the use of fossil fuels while providing a source of revenue for clean energy planning and implementation. We can also create badly needed green jobs locally.

These sorts of policies have worked elsewhere to help loosen the grip of oil dependence. Let's put it to good use here.

Thank you for the opportunity to testify.

Brian Bell  
3133 Waialae Ave. #3142  
Honolulu, HI 96816

808-227-7087

---

**From:** jimiberlin@aol.com  
**Sent:** Saturday, March 13, 2010 7:23 PM  
**To:** WTLTestimony  
**Subject:** HB 2421

I am opposed to HB2421. I strongly agree with Life of the Land's positions on HB2421, and ask that it be held until a revised bill can be submitted in 2011. Thank you, James Berlin and Ellen Balsley

Aloha Chairs Hee, Fukunaga and Gabbard.

HB2421 needs major work. Let's work on a revised bill for the 2011 State Legislature. Please hold HB 2421. Mahalo

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 13, 2010 7:49 PM  
**To:** WTLTestimony  
**Cc:** inunyabus@gmail.com  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: elaine dunbar  
Organization: Individual  
Address: lihue hawaii  
Phone:  
E-mail: [inunyabus@gmail.com](mailto:inunyabus@gmail.com)  
Submitted on: 3/13/2010

**Comments:**

Please kill this bill. AND, please really think about what you are proposing to do to the people of Hawaii who already have no recourse in this economy.  
It appears that you as legislators are trying to appear proactive about the energy situation and all the complicated issues it constitutes.  
Do you understand what you are putting your "aye" vote on or just believe you have to do "something"?  
This measure is wrong -wrong -wrong.  
It's wrong AND poorly written with no foresight, just guesswork, speculation and a dishonest scheme.  
Kill it...because it definitely kill your tax base.

---

**From:** shannon taylor [shannontaylor5679@msn.com]  
**Sent:** Saturday, March 13, 2010 10:28 PM  
**To:** WTLTestimony  
**Subject:** HB 2124.....scrap it

Aloha,

The islands need RENEWABLE energy from wind, and solar, wave and geothermal. Palm oil is not practical and refining it is not cheap, cola is dirty and expensive.

Why can't the state and counties get together to invest in wave, solar, and wind farms, AND ON THE BIG ISLAND THE VOLCANO IS CRYING OUT TO BE A MAJOR SOURCE OF ENERGY EXPANSION. I live in Kona and I can tell you that the vog is thick. Why not cap that hole and capture the wasted energy?

Instead of continuing to use coal, and oil, let's move away from these carbon based energy sources, it is time to let Our Mister Sun provide us with the clean cheap energy that could put Hawaii back in the black and help solve the global climate change before it is too late.

For the sake of the future generations and the planet, we need real green energy solutions.

Mahalo,  
Shannon Taylor  
Keauhou Kona, Hawaii

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 9:16 AM  
**To:** WTLTestimony  
**Cc:** judie@aloha.net  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Judie Hoepfner  
Organization: Individual  
Address:  
Phone:  
E-mail: [judie@aloha.net](mailto:judie@aloha.net)  
Submitted on: 3/14/2010

**Comments:**

Palm oil burning causes much higher CO2, not to mention that "growing" energy is detrimental to food production. Please let this bill die until further research is done. This is premature.

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 9:37 AM  
**To:** WTLTestimony  
**Cc:** scharfjscharf@yahoo.com  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Jay Scharf  
Organization: Individual  
Address:  
Phone:  
E-mail: [scharfjscharf@yahoo.com](mailto:scharfjscharf@yahoo.com)  
Submitted on: 3/14/2010

Comments:

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 14, 2010 9:59 AM  
**To:** WTLTestimony  
**Cc:** palmtree7@earthlink.net  
**Subject:** Testimony for HB2421 on 3/15/2010 3:00:00 PM

Testimony for WTL/ENE/EDT 3/15/2010 3:00:00 PM HB2421

Conference room: 229  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: janice palma-glennie  
Organization: Individual  
Address:  
Phone:  
E-mail: [palmtree7@earthlink.net](mailto:palmtree7@earthlink.net)  
Submitted on: 3/14/2010

**Comments:**

Please oppose the use of palm oil for fuel and food needs.

Oil palms have destroyed huge swathes of the tropical lands of this planet, and i have seen this first-hand in many areas of costa rica where once there was clean water and intact ecosystems. The value of palm oil is far secondary to the environmental hazards which is creates. The risks are not worth it.

