

**SB 2512**

**NEIL ABERCROMBIE**  
GOVERNOR

**BRIAN SCHATZ**  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

**FREDERICK D. PABLO**  
DIRECTOR OF TAXATION

**RANDOLF L. M. BALDEMOR**  
DEPUTY DIRECTOR

To: The Honorable Mike Gabbard, Chair  
and Members of the Senate Committee on Energy and Environment

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

The Honorable Clarence K. Nishihara, Chair  
and Members of the Senate Committee on Agriculture

Date: Thursday, February 9, 2012  
Time: 3:45 P.M.  
Place: Conference Room 225, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S. B. 2512 Relating to Sustainability

The Department of Taxation (Department) appreciates the intent of S.B. No. 2512 and defers to the Department of Budget and Finance regarding the appropriate allocations to each of the energy security special fund and the agricultural development and food security special fund.

Thank you for the opportunity to provide comments.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON ENERGY AND ENVIRONMENT,  
ECONOMIC DEVELOPMENT AND TECHNOLOGY,  
AND AGRICULTURE  
ON  
SENATE BILL NO. 2512

February 9, 2012

RELATING TO SUSTAINABILITY

Senate Bill No. 2512 makes an unspecified change to the barrel tax amount and 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. 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

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: SB 2512

INTRODUCED BY: Gabbard, Chun Oakland, Nishihara and 7 Democrats

BRIEF SUMMARY: Amends HRS section 243-3.5 to increase the environmental response, energy and food security tax from \$1.05 to \$\_\_\_ and increases 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) delete its June 30, 2015 sunset provision to make the provisions of Act 73 permanent. 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 increases the amount of the tax from \$1.05 to \$\_\_\_\_\_ and 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. This increase is unacceptable when one remembers that the increase to \$1.05 was predicated on devoting the entire amount to energy self-sufficiency and food security. Taxpayers should feel insulted that the tax is being increased even more this year because the barrel tax is being used to bail out the state general fund, letting lawmakers off the hook from making the cuts to state spending that are so critical if the ship of state is to be righted on its keel. Avoiding making those cuts in spending by raising hidden taxes, like the barrel tax, is less than honest as the tax is imposed on a transaction that is not seen by the average taxpayer. To merely up the tax to do what the original barrel tax proposal should have done is disingenuous and insincere.

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.

SB 2512 - Continued

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 2/6/12

Testimony of The Nature Conservancy of Hawai'i  
Supporting with Amendments S.B. 2512 Relating to Sustainability  
Senate Committee on Energy and Environment  
Senate Committee on Economic Development and Technology  
Senate Committee on Agriculture  
Thursday, February 9, 2012, 3:45PM, Rm. 225

The Nature Conservancy **supports with amendments** S.B. 2512. 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 Hawai'i's environment. A stated purpose of Act 73 is to:

(3) Help Hawai'i'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 watershed, invasive species and marine resource 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:

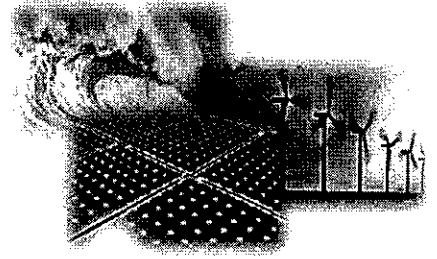
- More frequent and more severe storms, and increased runoff and siltation;
- Overall, less rainfall and therefore less fresh water;
- Higher temperatures that may affect the health of forested watersheds;
- Climatic conditions even more conducive to invasive plants, insects and diseases;
- Sea level 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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**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY  
SENATE COMMITTEE ON AGRICULTURE**

February 9, 2012, 3:45 P.M.

Room 225

**(Testimony is 5 pages long)**

**TESTIMONY IN STRONG SUPPORT OF SB 2512**

Chairs Gabbard, Fukunaga, and Nishihara and members of the Committees:

The Blue Planet Foundation strongly supports SB 2512, a measure adopting the critical recommendations of the Hawaii Economic Development Task Force regarding Hawaii's keystone clean energy policy, the barrel tax. This measure seeks to correct the deficiencies in the original Act 73, 2010, and further the work of the Task Force by:

- Removing the sunset date of the environmental response, energy, and food security tax;
- Increase the allocations of the environmental response, energy, and food security tax to the energy security special fund, the environmental response revolving fund, the energy systems development special fund, and the agricultural development and food security special fund;
- Transition the Hawaii Economic Development Task Force to the Hawaii Food and Energy Security Council, which will remain in existence through June 30, 2014; and
- Increase the spending caps for the State Energy Office and the Department of Agriculture to make use of the barrel tax funds.

