

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

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Bill No. 2421

Support Y N
KURT KAWAFUCHI
DIRECTOR OF TAXATION

Date 2/3
STANLEY SHIROKI
DEPUTY DIRECTOR

Time 1545

Cat AF AS AX BC

Type 1 2 WI

HOUSE COMMITTEES ON ENERGY & ENVIRONMENTAL PROTECTION AND
AGRICULTURE
TESTIMONY REGARDING HB 2421
RELATING TO GOVERNMENT

WRITTEN TESTIMONY ONLY

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 4, 2010
TIME: 10AM
ROOM: 325

This measure, among other things, modifies the current environmental response tax to be the "environmental response, energy and food security tax" and assigns it a rate of \$1.05. The proceeds of the tax are to be deposited in a number of special funds related to environmental response, energy security, energy systems development, and food security.

This measure also exempts the fuel tax for sales of commercial aviation fuel.

The Department of Taxation (Department) opposes the tax provision in this legislation as a substantial tax increase.

THIS BILL REPRESENTS A DRAMATIC TAX INCREASE—This legislation represents a large tax increase that will impact all Hawaii residents, including drivers and utility ratepayers. The Department is also strongly concerned with the timing of this legislation, because the state and nation are in a recession where taxpayers are worried about their finances. This tax is highly regressive and will impact the poor the most.

RECONSIDER THE AMENDMENTS FOR AVIATION FUEL—The Department also opposes exempting airlines from the fuel tax altogether as drafted in this measure. The Department points out that the effect of the current drafting exempts sales of all aviation fuel from the fuel tax entirely.

If the Legislature is concerned about increasing a tax on aviation fuel without running afoul of preemption, simply deposit the increase in aviation fuel taxes to the airports special fund. 49 US Code § 47133 restricts the local taxation on aviation fuel taxes. However, if the tax is assessed high

enough up the chain (*i.e.*, taxes on a barrel of petroleum oil vs. refined aviation fuel), then the increase in tax would likely not run afoul of this preemption provision. The Department defers to the Attorney General on this last matter.

REVENUE IMPACTS—This measure provides the following revenue impacts:

- Revenue loss of \$3.7 million per year to the State Airport Fund due to the exemption for aviation fuel, as written;
- Revenue gains of \$12.1 million per year to the Energy Security Special Fund; \$2.2 million per year to the Energy Systems Development Special Fund; and \$7.7 million per year to the Agricultural Development and Food Security Special Fund.

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

Bill No. 2421
Support Y (N)
Date 2/3
Time 1628
Cat AF (AS) AX B C
Type 1 (2) WI

COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

COMMITTEE ON AGRICULTURE

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

H.B. 2421, Relating to Government

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

February 4, 2010
10:00 A.M.

- 1 **Department's Position:** The Department of Health respectfully opposes this bill.
- 2 **Fiscal Implications:** Uncertain but substantial. The current \$0.05 tax generated \$792,848 in the first
- 3 half of FY10 and \$1,441,439 in FY 09, down from \$1,807,921 in FY 06.
- 4 **Purpose and Justification:** This measure proposes to raise the existing Environmental Response
- 5 Revolving Fund (ERRF) tax of 5 cents per barrel or fractional part of a barrel petroleum product to
- 6 \$1.05, and to allocate the new tax among the following special funds at the following rates; 5 cents to
- 7 the ERRF, 55 cents to the Energy Security Special Fund, 10 cents to the Energy Systems Development
- 8 Special Fund and, 35 cents to a new Agricultural Development and Food Security Special Fund.
- 9 The ERRF is very important for Hawaii's environment and should be protected. The
- 10 Department uses the ERRF to respond to and cleanup oil spills and hazardous materials releases to the
- 11 environment when the polluter does not. The fund also supports 40 positions in the DOH. See our
- 12 annual report: <http://gen.doh.hawaii.gov/sites/LegRpt/2010Rpt/128D%20and%20128E%20Report.pdf>.
- 13 Should the bill lead to reduced income allocated to the ERRF, the Department may not be able to carry

1 out its statutory duties. We are apprehensive about any measure that may lead to reducing the existing 5
2 cents per barrel tax rate allocated to the ERRF or the net income to the fund, and we ask the Legislature
3 to avoid those outcomes.