There are far better ways to fuel our machinery and our bodies than by using palm oil.

please say "no" to this unhealthy source of oil.

**Randolph G. Moore**  
**2445-A Makiki Heights Drive**  
**Honolulu HI 96822**

Telephone 808-536-5655

email [rmoore@hawaii.rr.com](mailto:rmoore@hawaii.rr.com)

March 14, 2010

The Honorable Clayton Hee, chair Committee on Water, Land, Agriculture, and Hawaiian Affairs  
The Honorable Mike Gabbard, chair, Committee on Energy and the Environment  
The Honorable Carol Fukunaga, chair, Committee on Economic Development and Technology  
Members of the Committees  
The Senate  
State Capitol  
Honolulu 96813

Dear Senators:

Subject: HB 2421 HD2

While the purpose of this bill is laudable – to promote the development of locally-produced food and renewable energy, and prepare for the effects of climate change – the actual working of the bill may be perverse to the environment. The bill increases the tax on imported oil but not other imported fossil fuel (notably coal) and fails to differentiate between non-fossil energy whose production is relatively benign on the environment (such as solar photovoltaic) and non-fossil energy whose production is detrimental to the environment (such as biofuel produced by destroying tropical rainforests).

The bill increases the tax on imported oil from 5 cents per barrel to \$1.05 and earmarks the increase for:

- a) Grants-in-aid to the counties and their economic development boards to meet the objectives of the Hawaii clean energy initiative.
- b) Planning and projects that ensure dependable, efficient, and economical energy, promote energy self-sufficiency, and provide greater energy security for the state.
- c) Funding of energy-related and agriculture development-related government positions and task forces.
- d) Grants to farmers.
- e) Agricultural physical infrastructure.
- f) Agriculture research, pest control, and marketing.

Hawaii should be committed to reducing the use of fossil fuels and increasing the use of environmentally appropriate sustainable energy. To accomplish this, HB 2421 HD2 should be amended to tax all imported fossil fuel, not only oil, and should have a variable tax on imported biofuel that takes into consideration the greenhouse gases released by the cultivation of crops, conversion of crops to fuel, and transportation to Hawaii of biofuels.

In addition, the tax should be substantial, and should increase significantly over time. This will send a signal to producers and consumers that environmentally undesirable energy sources will become increasingly expensive, and will stimulate conversion to environmentally sustainable energy sources. To



The Honorable Clayton Hee, chair Committee on Water, Land, Agriculture, and Hawaiian Affairs  
The Honorable Mike Gabbard, chair, Committee on Energy and the Environment  
The Honorable Carol Fukunaga, chair, Committee on Economic Development and Technology  
Members of the Committees

March 14, 2010

Page 2

avoid the fiscal drag of higher taxes on energy, the tax should be structured so that it is revenue-neutral. For every \$1 of new energy tax collected, there should be an offsetting reduction in the general excise tax, in a combination of tax credits and lower rates.

With respect to encouraging local agriculture, we should have learned much from government efforts to stimulate local agriculture – various state agriculture parks, the Kohala Task Force, a slaughterhouse on Molokai, the development of agricultural water systems, and others. Future assistance to local agriculture should build on lessons learned.

Mahalo for the opportunity to testify.

Sincerely,

*Randolph G. Moore*

no on HB2421

|         |                                 |
|---------|---------------------------------|
| Subject | <b>no on HB2421</b>             |
| From    | <u>Gabriela Taylor</u>          |
| To      | WTLTestimony                    |
| Sent    | Sunday, March 14, 2010 12:34 PM |

Chairs Hee, Fukunaga and Gabbard,

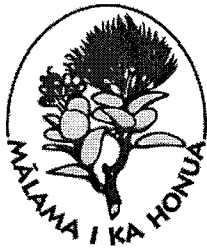
I am all for taxing and decreasing oil burning for energy in Hawaii, but this bill is not the way to do it. Eg. coal needs to be taxed, wind and solar need to be promoted and palm oil for bio diesel eliminated.

Please- No on HB 2421.