Hawaii's barrel tax law is foundational clean energy policy that provides for dedicated investment in clean energy, funding the critical planning, development, and implementation of clean energy programs that will foster energy security for Hawaii. Blue Planet believes the best way to provide investment funds is by tapping the source of our problem—imported fossil fuel. We have also found, through three separate surveys commissioned by Blue Planet, that Hawaii residents strongly support this taxing policy.

**Jeff Mikulina, executive director • [jeff@blueplanetfoundation.org](mailto:jeff@blueplanetfoundation.org)**

55 Merchant Street 17<sup>th</sup> Floor • Honolulu, Hawaii 96813 • 808-954-6142 • [blueplanetfoundation.org](http://blueplanetfoundation.org)



## *Rationale for expanding the Barrel Tax Policy in 2012*

If we truly want to rapidly transition Hawaii to a clean, sustainable energy future, we have to be prepared to invest in that preferred future today. The price of oil well exceeds \$100 per barrel in 2012, and recent unrest in the Middle East and unease toward nuclear energy after the Japan crisis will keep oil prices high. We must act aggressively now.

According to three separate surveys commissioned by Blue Planet, over two-thirds of Hawaii 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. Unfortunately, the policy passed in 2010 directed 60-cents of the barrel tax to the general fund. We believe that reallocating these funds to the original intent behind the policy—food and energy security—will better align the policy with the desire of residents.

Hawaii is the most dependent state in the nation on imported oil. Over 40 million barrels are imported annually, nearly 90% of which originate from foreign sources<sup>1</sup>. In addition, **more than 930,000 tons of coal** are imported into our state<sup>2</sup>. These sources supply power for over 95% of Hawaii's overall energy needs. The combustion of these resources also contributes more than 23 million tons of climate-changing greenhouse gas into our atmosphere annually<sup>3</sup>. Hawaii's economic, environmental, and energy security demand that we reduce the amount of imported fossil fuel that the state consumers. 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.

By dedicating the majority of the barrel tax to clean energy initiatives (with the balance food security and oil spill response), this policy would provide 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 Hawaii, the real economic benefits of this carbon surcharge will far outweigh the additional burden it may present.

## *Carbon Tax is Smart Tax Policy*

A fossil fuel 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,

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<sup>1</sup> The State of Hawaii Data Book, 2010

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

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

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.

A “clean energy” surcharge on a barrel of oil of \$1 is approximately the same as a carbon tax of \$2.00 per ton of carbon dioxide (CO<sub>2</sub>)<sup>4</sup>. It has a marginal impact on petroleum users, yet significantly increases the state’s ability to deliver energy efficiency investments and clean energy project funding. A \$2.00 “carbon tax” is lower than many carbon taxes currently in place. 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. That tax has raised nearly \$1 billion dollars<sup>5</sup>. In 2011, Australia passed a carbon tax of \$23.50 per ton (increasing 2.5% annually until 2015) on the 500 largest carbon dioxide polluters nationwide<sup>6</sup>.

### ***Public Support***

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Blue Planet Foundation conducted market research in December 2009, March 2010, and December 2010 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 roughly 70% supporting a tax of some amount. Each survey had a random sample of 500 residents statewide, providing a margin of error of 4.4% at a 95% confidence level.

The average level of support was equivalent to a \$5 per barrel tax. Forty-five 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 Hawai’i from its oil dependence. *Please see chart at end of testimony.*

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

<sup>5</sup> <http://www.fin.gov.bc.ca/tbs/tp/climate/A6.htm>

<sup>6</sup> Wall Street Journal, “Australia’s Carbon Tax Clears Final Hurdle,” November 8, 2011.