4 The DOH is uncertain and therefore concerned about the net effect of the bill. If passed, the
5 measure may result in higher income to the ERRF. On the other hand, if oil companies pass the tax
6 along to Hawaii consumers, already paying the highest gas prices in the nation, the additional fuel taxes
7 may depress consumption and may actually reduce ERRF revenues. Therefore, the fiscal implications
8 are uncertain.

9 We recognize that the goal of the Hawaii Clean Energy Initiative is to reduce Hawaii's use of oil
10 and coal from around 90% to 30% by 2030, and that in the long term ERRF income will decline and
11 alternative financing for spill response and program positions must be arranged. However, there is no
12 alternative now.

13 The bill increases taxes and increases the cost of living for Hawaii residents during a difficult
14 economic time.

15 We defer to the Departments of Business Economic Development and Tourism, Agriculture and
16 Taxation on the rest of the bill.

17 Thank you for the opportunity to testify in this important measure.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Bill No. 2421
Support (Y) N
Date 2/4
Time 1756

February 4, 2010
10:00 A.M.

House
COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
&
COMMITTEE ON AGRICULTURE
HB2421

Mark Duda
Cat AF AS AX (B)C
President
Type 1 2 WI

TESTIMONY IN SUPPORT

Aloha Chairs Morita and Tsuji and members of the committees:

HSEA supports House Bill 2421, 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 Hawaii's clean energy future—energy efficiency, smart-grid infrastructure, planning and implementation—require up-front investment.

HSEA believes the best way to accomplish this is by tapping the source of our problem—imported oil—to fund clean energy programs. This measure will help enable Hawaii'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 Foundation, 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 Hawaii's clean energy future.

To accelerate Hawaii's transition to energy independence, HSEA proposes, the following amendments to HB 2421:

- (1) Increase the oil tax to \$5 per barrel (yielding approximately \$160 million annually).
- (2) Expand the uses of the barrel tax to include doubling 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.

Thank you for the opportunity to testify on this measure.

Mark Duda
President, Hawaii Solar Energy Association

About Hawaii Solar Energy Association
Hawaii Solar Energy Association (HSEA) is comprised of installers, distributors, manufacturers and financiers of solar energy systems, both hot water and PV, most of

which are Hawaii based, owned and operated. Our primary goals are: (1) to further solar energy and related arts, sciences and technologies with concern for the ecologic, social and economic fabric of the area; (2) to encourage the widespread utilization of solar equipment as a means of lowering the cost of energy to the American public, to help stabilize our economy, to develop independence from fossil fuel and thereby reduce carbon emissions that contribute to climate change; (3) to establish, foster and advance the usefulness of the members, and their various products and services related to the economic applications of the conversion of solar energy for various useful purposes; and (4) to cooperate in, and contribute toward, the enhancement of widespread understanding of the various applications of solar energy conversion in order to increase their usefulness to society.



Conservation Council for Hawai'i

Testimony Submitted to the House Committee on Energy and Environmental Protection and
House Committee on Agriculture

HB 2421 Relating to Government
Hearing: Thursday, February 4, 2010 10 am Room 325

In support of HB 2421

Aloha. Conservation Council for Hawai'i supports HB 2421, which increases the state environmental response tax from \$0.05 to \$1.05 per barrel, adds programs for which the environmental response, energy, and food security tax would be used.

The true and full cost of using fossil fuels should be reflected in their price, and income generated by this bill could stay in Hawai'i to provide jobs and increase food and energy security.

Please also consider applying the tax or otherwise adding a surcharge to other fossil fuels, such as coal, and non-sustainable biofuels.