Gabriela Taylor

5620 Keapana Rd. Kapaa, Hi. 96746

808 823-9013



# Sierra Club

## Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803

808.538.6616 [hawaii.chapter@sierraclub.org](mailto:hawaii.chapter@sierraclub.org)

**SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN  
AFFAIRS  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**

March 15, 2010, 3:00 P.M.  
(Testimony is 2 page long)

### **TESTIMONY IN STRONG SUPPORT OF HB 2421 (HD2)**

Aloha Chair Hee, Chair Gabbard, and Chair Fukunaga and Members of the Committees:

The Hawai'i Chapter of the Sierra Club *strongly supports* HB 2421, which establishes financing to ensure Hawai'i's energy and food security security. The bill is a smart tax-shifting policy designed to foster greater energy independence by tapping into the source of our problem so as to fund our preferred future. It has the additional benefit of putting Hawai'i's money to work here on the islands instead of sending it off to the Middle East.

The concept behind this measure 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. This measure would provide additional funds for their efforts, as well as provide funding for energy efficiency projects and development of renewable energy critical for Hawai'i's long-term future.

While we all likely agree we need to aggressively increase our clean energy use in Hawai'i and decrease our reliance on imported crude, we cannot do it with funding for research, development, and policy implementation. To this end, the Sierra Club suggests similarly targeting energy efficiency and incentive programs designed to reduce our dependence on fossil fuels. In fact, this should be the thrust of this fund. Such efforts will provide benefits in excess of the small fee increase. For example, creating a loan fund for the installation of solar water heaters will create economic benefits for everyone in excess of the imposition of a \$1.00 or greater charge.

Specifically, the Sierra Club recommends identifying contributions to the existing energy

efficiency Public Benefit Funds Administrator (regulated by the Public Utilities Commission), which would directly increase and add efficiency incentives (such as appliance buy-back programs, free home energy audits, solar water heater and compact fluorescent/LED rebates, and other efficiency programs. In addition, contributions should be made into direct incentive programs that are designed to maximize small, local renewable energy sources.

We further suggest raising the total proposed fee to \$5. This increase would offset the amount no longer received because of the commercial air transportation “complaints” and help ensure we are able to meet the identified goals.

Mahalo for the opportunity to testify.

COMMITTEE ON WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS  
Senator Clayton Hee, Chair

COMMITTEE ON ENERGY AND ENVIRONMENT  
Senator Mike Gabbard, Chair

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY  
Senator Carol Fukunaga, Chair

DATE: Monday March 15, 2010

TIME: 3:00 p.m.

PLACE: Conference Room 229, State Capitol \_\_\_\_\_?\_\_\_ Copies for members

HB 2421, HD2 RELATING TO GOVERNMENT  
SUPPORT WITH MAJOR RESERVATIONS

Good Afternoon Chairs Hee, Gabbard, Fukunaga and Committee members:

HB 2421, HD2 covers many issues and expresses good ideals in general terms but it has some glaring omissions, which could lead to more problems than it solves. I would like to know how such a comprehensive bill could fail to address coal and imported biofuel. Why not tax ALL imported fuels? A tax on petroleum will simply make other fuels more attractive in terms of cost, and thus lead to greater use of coal and imported biofuel such as palm oil.

I believe the public deserves an explanation of these omissions.

- \* 20% of Oahu's energy comes from coal.
- \* Biodeisel from imported palm oil has been a goal of HECO for years. Palm oil production is already causing enormous cultural and environmental destruction in southeast Asia and other parts of the world.

Wind, photovoltaic and wind energy could power most of this state if we had the will to set up the right incentives. PVpanels provide most of the electric power to my house - and I live in a wet valley.

Thank you.

Sarah Preble  
3347 Anoaia Place  
Honolulu HI 96822 988-7500

## AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport  
300 Rodgers Blvd., #62  
Honolulu, Hawaii 96819-1832  
Phone (808) 838-0011  
Fax (808) 838-0231

March 15, 2010

The Honorable Clayton Hee, Chair  
Senate Committee on Water, Land, Agriculture and Hawaiian Affairs

The Honorable Mike Gabbard, Chair  
Senate Committee on Energy and Environment

The Honorable Carol Fukunaga, Chair  
Senate Committee on Economic Development and Technology

**Re: House Bill 2421 HD2 – Relating to Government  
WTL/ENE/EDT – March 15, 2010, 3 PM – Conference Room 229**

Aloha Chairs Hee, Gabbard and Fukunaga and Members of the Committee:

The Airlines Committee of Hawaii\* (ACH), which is made up of 23 signatory air carriers that underwrite the Hawaii State Airport System, supports language contained in HB 2421, HD2, which acknowledges federal preemptions for aviation fuel.

