NEIL ABERCROMBIE
Governor

RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF RUSSELL KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS
FEBRUARY 22, 2013
ROOM 211
9:00 A.M.

SENATE BILL NO. 17 SD 1
RELATING TO FOSSIL FUELS

Chairperson Ige and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 17 SD 1. This measure reallocates the Environmental Response, Energy, and Food Security Tax to carry out the intended sustainability purposes of section 128D-2, Hawaii Revised Statutes, and Act 73, Session Laws of Hawaii 2010. The bill also repeals the sunset date in Act 73, and provides appropriations of the anticipated additional revenues. The Department of Agriculture supports this measure.

There is a growing public sentiment that realizes, as an island state, Hawaii is precariously dependent on imported food and energy. The legislature responded to this movement by passing Act 73, Session Laws of Hawaii 2010. The Department would like to fulfill the intent of that Act by restoring revenues to the Agricultural Development and Food Security special fund and move forward with hiring vital staff and starting key programmatic initiatives to move the state towards greater food self-reliance. Increased revenues provided through the barrel tax will fund positions and programs to preserve agricultural lands, repair irrigation systems, lower the costs of farming, and raise both the supply and demand of local food. Staffing is needed to make the successful apiary program permanent within the Department as well as restore the Marketing Analysis and News Branch to be able to collate the necessary data to identify our food self-reliance goals. Outreach for food safety protocols and procedures and programs to support our local protein producers are also essential in reaching our goal of an agriculture renaissance in Hawaii.

The Department is also very supportive of the reallocation of funds to the Department of Business, Economic Development, and Tourism and the Department of Health for the intended purposes of the Energy Security Special Fund and the Environmental Response Revolving Fund.

Thank you, again, for this opportunity to present our testimony

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS

Friday, February 22, 2013
9:00 a.m.
State Capitol, Conference Room 211

in consideration of

SB 17, SD1
RELATING TO FOSSIL FUELS.

Chair Ige, Vice Chair Kidani, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) supports SB 17, SD1, which expands the Environmental Response, Energy, and Food Security Tax ("barrel tax") to all liquid, gaseous, and solid fossil fuels; removes the sunset date of Act 73, Session Laws of Hawaii 2010; and reallocates the barrel tax to its original intended purposes.

DBEDT believe it is prudent to maintain the unit of taxation as "barrel" for petroleum products already being taxed for clarity and accuracy of administration of this tax.

There is strong public support to return the barrel tax revenues to its original intended purposes. A recent survey by OmniTrack (copy attached) shows that 78% of Hawaii residents agreed that the barrel tax funds should be restored for the intended purposes of improving energy and food self-sufficiency.

The reallocated clean energy funds will fully support the State Energy Office programs and staff positions to deploy clean energy and execute effective policies. These dedicated funds for clean energy are the primary source of funding for the Hawaii Clean Energy Initiative, the internationally regarded 70% clean energy goal in 2030 and DBEDT's State Energy Office has been the driving force in engaging Hawaii communities and other stakeholders to implement the Initiative and the

Task Force recommendations. Clear evidence of the Initiative's contribution to economic growth is that in 2012, 26% of Hawaii's construction-related expenditures were related to solar. In a time of declining construction spending, solar construction has brought welcomed relief to the industry.

Programs to be funded are focused on high impact solutions to move the needle on Renewable Portfolio Standard and Energy Efficiency Portfolio requirements, transportation goals, and business development opportunities to stimulate clean energy entrepreneurship and test bed investments. Examples of programs and strategies to be funded include, but are not limited to, the following:

- Permitting assistance, such as upgrades to the Permitting Wizard, additional e-Permitting state and county projects, investigation to clarify rules regarding the issuance of special use permits for A-C agricultural land classifications that can save clean energy developers up to 30% of permit processing time and lower overall project development time and costs.

- Procuring subject matter experts for renewable energy development and transmission projects with the potential for greater than 800 GWh annually, alternative transition fuel sources, and to further build the State's capacity to respond to energy emergencies.

- Procuring financial, legal and technical advisors to develop clean energy innovation sector and position Hawaii as a global test bed to attract and create new businesses, jobs and investment into the sector and to develop new solutions to address Hawaii's energy challenges.