Please pass HB 2421. Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler

Marjorie Ziegler

Bill No. 2421
Support Y N
Date 2/3
Time 1450
Cat AF AS AX BC
Type 1 2 WI



Hawai'i's Voice for Wildlife – Ko Leo Hawai'i no na holoholona lohiu

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Directors: Madelyn D'Enbeau * Maka'ala Ka'auomoana * Hannah Springer
Executive Director: Marjorie Ziegler



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

Bill No. 2421

Support Y N

Date 2/3

Time 1507

Cat AF AS AX B C

Type 1 2 WI

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
HOUSE COMMITTEE ON AGRICULTURE
HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

February 4, 2010, 10:00 A.M.

(Testimony is 2 page long)

TESTIMONY IN STRONG SUPPORT FOR HB 2421 WITH PROPOSED AMENDMENTS

Aloha Chair Morita, Chair Tsuji, Chair Ito, and Members of the Committees:

The Hawai'i Chapter of the Sierra Club 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.

Thank you for the opportunity to testify.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587 15/6

Time 15/6

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

Cat AF AS AX B C

BILL NUMBER: SB 2875; HB 2421 (Identical)

Type 1 2 WI

INTRODUCED BY: SB by Kidani, English, Gabbard, Hooser, Nishihara, Sakamoto, Tsutsui and 4 Democrats; HB by Coffman, Aquino, Awana, Belatti, Berg, Brower, Chang, Chong, Choy, Evans, Hanohano, Ito, Keith-Agaran, C. Lee, McKelvey, Morita, Nakashima, B. Oshiro, M. Oshiro, Saiki, Say, Takai, Takumi, Tsuji and 2 Democrats

BRIEF SUMMARY: Amends HRS section 243-3.5 to rename the environmental response tax the environmental response, energy and food security tax. Increases the rate of tax from 5 cents per barrel to \$1.05 on each barrel; provided that each 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 the tax, provided that 5 cents of the tax, including all tax revenues received under this section from the sale of 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) 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.

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.

Adds a new section to HRS chapter 201 to establish a renewable energy branch within DBEDT to coordinate and promote renewable energy initiatives.

Establishes within DBEDT, the position of energy program coordinator and seven temporary positions to support the planning and renewable energy provisions of HRS chapters 196, 201, and 226.

Authorizes the governor to establish positions necessary to accomplish the management of those energy projects funded by federal grants, subject to the availability of federal funding for energy programs; provided 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.

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

EFFECTIVE DATE: July 1, 2010

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 and provides that 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; 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 to 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.

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 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.

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 even more residents will end up living on the beach. Sure it is fashionable to be "green" and 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?



The Nature Conservancy
Hawai'i Program
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Honolulu, HI 96817

tel (808) 537-4508
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Bill No. 2421

Support Y N

Date 2/3

Time 1626

Cat AF AS AX B C

Type 1 2 WI

Testimony of The Nature Conservancy of Hawai'i
Supporting with Amendments H.B. 2421 Relating to Government
House Committee on Energy & Environmental Protection
House Committee on Agriculture
Thursday, February 4, 2010, 10:00AM, Rm. 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy **supports with the attached amendments** H.B. 2421 particularly the imposition of a reasonable tax increase on imported petroleum as a smart way to support Hawai'i'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 reasonable portion, such as 10%, of the barrel fee revenue be used to plan for and help natural systems and communities cope with the inevitable challenges brought on by climate change caused by CO2 emissions from burning fossil fuels.

We do agree that the majority of the revenue from the barrel fee should be used to support the transition to clean energy, CO2 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 CO2 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 CO2 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

S. Haunani Apoliona Christopher J. Benjamin Zadoc W. Brown, Jr. Samuel A. Cooke Peter H. Ehrman Kenton T. Eldridge
Peter Ho Stanley Hong J. Douglas Ing Mark L. Johnson Dr. Kenneth Kaneshiro Bert A. Kobayashi, Jr.
Faye Watanabe Kurren Duncan MacNaughton Bonnie McCloskey Wayne Minami Michael T. Pfeffer
H. Monty Richards Jean E. Rolles Scott Rolles James Romig Crystal Rose Eric Yeaman

[Proposed amendments from The Nature Conservancy highlighted]