This bill recognizes the preemption provisions of the Federal Aviation Act, codified in 49 U.S.C. 47133, which prohibits the application of local taxes on aviation fuel if the revenue derived from the tax is not used for airport purposes.

For these reasons, we respectfully urge your committees to support the preemption provisions for aviation fuel contained in this bill.

As always, we are grateful for the opportunity to provide input on this matter.

Sincerely,

Alan Ogawa  
ACH Co-Chair

Lori Peters  
ACH Co-Chair

*\*ACH members are Air Canada, Air New Zealand, Air Pacific, Alaska Airlines, All Nippon Airways, American Airlines, China Airlines, Continental Airlines, Continental Air Micronesia, Delta Air Lines, Federal Express, go!, Hawaiian Airlines, Japan Airlines, JALways, Korean Air, Northwest Airlines, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, US Airways, and Westjet.*

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**From:** Respiratory & Environmental Disabilities Assoc of HI [redahi@hawaii.rr.com]  
**Sent:** Sunday, March 14, 2010 5:37 PM  
**To:** WTLTestimony  
**Subject:** Please hold HB 2421.

Aloha Chairs Hee, Fukunaga and Gabbard.

HB2421 needs major work. Let's work on a revised bill for the 2011 State Legislature. Please hold HB 2421.

It seems Hawaii is always being taken in by special interest groups posing as people worried about Hawaii. The fact is their bottom line is all that matters. Please do not hold us hostage to these groups any longer. Please hold this bill and work on it with people who are not beholden to any bottom line and truly hold the interest of Hawaii as their primary focus.

Mahalo,

Bobby McClintock, Honolulu, HI

**COMMITTEE ON WATER LAND AND OCEAN RESOURCES**

Senator Clayton Hee, Chair, Senator Jill Tokuda, Vice Chair

**COMMITTEE ON ENERGY AND ENVIRONMENT**

Senator Mike Gabbard, Chair, Senator Kalani English, Vice Chair

**COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY**

Senator Carol Fukunaga, Chair, Senator Rosalyn Baker, Vice Chair

Submitted by:

Sally Kaye  
P.O. Box 631313  
511 Ilima Avenue  
Lana`i City, HI 96763  
808/565-6276

---

I **STRONGLY OPPOSE** HB 2421 HD2 for the following reasons:

- Insofar as this measure “institutionalizes” in any way the HCEI, a voluntary agreement and goal only, which in turn relies upon turning two of the neighbor islands into industrial power plants for the island of Oahu, I oppose it.
- This measure would apply a less than transparent source of funding for a state agency, DBEDT, that has as a goal the irrevocable and permanent alteration of up to one quarter of the small island of Lana`i. This alteration is not in the best interests of our state’s cultural sites, our history, nor our future.
- There are other more viable and less costly means to reduce our dependency on fossil fuel than imposing a less-than-transparent and unnecessary tax increase on our ratepayers and taxpayers.

This bill will further facilitate big corporate gains, ultimately at the expense of the ratepayer and taxpayer. I **OPPOSE** it and urge it be filed.

Thank you for this opportunity to testify to your Committees.



---

**From:** Edgy Lee [studio@pacificnetwork.tv]  
**Sent:** Sunday, March 14, 2010 7:35 PM  
**To:** WTLTestimony  
**Cc:** Zhulieta Ibisheva; Mariah Munro; Curtis Henry  
**Subject:** re: HB 2421  
**Attachments:** PNTV logo clear resized2.jpg

Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Committee on Energy and Environment  
Committee on Economic Development and Technology  
Room 229 (Hearing 15 mar 2010)

14 March 2010

Aloha Chairs Hee, Fukunaga and Gabbard:

HB2421 proposes to tax imported petroleum oil but not to tax imported coal, imported ethanol, and imported palm oil biodiesel grown by destroying Indonesia's rainforest one of two remaining rainforests in the world. This makes very little sense. Please hold HB 2421.

We have produced a video in Borneo with the world's leading authority on orangutans, Dr Mary Birute Galdikas, primatologist, conservationist, and author of several books on this endangered species. In producing this film we gained first hand knowledge of the controversy surrounding palm oil, the decimation of the Indonesian rainforest by logging, palm plantations, mining, and other short sighted and intrusive activities. This area is the last remaining habitat for the world's orangutan population and rainforest biodiversity that teeters on extinction. Growth and manufacturing of palm oil are key to the devastation of this last pristine region of the world and its endangered primates among other life forms.