### *Extending the sunset date and Food & Energy Security Council*

Blue Planet strongly supports extending the sunset date for the barrel tax to ensure continued funding for Hawaii's critical food and energy security programs into the future. We also support extending the sunset date for the Hawaii Economic Development Task Force to June 30, 2014 and transitioning the Task Force to the "Food and Energy Security Council." We believe that the Task Force was an effective organization of individuals who worked very constructively together to help analyze and shape plans to promote Hawaii's food and energy security. This effort—all volunteer—should continue.

### *The fossil fuel tax should include coal imports*

Blue Planet strongly supports expanding the barrel tax to include other carbon fuel imports such as coal. The purpose of such an expansion is to ensure consistent taxing policy across Hawaii's fossil fuel imports (not inappropriately incentivizing one over the other) and to increase revenue for clean energy and food security programs. Hawaii imports approximately 1.8 billion pounds of coal (930,000 tons) annually for electricity production. Most of this coal is of the subbituminous variety and is imported from Indonesia.

Coal is among the dirtiest of fossil fuels, with the highest carbon intensity. Mining, shipping, toxic emission, and climate change impacts increase the actual price of coal well beyond its "market price"—a recent Harvard Medical School study<sup>7</sup> estimates that those additional costs exceed the real cost by three- or four-fold (added cost of up to \$0.27 per kilowatt-hour produced). Just two years ago a bulk carrier hauling coal grounded itself on the reef entering Barbers Point Harbor<sup>8</sup>. Coal has significant environmental impacts.

One short ton of coal has approximately four to six times the energy and carbon density as one barrel of oil<sup>9</sup>. Blue Planet therefore believes that a carbon tax of \$5 per ton of coal imported to Hawaii is equivalent to a \$1.05 per barrel tax currently in place. At current Hawaii coal importation rates (approximately 930,000 short tons annually), simply expanding the barrel tax to coal would yield nearly \$5 million annually for clean energy and food security programs.

While it's clear that we need to aggressively increase our energy efficiency and clean energy use in Hawai'i to decrease our reliance on imported crude, we cannot do it without adequate funding for development and implementation. We believe the amendments offered in SB 2512

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<sup>7</sup> [chge.med.harvard.edu/programs/ccf/documents/MiningCoalMountingCosts.pdf](http://chge.med.harvard.edu/programs/ccf/documents/MiningCoalMountingCosts.pdf)

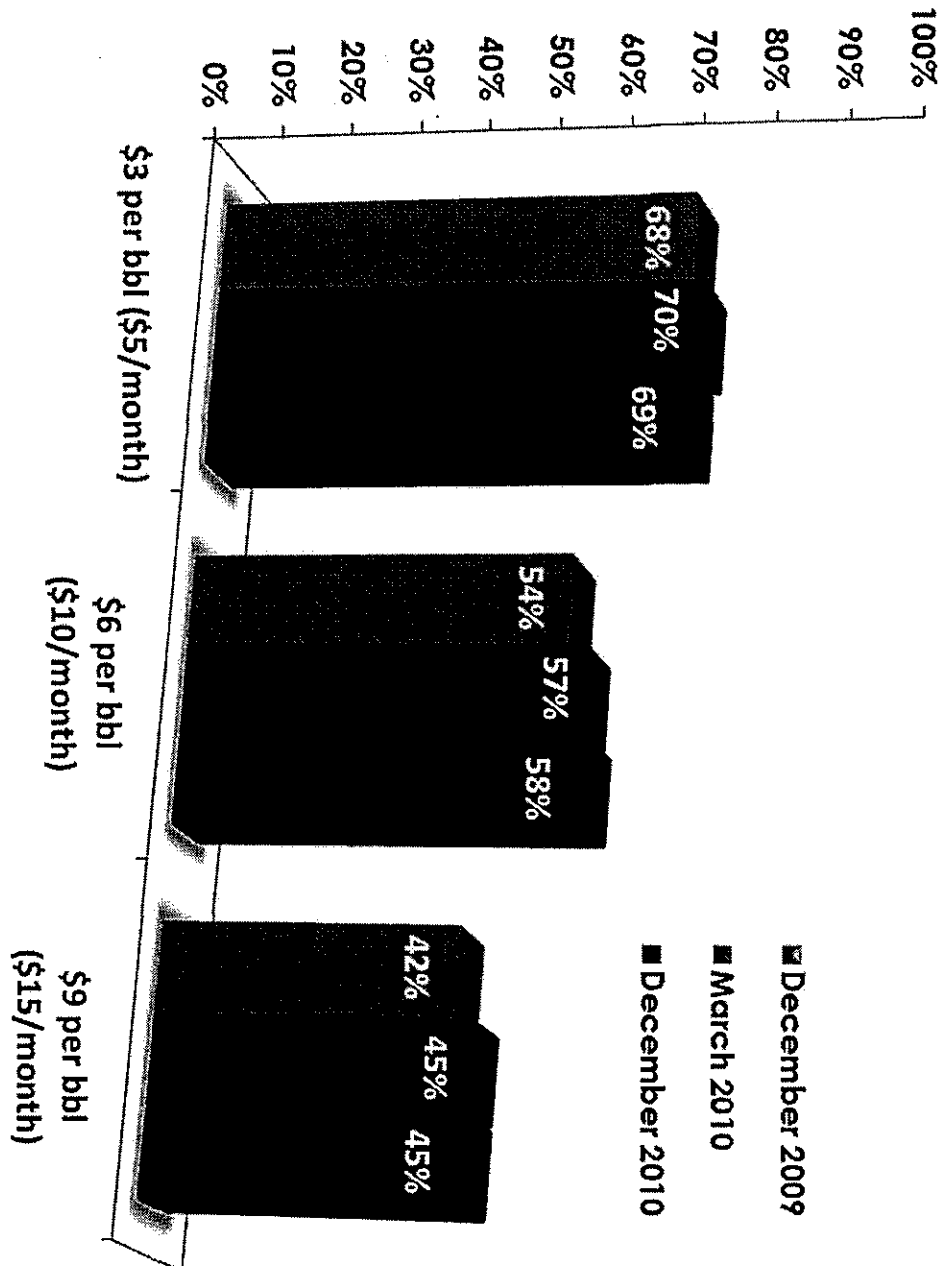
<sup>8</sup> <http://www.hawaiinewsnow.com/global/story.asp?s=11941472>