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

H.B. NO. 2421
HD1

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 establishing necessary funding, guidance, and infrastructure;
- (2) Ensure Hawaii is energy and food self-sufficient and sustainable to the maximum extent feasible; and
- (3) Plan for and implement measures to help Hawaii's natural resources and humankind 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 needs. 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 business. 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, and anticipated conditions such as more severe storm events, overall less rainfall, warmer temperatures that may favor invasive species, sea level rise, 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. 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 is home to renewable energy resources like solar, wind, ocean, and geothermal, we as a community have not taken full advantage of alternative energy and energy efficiency solutions to make our 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 milk consumed in this state are imported. While Hawaii may never produce one hundred per cent of its food, the risks and costs to society by this 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 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 investment 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 sustainability and independence over the next twenty years if appropriate personnel resources and sustainable 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 recommend priorities for government agencies within the executive branch and the legislature in determining how funds may be allocated, reviewing an existing or developing an overall road map to implement and achieve the purpose of this Act, and

identifying the economic development, workforce, and consumer education issues relating to the production of food and energy.

The legislature intends that the Hawaii economic development task force take an interdisciplinary approach to seek 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. Such an approach ensures that energy and food policy development is integrated within the overall economic, social, environmental, and cultural aspects of society. With an understanding of these overlapping goals and resources, our State can maximize the opportunities to ensure food and energy security for generations to come.

The Act also establishes a clean energy initiative to manage the State's transition to a clean energy economy, 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 establishes a renewable energy branch in the department of business, economic development, and tourism, to coordinate and promote renewable energy initiatives.

The legislature finds that undertaking this important task of energy and food security ~~and natural resource protection~~ requires substantial financial resources. An investment and long-term commitment by the State must be made. 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 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;
- ~~{}~~ (2) Moneys appropriated to the fund by the legislature;
- ~~{}~~ (3) All interest attributable to investment of money deposited in the fund; and
- ~~{}~~ (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~~
- (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 the spending plan of the energy security special fund, all expenditures of energy security special fund moneys, the targeted markets including why those markets were selected and who will be served and why, the specific objectives of the expenditures, and 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] \$1.05 (one dollar 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 [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 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 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 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 bolster 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 private county 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 also shall 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 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 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 the spending plan of the agricultural development and food security special fund, all expenditures of agricultural development and food security special fund moneys, the targeted markets including why those markets were selected and who will be served and why, the specific objectives of the expenditures, and 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 and food security 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 public education institutions;
- (5) Promotion of Hawaii's clean and renewable resources to potential partners and investors;
- (6) A plan, for implementation during the years 2011 to 2030, to transition the State to a clean energy economy; and
- (7) A plan to assist each county for the implementation during the years 2011 to 2030, to transition each county 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.

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 clean energy initiatives, and the status of new initiatives. The report shall also include the spending plan of the Hawaii clean energy initiative program, all expenditures of energy security special fund

moneys, the targeted markets including why those markets were selected and who will be served and why, and the specific objectives of the program and program expenditures, and measurable outcomes."

SECTION 12. 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 to provide seven positions for and otherwise support the Hawaii clean energy initiative of the department of business, economic development, and tourism.

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

PART VI

RENEWABLE ENERGY

SECTION 13. The purpose of this part is to support the renewable energy industry in Hawaii by:

- (1) Establishing a renewable energy branch in the department of business, economic development, and tourism to coordinate and promote renewable energy initiatives;
- (2) Strengthening laws supporting energy diversification, long-term provision of dependable energy services, and use of diverse energy technologies; and

- (3) Providing adequate resources to support the renewable energy industry, and renewable energy planning and programs in the department of business, economic development, and tourism.

SECTION 14. Chapter 201, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§201- Renewable energy branch; establishment. (a)

There is established a renewable energy branch within the department.