Please hold HB 2421. You may view clips from "Primates in Peril" by visiting <http://science.pacificnetwork.tv/GreenPicks/>

Thank you for your consideration and

Very best regards,

Edgy Lee

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---

**From:** docberry@aol.com  
**Sent:** Sunday, March 14, 2010 8:54 PM  
**To:** WTLTestimony  
**Subject:** HB2421

Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Committee on Energy and Environment  
Committee on Economic Development and Technology  
Monday, March 15, 2010

3:00 p.m.

Room 229

Aloha Chairs Hee, Fukunaga and Gabbard.

HB2421 proposes to tax imported petroleum oil but not to tax imported coal, imported ethanol and imported palm oil biodiesel grown by destroying rainforests.

To adjust this bill to deal with the entire problem, please add imported ethanol, coal, and biodiesel to those HB 2421 items to be taxed..

Mahalo,

Paul Berry

46-158 Kiowai St. #2411

Kaneohe, Hi. 96744

808-247-4090

[pbdocberry@gmail.com](mailto:pbdocberry@gmail.com)



# LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

[WTLTestimony@Capitol.hawaii.gov](mailto:WTLTestimony@Capitol.hawaii.gov)

Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Committee on Energy and Environment  
Committee on Economic Development and Technology

Monday, March 15, 2010

3:00 p.m.

Room 229

Re HB 2421

Aloha Chairs Hee, Fukunaga and Gabbard.

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and 'aina for four decades. 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.

Palm Oil is a very destructive biofuel. Indonesia is the #3 greenhouse gas emitter in the world. Indonesia and Malaysia account for 88% of world palm oil production and 91% of world palm oil trade.

**Wall Street Journal** (December 5, 2006), Page A1

Among the world's most fabled islands, Borneo -- which is divided between Indonesia and Malaysia -- is considered by environmentalists to be one of the last great tropical wildernesses. It's home to rare and unusual species, including the wild orangutan, the clouded leopard and the Sumatran

rhinoceros. ... Now, the palm-oil boom threatens what's left.

As fires burn deep into the dry peat soil beneath Indonesia's forests, centuries of carbon trapped in the biomass are released into the atmosphere. A study presented last month at a U.N. Climate Change Conference in Nairobi showed that Indonesia is the world's third-biggest carbon emitter behind the U.S. and China, when emissions from fires and other factors are considered.

<http://online.wsj.com/article/SB116501541088338547.html>

**Last year proponents of the oil tax said, we will take care of coal and biofuels next year. This is next year. And still the bill focuses only on oil. This is a mistake.**

\* FRAMING: The bill sounds great: tax oil fund clean energy. However, coal and palm oil biodiesel are far worse in terms of greenhouse gas emissions and Asian palm oil biodiesel practices are causing cultural genocide and ecosystem destruction. In addition, state law does not define clean energy. Proponents of HB2421 argue that we should have the oil tax this year and we can add coal next year. But this bill is a newer version of a bill from last year and the same proponents argued the same thing last year. They simply do not want to tax coal. (20% of Oahu's electricity is from coal; HC&S (Puunene, Maui) burns 60,000 tons of coal and 100,000 tons of bagasse per year to make electricity; Gay & Robinson wanted to use coal to make "clean" ethanol).

\* LOCAL SOLUTIONS: The way to reduce our dependence on fossil fuel is to build solar and wind farms on each island and to also build solar and wind systems on commercial, residential, and government rooftops. HB 2421 instead promotes the first phase of a multi-billion-dollar inter-island cable that will not be ready for use for 5-10 years. This diverts money away from building renewable energy alternatives now and instead focuses on costly infrastructure. Moloka'i and Lana'i residents object to 41-story wind towers on their islands to power O'ahu.

\* TAXES: Would raise taxes during a recession. Working class people who live in Kapolei and work Downtown or in Waikiki and people who live in Hilo and work in Kona would be impacted the most.

\* WATER: The money raised would finance agricultural projects with no mention of constitutionally protected Hawaiian water rights.

\* BIG BROTHER: The bill supports planning for "Smart Grid" infrastructure improvements where your local utility can monitor moment-by-moment energy use for each ratepayer. With computers the utility would be able to determine when different appliances are turned on and when you are not home.