- Procuring professional technical assistance for benchmarking and certification for Energy Star buildings and developing contract models to extend Hawaii's national leadership in energy savings performance contracting.

The proposed barrel tax funds will replace federal Recovery Act funds that previously served as the primary funding source for DBEDT's clean energy positions and programs. Because of previous funding for these programs, Hawaii is on track to meet its 2015 clean energy goals and the requested funds will ensure that Hawaii is best capable of transforming its energy and economic future to achieve Hawaii's aggressive 70% clean energy goal in 2030.

DBEDT is also supportive of the need for and use of funds to support food safety and security and environmental response and defers to the Department of Agriculture and Department of Health on specific programs to be supported through the amendment to this measure to reallocate funds to the original intended purposes.

DBEDT defers to the Department of Taxation on the administration of the tax.

Thank you for the opportunity to offer testimony on SB 17, SD1.

L E G I S L A T I V E

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 on liquid, gaseous or solid fossil fuels

BILL NUMBER: SB 17, SD-1

INTRODUCED BY: Senate Committee on Energy & Environment

BRIEF SUMMARY: Amends HRS section 243-1 to add the definition of "fossil fuels" to mean gaseous, liquid, or solid fuels, such as natural gas, petroleum, and coal, derived from the anaerobic decomposition of organic matter buried underground over millions of years. Amends the definition of "distributor" to include the terms "gaseous or solid fossil fuel" and include a person who imports any fossil fuel and uses it to generate electricity to sell to an electric utility.

Amends HRS section 243-3.5(a) to provide that the environmental response, energy, and food security tax shall be imposed on gaseous fuel at the rate of 12 cents per thousand cubic feet of gaseous fuel and $4.00 per short ton of coal, excluding coal used to fulfill a signed power purchase agreement in effect as of June 30, 2013. The tax shall apply to coal used to fulfill any power purchase agreement extended, modified, or renewed after June 30, 2013. Changes the amount deposited into the: (1) environmental response revolving fund from 5 cents to 9.5%; (2) energy security special fund from 15 cents to 40.5%; (3) energy systems development special fund from 10 cents to 9.5%; and (4) agricultural development and food security special fund from 15 cents to 40.5%.

Amends Act 253, SLH 2007, as amended by Act 151, SLH 2012, to delete the 6/30/13 repeal date of the energy systems development special fund and the periodic evaluation and plan of action requirements of the energy systems development special fund. This provision shall take effect on June 29, 2013.

Appropriates $7,150,000 out of the energy security special fund for FY 2014 and FY 2015 to carry out the purposes of this act. The sums appropriated shall be expended by the department of business, economic development, and tourism.

Appropriates $7,150,000 out of the agricultural development and food security special fund for FY 2014 and FY 2015 to carry out the purposes of this act. The sums appropriated shall be expended by the department of business, economic development, and tourism.

Appropriates $1,400,000 out of the environmental response revolving fund for FY 2014 and FY 2015 to carry out the purposes of this act. The sums appropriated shall be expended by the department of health.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: The legislature by Act 300, SLH 1993, enacted an environmental response tax of five 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 five 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 change the allocations of the $1.05 to a percentage which will result in 10 cents deposited into the environmental response revolving fund, 43 cents to be deposited into the energy security special fund, 10 cents to be deposited into the energy systems development special fund and 43 cents deposited into the agricultural development and food security special fund with nothing deposited into the general 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, food security, 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.

This bill now proposes restoring the funding of the various programs for which the dollar increase was intended as the administration has set its sights on other sources of revenue to fund what should be general fund financed programs. The barrel tax, along with those other proposals, earmarks various specific revenue sources and justifies the imposition of the new fees or taxes on the basis that the fee or tax is being collected to provide a critical program service, a program that should be funded out of general funds if indeed it is of a high priority for the community at large. But many of these programs have small but vocal minorities which if they had to compete for general funds would pale by comparison to much broader concerns such as education, public safety or social services. Thus, the advocates for these specific services seek out hidden taxes and fees and then demand that they be earmarked so that they become the exclusive beneficiaries of these funds and once earmarked no longer have to justify the impost or the use of those funds.