(b) Branch functions shall include:

- (1) Renewable energy resource assessments, technical analyses, and resource development functions, including design, management, and completion of systematic analysis of existing and proposed energy resource programs;
- (2) Evaluation of analyses conducted by government agencies and other organizations;
- (3) Development and management of programs to encourage public and private exploration, research, and commercial development of renewable energy resources;
- (4) Project facilitation functions, including the development and implementation of programs to

facilitate the efficient permitting of renewable energy projects;

- (5) Renewable energy partnership and outreach functions, including participation in renewable and sustainable energy evaluation and demonstration projects, outreach, and other activities to promote technically, economically, and environmentally feasible technologies and projects;
- (6) Renewable energy resource, technology, and project viability consultant functions, including serving as a consultant to the governor, public agencies, and private industry on matters related to the use of Hawaii's renewable energy resources; and
- (7) Research, reporting, implementation, and support of renewable and transportation energy related laws."

SECTION 15. Section 201-12.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established within the department of business, economic development, and tourism the position of renewable energy facilitator, which shall be a full-time, [~~temporary~~] permanent position exempt from chapters 76 and 89. The renewable energy facilitator shall possess a requisite level of knowledge and expertise in the areas of renewable energy,

state and county permitting processes, and management necessary to carry out the duties of the position."

SECTION 16. There is established within the department of business, economic development, and tourism, the position of energy program administrator. The position shall be a full-time position exempt from chapters 76 and 89, Hawaii Revised Statutes.

SECTION 17. There are established within the department of business, economic development, and tourism seven full-time temporary positions to support the planning and renewable energy provisions of chapters 196, 201, and 226, Hawaii Revised Statutes. The positions shall be exempt from chapters 76 and 89, Hawaii Revised Statutes.

SECTION 18. 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 hereby 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.

SECTION 19. 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 department of business, economic development, and tourism to fill the permanent, full-time equivalent (1.00 FTE) renewable energy facilitator position established in section 201-12.5, Hawaii Revised Statutes.

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

SECTION 20. 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 department of business, economic development, and tourism to fill the permanent, full-time equivalent (1.00 FTE) energy program administrator position established in section 15.

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

SECTION 21. 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

seven full-time, temporary positions, established under section 16.

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

PART VII

GREENHOUSE GAS EMISSIONS REDUCTION TASK FORCE

SECTION 22. 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 VIII

CLIMATE CHANGE RESILIENCE AND ADAPTATION

SECTION 23. 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; and

(7) 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 24. 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 IX

CLIMATE CHANGE TASK FORCE

SECTION 25. 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 X

SECTION 26. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 27. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 28. This Act shall take effect on July 1, 2010.

INTRODUCED BY: _____



LIFE OF THE LAND

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Honolulu, Hawai'i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

Bill No. 2421
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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Hermina M. Morita, Chair
Rep. Denny Coffman, Vice Chair

COMMITTEE ON AGRICULTURE

Rep. Clift Tsuji, Chair
Rep. Jessica Wooley, Vice Chair

DATE: Thursday, February 4, 2010

TIME: 10:00a.m.

PLACE: Conference Room 325

Re: HB 2421: Food and Energy Security; Appropriation

SUPPORT

Aloha Chairs Morita and Tsuji and Members of the Committees

Description: HB 2421 makes various amendments, establishes various initiatives, and appropriates funds to promote economic development for local food and energy businesses, ensure Hawaii is energy and food self-sufficient and sustainable to the maximum extent feasible, and help Hawaii's natural resources and humankind adapt and be resilient to the inevitable challenges brought on by climate change and provides a fuel tax exemption for commercial air transportation providers. (\$)

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.

Life of the Land's Position:

Life of the Land supports developing a fossil fuel tax mechanism whereby imported non-renewable fuels are taxed and the money raised is dedicated to energy and agricultural self-reliance.

Life of the Land * 76 N King St, Suite 203 * Honolulu, HI 96817 * (808) 533-3454 * henry.lifeoftheland@gmail.com

At the same time we are mindful that Hawai'i is in a recession, and that working class people are commuting from Kapolei to Waikiki and Hilo to Kona. Therefore the mechanism should establish a small fee until we emerge from the recession.

The import tax should be set at 1.5% of the wholesale price.

This is roughly equivalent to \$1/barrel at current oil prices.

The tax should also apply to coal and non-renewable biofuels (ethanol/biodiesel made from crops such as palm oil, soybeans and canola).