<sup>9</sup> [www.epa.gov/greenpower/pubs/calcmeth.htm](http://www.epa.gov/greenpower/pubs/calcmeth.htm)

will allow Hawaii to achieve the original intent of the barrel tax policy, tapping the source of our problem—imported fossil fuel—to fund a food- and energy-secure future.

Thank you for the opportunity to testify.

## Resident Support for Barrel Tax



**Anthony Aalto**  
**3946 Lurline Drive • Honolulu, Hawai'i 96816**  
**808.234.9779**

To : Senate Committee on Energy and Environment  
Senate committee on Economic Development and  
Technology  
Senate Committee on Agriculture  
Hearing Date : February 9<sup>th</sup> 2012  
Re : Testimony in Strong Support of SB2512 (2 pages)

Aloha Chairs Gabbard, Fukunaga and Nishihara and members of the  
Committees,

My name is Anthony Aalto. I am a resident of Honolulu, a taxpayer  
and a voter, and I thank you for this opportunity to testify.

I strongly support this bill and I urge you to do the same.

As the state's fiscal situation starts to return to health it is imperative  
that we resume funding the priorities outlined in this bill.

The US Department of Agriculture recently revealed that Hawai'i  
imports between 90% and 92% of all the food that we eat. According  
to the College of Tropical Agriculture and Human Resources at the  
University of Hawai'i since statehood we have paved over 53% of our  
best Grade A and B farmlands. This is a crisis that needs funds to  
address it. The Department of Agriculture is woefully under-funded.  
It does not have a single data specialist to collect the information  
needed to monitor our rapid slide into total food dependency.

We continue to be more dependent on imported energy than any other state in the Union, leaving our economy and way of life extraordinarily vulnerable to another oil shock. Given that we are more vulnerable to sea level rise than any other state in the nation, this dependence on carbon based fuels makes our contribution to greenhouse gas emissions and the climate change they are causing a source of shame.

And finally we are the species extinction capital of the world, with more endangered species per square mile than any other place on earth.

If anything this bill is far too weak. We should be increasing the amount of the barrel tax and only as a fall-back position taking the full \$1.05 for the purposes for which the fund was established.

I urge you to support this bill.

Mahalo for this opportunity to testify.