That is the problem with the barrel tax. It lacks transparency, and because the funds are earmarked, they do not come under close scrutiny by either lawmakers or the public. 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. If general funds are insufficient to underwrite all the essential programs and programs such as those funded through the barrel tax, then lawmakers need to justify any increase in taxes which underwrites the general fund or lawmakers will be forced to set priorities for those precious general funds. Currently, lawmakers are able to side step that difficult task by creating these hidden taxes and earmarked funds like the barrel tax. 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. What is sad is that the advocates of these measures are direct beneficiaries of the largesse created by this tax, but continue to hide behind the issue of energy self-sufficiency and food security. They fail to admit that they are taking it out of the pocketbooks of those consumers who are struggling to make ends meet, the very constituents that lawmakers profess that they want to protect and provide relief from the high cost of living in Hawaii. Meanwhile, the programs supposedly funded from the proceeds of this tax go unchecked because no one wants to question these sacrosanct programs because to do would seem heretical. But lawmakers need to recognize that these taxes are the very reason for the sluggish economy and lack of jobs that Hawaii's people need. As long as the cost of energy remains artificially high because of these taxes, Hawaii's economy will never fully recover and the social problems lawmakers struggle with will grow even worse.

Digested 2/21/13

SENATE COMMITTEE ON
WAYS AND MEANS

February 22, 2013

Senate Bill 17, SD1 Relating to Fossil Fuels

Chair Ige and members of the Senate Committee on Ways and Means, I am Jeff Walsh, President of AES Hawaii, Inc., testifying on behalf of AES Hawaii, Inc., an independent power producer on Oahu producing electricity for Hawaii Electric using coal among other fuels to generate about 20% of island load at any time. AES Hawaii has provided safe, clean, reliable and affordable power for the past 20 years.

AES Hawaii is OPPOSED to Senate Bill 17, SD1 Relating to Fossil Fuels. AES Hawaii recommends amending section 3. 1. (a) *shall not apply to coal used to fulfill a signed power purchase agreement in effect as of June 30, 2013; provided further that the tax collected pursuant to this subsection shall apply to coal used to fulfill any power purchase agreement extended, modified, or renewed after* ***June 30, 2013*** to read *shall not apply to coal used to fulfill a signed power purchase agreement in effect as of June 30, 2013; provided further that the tax collected pursuant to this subsection shall apply to coal used to fulfill any power purchase agreement extended, modified, or renewed after* ***September 1, 2016***. We request this date change as the present AES Hawaii Power Purchase Agreement (PPA) has a clause that allows for negotiations up to but not limited to extending, modifying or renewing the PPA by Sept. 1, 2016.

The plant utilizes state of the art clean coal technology to effectively comply with all current federal and state environmental standards.
Current emissions controls devices are as follows;

- Particulate removed by a fabric filter bag-houses which is the Best Available Control Technology or BACT.
- NOX control using “in-combustion” Selective Non Catalytic Reduction by injection of anhydrous ammonia
- SOX control using in bed injection of locally mined limestone.

This proposed bill would significantly impact the business’s ability to continually operate at world class standards when we extend, modify or renew the PPA, by creating additional financial hardship as there is no “pass thru” clause in our (PPA), these additional costs could not be passed on and would further burden an already financially struggling business. Looking in to the future; eventually the PPA will expire, AES Hawaii would continue to generate electricity and would pass on these additional costs to the rate payer.

The AES Hawaii facility serves a critical service now and shall continue in the future to the citizens of Oahu. The plant provides by far the lowest cost energy on the island of Oahu under long term contract with Hawaiian Electric Company. The energy pricing from this plant has provided stable and predictable energy pricing as compared to the highly variable costs of generating electricity with fuel oil and renewable energy. As illustrated by data from the Hawaiian Electric Monthly Energy Cost Adjustment Factor filing with the PUC (the “ECAF

Report"), AES Hawaii provides electricity significantly lower in cost than that of electricity generated from conventional oil or other purchased sources. Based on December 2011 data from the ECAF Report, the monthly electricity bill to consumers would have been $20.00 higher per month or almost 10 percent higher without power supplied from AES Hawaii, based on an average monthly consumption of 600kwh.