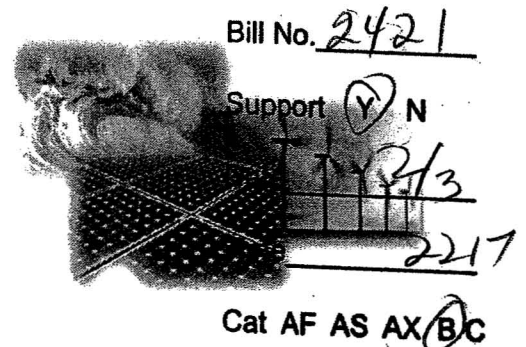
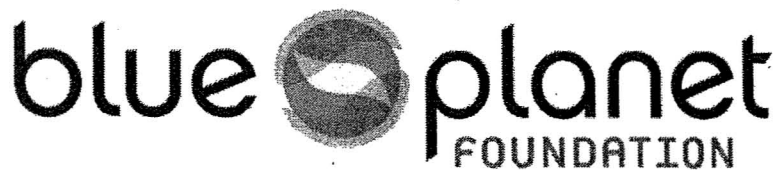
The tax would not apply to waste oil biofuels. This would exempt the Hawaiian Electric Company (HECO) proposal to use "waste animal fat and / or yellow grease feedstock" from the Midwest to power their new Campbell Industrial Park generator.

The Governor and HECO have proposed to increase the use of "clean energy." If this is truly a state goal, then a series of additional actions need to be taken:

- (1) Clean Energy should include only low climate impact indigenous renewable energy and definitely not include imported coal and other fossil fuels.
- (2) The term "percentage" should mean a number or ratio varying between 0 and 100

Mahalo,

Henry Curtis
Executive Director



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION Type 1 (2) WI
HOUSE COMMITTEE ON AGRICULTURE
February 4, 2010, 10:00 A.M.
Room 325
(Testimony is 1 page long)

TESTIMONY IN STRONG SUPPORT OF HB 2421, SUGGESTED AMENDMENTS

Chairs Morita and Tsuji and members of the committees:

The Blue Planet Foundation strongly supports House Bill 2421, 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 Hawaii'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 Hawaii'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 Hawaii's clean energy future.

To accelerate Hawaii's transition to energy independence, Blue Planet proposes the following four amendments to HB 2421:

- Increase the oil tax to \$5 per barrel (yielding approximately \$160 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

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 sources¹. In addition, over 805,000 tons of coal are imported into our state². 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 annually³. 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 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.

¹ The State of Hawaii Data Book, 2007

² *Ibid.*

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

Barrel Tax is Smart Tax Policy

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 (CO₂)⁴. 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

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 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.

⁴ At 23 lbs CO₂ produced per gallon oil and 42 gallons per barrel.

Limited Exemption for Aviation Fuel

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.

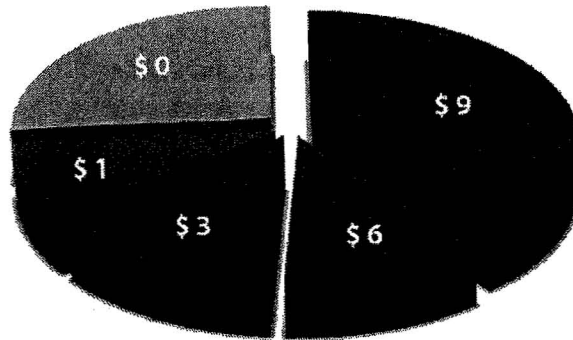
Need for Efficiency Funding

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 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 §269-122). 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

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?"

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

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 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

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

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.



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819

Phone: (808) 848-2074; Neighbor Islands: 1-800-482-1272

Fax: (808) 848-1921; e-mail: info@hfbf.org

Bill No. 2421

Support N

Date 2/3

Time 2217

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TESTIMONY

RE: HB2421 RELATING TO GOVERNMENT

Chair Morita, Chair Tsuji and Members of the Committees:

Hawaii Farm Bureau Federation, the State's largest general agriculture advocacy organization is in strong support of HB2421 which modifies the Environmental Revolving Fund to provide for long term Energy and Food Security.