\* HU HONUA: The money raised would finance planning for the Hu Honua, a Hilo biofuel facility, which should not be built.

## SOURCES

Greenhouse Gas Emission Coefficients by Fuel Type  
<http://www.eia.doe.gov/oiaf/1605/coefficients.html>

HC&S uses 60,000 tons of coal per year: "Lee Jakeway of Hawaiian Commercial & Sugar (HC&S) ...said HC&S burns about 60,000 tons of coal yearly, and 100,000 dry tons of bagasse" Public (F)utility: Observations from the Energy Expo, By Rob Parsons. Published in Maui Time Weekly. November 15, 2007 <http://www.legacyprojectshawaii.com/2007-11-15.php>

Clean Ethanol: Under state law (HRS 269-91) "Renewable energy" means ...Biofuel [from any source made in any way]. Contrast with hydrogen which must be produced from renewable energy sources. [http://www.capitol.hawaii.gov/hrscurrent/Vol05\\_Ch0261-0319/HRS0269/HRS\\_0269-0091.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol05_Ch0261-0319/HRS0269/HRS_0269-0091.htm)

Palm Oil: Cultural and environmental destruction re palm oil was reported by the Wall Street Journal. <http://www.lifeofthelandhawaii.org/WSJ.pdf>

Big Brother:

Wall Street Journal <http://online.wsj.com/article/SB123378462447149239.html>

In These New Times <http://inthesenewtimes.com/2009/05/28/us-big-brother-concerns-grow-privacy-challenges-to-smart-grid>

Mahalo,

Henry Curtis  
Executive Director

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**From:** Andrea Jepson [jepsona001@hawaii.rr.com]  
**Sent:** Sunday, March 14, 2010 9:30 PM  
**To:** WTLTestimony  
**Subject:** HB2421 testimony

Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Committee on Energy and Environment  
Committee on Economic Development and Technology

Monday, March 15, 2010

3:00 p.m.

Room 229

Aloha Chairs Hee, Fukunaga and Gabbard.

HB2421 proposes to tax imported petroleum oil but not to tax imported coal, imported ethanol and imported palm oil biodiesel grown by destroying rainforests.

We need to tax the worst culprits: coal and palm oil biodiesel

The bill would provide money for planning the inter-island cable which is the wrong way to go. We should be focusing on planning for distributed solar and wind on an island by island basis, concentrating on rooftop systems.

Please hold this bill until it can be fixed.

Andrea I. Jepson  
1111 Kooahoo Place  
Kailua, HI 96734

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**From:** Anne Sturgis [sturgio17@gmail.com]  
**Sent:** Sunday, March 14, 2010 9:33 PM  
**To:** WTLTestimony  
**Subject:** Hold HB 2421, please

Aloha Chairs Hee, Fukunaga and Gabbard.

HB2421 proposes to tax imported petroleum oil but not to tax imported coal, imported ethanol and imported palm oil biodiesel grown by destroying rainforests.

This makes little sense. Please hold HB 2421.

Mahalo

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**From:** evernw@aol.com  
**Sent:** Sunday, March 14, 2010 9:41 PM  
**To:** WTLTestimony  
**Subject:** Do NOT act on HB 2421

Committee on Water, Land, Agriculture, and Hawaiian Affairs  
Committee on Energy and Environment  
Committee on Economic Development and Technology  
To: Chairs Clayton Hee, Carol Fukunaga and Mike Gabbard:

You legislation to tax imported petroleum oil, HB2421, is very poorly thought out. You should also be taxing imported coal, imported ethanol and imported palm oil biodiesel. I would expect a more thorough treatment of this issue from intelligent senators like you.

Do NOT act on HB 2421.

Mahalo,  
Evern Williams  
3220 Esther Street  
Honolulu, HI 96815  
392-1486



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**From:** Mori [amori@hawaiiantel.net]  
**Sent:** Sunday, March 14, 2010 10:03 PM  
**To:** WTLTestimony  
**Subject:** HB 2421

Chairs Hee, Fukunaga, Gabbard:

Please HOLD HB 2421.

It makes little sense to tax only petroleum imports and not include ethanol, coal, imported biodiesel stock, etc.

Revise HB 2421 and tax ALL imported fuels.

Mahalo.

Art Mori  
571 Hao St  
Honolulu 96821  
373-4386

**TESTIMONY**  
**HB 2421, HD2**  
**(END)**