AES Hawaii is Oahu's most reliable power plant. AES Hawaii finished 2012 with an availability factor of 99% and a life to date availability factor of 97.3%. With capacity factors of about 95% AES Hawaii is Oahu's lowest cost, environmentally friendly source of power. As a comparison, the utility's steam electrical generation units typically run with 85% ***(***93.6% for 2011 according to HECO AOS Filing) availability factors. With wind typically operating at 40-60% capacity factors and solar at 16-20% capacity factors AES Hawaii compliments Oahu's goal of increasing renewable energy.

AES Hawaii, the single largest generator connected to the HECO system, also provides firm capacity to the electric grid and provides dispatchable power which is used to control frequency and voltage on the island grid. This plays a critical role in maintaining grid stability. By providing reliable, readily dispatchable power to control frequency and voltage on the island grid, the plant provides a critical service that is required to allow for further penetration of as-available renewable energy. Without this service, additional renewable energy could create instability in the grid system.

The proposed bill would financially harm AES Hawaii as we have no means for recovery from the proposed tax should we extend, modify or renew the PPA. The business would be forced to make decisions based more on financials than good engineering practices related to maintenance and capital improvements. This Bill could potentially affect the facility's reliability and continued support of the HECO grid as more re-newables penetrate the GRID.

Thank you for the opportunity to present this testimony.

ALEXANDER & BALDWIN, INC.

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SB 17 SD1
RELATING TO FOSSIL FUELS

PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.

FEBRUARY 22, 2013

Chair Ige and Members of the Senate Committee on Ways & Means:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural company Hawaiian Commercial & Sugar Company on SB 17 SD1, "A BILL FOR AN ACT RELATING TO FOSSIL FUELS."

Hawaiian Commercial & Sugar Company (HC&S) has been in operation for over 140 years and is Hawaii's last remaining sugar plantation. HC&S has approximately 36,000 acres in active sugar cane cultivation and employs about 800 Maui residents. While all of Hawaii's other sugar companies have shut down over the years, HC&S has been fortunate, through significant investments in our agricultural infrastructure and operations, to have sustained our operations and continue as a major employer in the State of Hawaii. Despite the current up tick in sugar prices, history has proven that commodity sugar prices will remain relatively flat, as they have over the last few decades, despite increasing production costs. Thus, HC&S has for a number of years been pursuing, and investing in, a transition from a primary producer of commodity sugar to the production of specialty sugar and renewable energy. In addition to being the main supplier of Sugar In The Raw, the little brown packets of sugar seen at restaurants and coffee shops across the nation, HC&S is also expanding production and sales of our specialty Maui Brand Sugar.

This bill will impose the State environmental response, energy, and food security tax on coal. We understand that the environmental response tax on liquid fossil fuels was originally adopted for the purpose of establishing a reserve in the event of an oil spill that would affect Hawaii's ocean waters. A nexus was identified between the oil importers and the potential environmental impacts and remedial action that an oil spill may entail as the product is shipped into the State. We believe that similar environmental impacts and remedial action may not be applicable in the event of an inadvertent incident during the transportation of coal to Hawaii.

HC&S generates biomass produced renewable energy for its sugar milling, irrigation pumping, and other agricultural operations and provides renewable energy to Maui Electric Company (MECO) for Maui's residents and businesses. The source of fuel for this renewable energy is bagasse, which is the residual fiber of the sugar cane plant. Not only does HC&S generate approximately 6% of MECO's total electricity, HC&S is also a firm capacity power provider to MECO (i.e. committed power delivery, not on an 'as available' basis), and has played a significant role in the restoration of MECO's electrical service during power outages.

While HC&S's firm capacity renewable energy generating facilities are fueled primarily by sugar cane bagasse, there is a need for these facilities to periodically burn an amount of coal to maintain stable boiler operations (biomass fuel quality can vary depending on harvesting and mill operations), to remain in compliance with air emission regulations, and to meet firm capacity power commitments to MECO, particularly during the three month off season maintenance period when the mill is not in operation and bagasse is not available.