Hawaii Farm Bureau Federation agrees with the intent of the measure to identify a stable funding source to provide for long term energy and food security in the State. Today, as everyone faces economic hardships, the balance between cutting costs and providing for the future is critical. Agriculture is just at that tipping point. Our farmers and ranchers are undergoing severe hardships not only due to economic challenges but from other fronts including weather, either droughts or flooding. Many of our larger farmers ...those who make a difference in Hawaii's self sufficiency have quietly faded away as they lost their life savings or are unable to pay loans due to increased costs of production. Energy costs play a significant role in their plight - and not just through direct fuel costs to run their tractors but due to their inputs(fertilizers, drip tubing, crop protection chemicals, tractor tires, etc.) that are fossil fuel based, or their utility bills to process or chill their products.

Combining Energy and Food Security into a comprehensive plan has merits. As renewable energy facilities are considered, many of the lands on which they could be sited are on agricultural lands. It is a no-brainer that the most productive agricultural lands ..flat terrain, easy access to infrastructure, and good sunlight in the case of solar are the same lands that make it most attractive for energy development. To meet Hawaii's long term food and energy security needs, it will be critical that there be a balance between agriculture and energy production. As energy prices have skyrocketed, there is a rush to provide for long term energy self sufficiency. Last year, when there was a tomato contamination issue, every buyer became Hawaii's tomato farmer's best friend. One week later, as the scare subsided and mainland tomatoes were deemed safe, the buyers no long recognized the existence of the local farmer. The same happens during a strike or catastrophic events. Just as renewable energy facilities cannot be constructed overnight, fields of produce or stockyards of cattle cannot happen when the need suddenly appears. It must be nurtured and cultivated everyday. Agriculture has the potential to not only provide for self sufficiency but bring new monies into Hawaii with export of unique items that may be in demand on the mainland or in foreign destinations. This new money into Hawaii is important to expand Hawaii's financial needs to provide for services for everyone. Providing for self sufficiency alone does not provide for our long term sustainability.

We agree with the concept of working with Economic Development Boards and strongly urge continued discussion on a Comprehensive Food and Energy Security program. Farm Bureau looks forward to participating in the discussions. It is important that all ramifications to all sectors of society is understood as we move forward with this measure.

Thank you for this opportunity to provide comments on this matter.

WRITTEN ONLY Bill No. 2421

Support Y (N)

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TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL
PROTECTION AND AGRICULTURE
ON
HOUSE BILL NO. 2421

February 4, 2010

RELATING TO GOVERNMENT

House Bill No. 2421 establishes within the Department of Business, Economic Development and Tourism: 1) the Hawaii Economic Development Task Force to facilitate the accelerated adoption and completion of renewable energy projects, energy efficiency programs, agricultural infrastructure and development, and other measures to address Hawaii's energy and food security needs, and 2) the Hawaii Clean Energy Initiative Program to manage the State's transition to a clean energy economy.

In addition, House Bill No. 2421 also establishes the Agricultural Development and Food Security special fund to receive funds from the environmental response and energy and food security tax as provided by Section 243-3.5 of the Hawaii Revised Statutes, legislative appropriations, earned interest, and funds from other sources. The special fund would be used to pay for expenses incurred to develop and implement activities to achieve food independence for the State.

As a matter of general policy, this department does not support the creation of any special fund that does not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. Special funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the

the capacity to be financially self-sustaining. It is difficult to determine whether the sources of funding for the Food Security special fund reflect a clear nexus and whether the special fund will be self-sustaining.

