

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON WAYS AND MEANS  
ON  
SENATE BILL NO. 2512, S.D. 1

February 28, 2012

RELATING TO SUSTAINABILITY

Senate Bill No. 2512, S.D. 1, increases the allocation of the barrel tax to the energy security special fund and the agricultural development and food security special fund from 15 cents to 45 cents to reduce the State's dependency on imported fossil fuels and food products.

The Department of Budget and Finance recognizes the importance of supporting investments in clean energy and local agricultural production; however, we are concerned about the possible loss of general fund revenues resulting from this proposal.

Currently, the general fund receives 60 cents of the \$1.05 barrel tax and, in FY 11, collected \$14 million. This bill will take the full general fund allocation of \$14 million and redistribute it to the two special funds.

The department strongly believes that general fund revenues should be reviewed on a statewide basis and allocation to programs based on statewide priorities within available resources. In consideration of the State's current fiscal condition and the current revenue projections for the next two fiscal bienniums, the contribution of the barrel tax to the general fund is surely of continued consideration. The Administration and the department are supportive of examining the equitable balance between funding clean energy and local agriculture production with the needs of the overall fiscal plan for the State.

# TAXBILLSERVICE

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

**BILL NUMBER:** SB 2512, SD-1

**INTRODUCED BY:** Senate Committees on Energy and Environment and Economic Development and Technology and Agriculture

**BRIEF SUMMARY:** Amends HRS section 243-3.5 to increase the amount deposited into the energy security special fund from 15 cents to 45 cents and increases the amount deposited into the agricultural development and food security special fund from 15 cents to 45 cents.

Amends Act 73, SLH 2010, to: (1) replace the term “economic development task force” with “food and energy security council” and, (2) extend the June 30, 2015 sunset provision of Act 73 to June 30, 2017. The amendments to this act shall take effect on June 29, 2012.

Appropriates \$8 million out of the energy security special fund in fiscal 2013 to be expended by the department of business, economic development and tourism, for the purposes of the energy security special fund.

Appropriates \$8 million out of the agricultural development and food security special fund in fiscal 2013 to be expended by the department of agriculture for the purposes of the agricultural development and food security special fund.

Any unexpended or unencumbered balance of the moneys appropriated to the energy security special fund and the agricultural development and food security special fund as of the close of business on 6/30/13 shall not lapse to the credit of the general fund and shall remain in each respective special fund.

**EFFECTIVE DATE:** July 1, 2012

**STAFF COMMENTS:** 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. The intent of the original nickel per barrel was to build up an emergency fund so that the state would have the financial resources to address an oil spill that threatened to damage the Islands’ shorelines. Over the years, the activities for which the funds could be used expanded such that the fund was prevented from ever reaching the \$7 million cap that had been imposed by the original legislation.

The legislature by Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into the environmental response revolving fund; 15 cents shall be deposited into the energy security special fund, 10 cents shall be deposited into the energy systems development special fund; 15 cents shall be deposited into the agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15.

This measure proposes to increase the amount deposited into the energy security special fund from 15 cents to 45 cents and the agricultural development and food security special fund from 15 to 45 cents. 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 as it was initially enacted with a palatable and acceptable tax rate of 5 cents and subsequently increasing the tax rate once it was enacted which is what it has morphed into as evidenced by the \$1.05 tax rate. 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.

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 special fund are not subject to close scrutiny as an assumption is made that such funds are self-sustaining. It should be remembered that earmarking of funds for a specific program represents poor public finance policy as it is difficult to determine the adequacy of the revenue source for the purposes of the program. To the extent that earmarking carves out revenues before policymakers can evaluate the appropriateness of the amount earmarked and spent, it removes the accountability for those funds. There is no reason why such programs should not compete for general funds like all other programs which benefit the community as a whole.

It should be noted that the measure to increase the environmental response, energy, and food security tax was vetoed by the governor and subsequently overridden by the legislature. The governor's message stated that the measure was vetoed "because it raises taxes on Hawaii residents and businesses by an estimated \$22 million per year at a time when the community cannot afford these taxes, and deceptively implies these funds will be used to address the state's dependence on imported fuel and food. This tax will impact virtually everything we do or use in Hawaii including electricity, gasoline, trucking, shipping, retail goods, food, and even the propane for our backyard barbeques. The impacts will ripple through our entire economic system. I am particularly concerned that the tax increase occurs at a precarious moment when the State economy is beginning to stabilize and progress out of the slump

created by the global recession.”

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 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.

For those lawmakers who promoted the dollar increase for energy self-sufficiency and food security, taxpayers should recognize that they deliberately misled the public and should be held accountable for their lack of integrity as the dollar increase went largely for shoring up the state general fund.

Digested 2/23/12

Testimony of The Nature Conservancy of Hawai'i  
Supporting with Amendments S.B. 2512 SD1 Relating to Sustainability  
Senate Committee on Ways and Means  
Tuesday, February 28, 2012, 9:00AM, Room 211

The Nature Conservancy **supports with amendments** S.B. 2512 SD1. We support the proposed increased investments from the barrel tax in clean energy and local agriculture to reduce our dependence on imported fossil fuel and food. We also think a small portion of the barrel tax revenue should help address the direct effects of climate change caused by burning fossil fuels.

Act 73 (2010) establishing the barrel tax acknowledges that consumption of fossil fuels contributes to climate change and the deterioration of Hawaii's environment. A stated purpose of Act 73 is to:

(3) Help Hawaii's natural resources and population adapt and be resilient to the inevitable challenges brought on by climate change caused by carbon dioxide and other greenhouse gas emissions from burning fossil fuels.

Act 73 further acknowledges that our lives and the economy are intertwined with the health and function of the natural world around us. So far, however, we have not utilized Act 73 to take any specific actions to address the direct effects of climate change from burning fossil fuels.

**We recommend this bill be amended** to allow a small portion of the barrel fee be used to help communities and our natural resources cope with challenges of climate change caused by emissions from burning fossil fuels. A good start would be to provide 10¢ for natural resources management programs by **adding a HRS Section 243-3.5(a)(5) as follows:**

(5) 10 cents of the tax on each barrel shall be deposited into the natural area reserve fund established under section 195-9 to be used for watershed protection, invasive species management, and marine resource protection.

Climate change is an imminent and unprecedented threat to 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. Even if we drastically reduce CO2 emissions now, we will still feel the effects of climate change. In Hawai'i, science indicates that this may include:

- More frequent and more severe storms, and increased runoff and siltation;
- 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 groundwater systems; and
- Ocean acidification that will inhibit the growth of protective coral reefs.

We must plan and implement mitigative and adaptive measures to ensure the resilience of our natural and human systems. **Two of the most effective actions we can take to help address the effects of climate change are to protect our forests and coral reefs.** Healthy and diverse Hawaiian forests act like a sponge, collecting rain and moisture from passing clouds, slowly delivering fresh water into streams and aquifers, absorbing greenhouse gases, and reducing runoff and siltation into near shore waters during storm events. Healthy coral reefs that are free of non-native invasive algae and runoff are better able to withstand the effects of temperature changes and acidification, while continuing to provide food and storm protection for coastal areas.

In addition, to achieving food and energy security, we must plan and implement mitigative and adaptive measures to ensure the resilience of our natural systems that provide us the benefits necessary to survive in the middle of the vast Pacific Ocean.

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