AIRLINES COMMITTEE OF HAWAII



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

February 4, 2010

The Honorable Hermina M. Morita, Chair
House Committee on Energy & Environmental Protection

The Honorable Clift Tsuji, Chair
House Committee on Agriculture

**Re: House Bill 2421 – Relating to Government
10AM – February 4, 2010 – Conference Room 325**

Aloha Chairs Morita and Tsuji, Co-chairs Coffman and Wooley and Members:

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, 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.*

Bill No. 2421

Support Y N

Date 2/2

Time 1640

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SENT VIA EMAIL
February 4, 2010

Hawaii State legislature
State Capital
Honolulu, Hawaii 96813

ECONOMIC DEVELOPMENT
ISLAND OF OAHU
Bill No. 2421
Support Y N
Date 2/3
Time 948
Cat AF AS AX B C
Type 1 2 WI

Support Testimony on
H.B. NO. 2421

Relating To Hawai'i Food & Energy Security

COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Rep. Hermina M. Morita, Chair
Rep. Denny Coffman, Vice Chair

COMMITTEE ON AGRICULTURE, AND

Rep. Clift Tsuji, Chair
Rep. Jessica Wooley, Vice Chair

COMMITTEE ON WATER LAND AND OCEAN RESOURCES

Rep. Ken Ito, Chair
Rep. Sharon E. Har, Vice Chair


Thursday, February 4, 2010, 10:00 a.m., Conference Room 325

Aloha Chairs Morita, Tsuji and Ito and All Committee Members!

Enterprise Honolulu, the Oahu Economic Development Board, strongly supports H.B. 2421, – 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.

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

Sincerely,


Pono Shim
President and CEO



**TESTIMONY OF KEONI WAGNER ON BEHALF OF HAWAIIAN AIRLINES
REGARDING H.B. NO. 2421, RELATING TO GOVERNMENT**

February 4, 2010

To: Chairpersons Hermina Morita and Cliff Tsuji and Members of the House Committee on Energy and Environmental Protection and the House Committee on Agriculture:

My name is Keoni Wagner and I am the Vice President for Public Affairs for Hawaiian Airlines presenting this testimony on behalf of Hawaiian Airlines regarding H.B. No. 2421.

Hawaiian Airlines supports the pursuit of alternate energy and environmental protections, but we believe the application of this proposed tax increase to aviation fuel runs afoul of federal law and therefore should be specifically exempted.

Section 4 of the bill, beginning on page 11, increases the tax by one dollar on each barrel or fractional part of a barrel of petroleum product sold to an end user with an exception for aviation fuel which is taxed at 5 cents instead of one dollar.

Hawaiian has received a legal opinion which confirms that federal law prohibits the application of local taxes on aviation fuel if the revenue derived from the tax is not used for airport related purposes. For this reason, we recommend adoption of the language in Section 4 of this bill.

Thank you for the opportunity to present comments on this measure.

Bill No. 2421
Support Y N
Date 2/3
Time 12:30
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Bill No. 2421

Support Y N

Date 2/3

Testimony to the House Committees on Energy & Environmental Protection and
Agriculture
Hawaii State Capitol
Conference Room 325
Thursday, February 4, 2009 at 10:00 a.m.

File 1314

Cat AF AS AX BC

Type 1 2 WI

SUBJECT: HOUSE BILL 2421- RELATING TO GOVERNMENT

Chairs Morita and Tsuji, Vice Chairs Coffman and Wooley and Members of the Committees:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I appreciate the opportunity to state The Chamber's strong support of the language in House Bill No. 2421, which acknowledges federal preemptions for aviation fuel.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber encourages a broad base of understanding, support and appreciation for the Tourism and Travel Industries within the business community, Legislature and the general public. The committee also supports visitor industry growth and improvement while working to enhance the visitor experience.

The Chamber understands the value and significance of the airline industry, especially our local carriers, who in addition to serving the travel needs for the people of Hawaii and beyond, have contributed significantly to the community. Additional decline in the travel industry harms all businesses and the local economy. As a result, the Chamber wants to embrace and strengthen the commercial aviation sector.

A section in this bill proposes to recognize 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. The Chamber believes this is a relevant step in the right direction of giving aid to the industry. Airlines are facing serious challenges today, and exempting them from the general excise and use tax on aviation fuel will help to alleviate some financial burdens. Overall, this measure will help our airline industry, as well as benefit the state as a whole.

In light of this, the Chamber of Commerce of Hawaii urges your support this provision of House Bill 2421. Thank you for the opportunity to express our views on this matter.