This bill will impose a tax on the coal that HC&S uses to supplement its production of firm capacity renewable energy that is provided to MECO for use by the Maui community along with the renewable energy that is used for HC&S's agricultural operations.

With the State of Hawaii actively moving towards increasing the local production and use of renewable energy, we believe that a continued focus by the State to implement operational, financial, and tax policies that support and assist firm capacity renewable energy production will enhance the development and use of Hawaii's renewable energy resources and technologies. In that the present draft of this bill may result in the imposition of a tax on the local production of firm capacity renewable energy and increase the overall cost to produce this much needed renewable energy resource, we believe that this bill may create additional financial challenges in its production here in Hawaii.

We respectfully request your consideration to incorporate provisions into this bill to exclude from the State environmental response, energy, and food security tax, coal used by renewable energy production facilities in providing to a public utility, firm capacity renewable energy that primarily utilize non-fossil fuels to generate its firm capacity renewable energy. We have attached proposed amendments for your consideration.

Thank you for the opportunity to testify.

SB 17 SD 2 (Proposed)

RELATING TO FOSSIL FUELS.

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

SECTION 1. The purpose of this Act is to levy the environmental response, energy, and food security tax on liquid, gaseous, and solid fossil fuels.

SECTION 2. Section 243-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition of "fossil fuel" to read:

""Fossil fuel" means gaseous, liquid, or solid fuels, such as natural gas, petroleum, and coal, derived from the anaerobic decomposition of organic matter buried underground over millions of years."

2. By amending the definition of "distributor" to read:

""Distributor" means:

(1) Every person who refines, manufactures, produces, or compounds liquid, gaseous, or solid fossil fuel in the State and sells or uses the same therein;

(2) Every person who imports or causes to be imported into the State any liquid, gaseous, or solid fossil fuel and sells it therein, whether in the original packages or containers in which it is imported or otherwise than in such original packages or containers, or who imports any such fuel for the person's own use in the State;

(3) Every person who acquires liquid, gaseous, or solid fossil fuel from a person not a licensed distributor and sells or uses it, whether in the original package or container in which it was imported (if imported) or otherwise than in such original package or container; [~~and~~]

(4) Every person who acquires liquid, gaseous, or solid fossil fuel from a licensed distributor as a wholesaler thereof and sells or uses it[~~.~~]; or

(5) Every person who imports or causes to be imported into the State any fossil fuel and uses it to generate electricity to sell to an electric utility."

SECTION 3. Section 243-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(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 on each [~~barrel~~] unit or fractional part of a [~~barrel~~] unit of [~~petroleum product~~] fossil fuel sold by a distributor to any retail dealer or end user of [~~petroleum~~] fossil fuel product, other than a refiner**; provided that this section shall not apply to coal utilized by an independent power producer that provides firm capacity power to a public utility whereby the annual heat input from non-fossil fuels of the firm capacity power generated by the independent power producer exceeds the annual heat input from fossil fuels**. The tax shall be $1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel[~~;~~], 12 cents per thousand cubic feet of gaseous fuel, and $4.00 per short ton of coal;

provided that [~~of~~] the tax collected pursuant to this subsection[~~:~~] shall not apply to coal used to fulfill a signed power purchase agreement in effect as of June 30, 2013; provided further that the tax collected pursuant to this subsection shall apply to coal used to fulfill any power purchase agreement extended, modified, or renewed after June 30, 2013; and provided further that of the tax collected pursuant to this subsection:

(1) [~~5 cents of the tax on each barrel~~] 9.5 per cent shall be deposited into the environmental response revolving fund established under section 128D-2;

(2) [~~15 cents of the tax on each barrel~~] 40.5 per cent shall be deposited into the energy security special fund established under section 201-12.8;

(3) [~~10 cents of the tax on each barrel~~] 9.5 per cent shall be deposited into the energy systems development special fund established under section 304A-2169; and

(4) [~~15 cents of the tax on each barrel~~] 40.5 per cent shall be deposited into the agricultural development and food security special fund established under section 141-10.

The tax imposed by this subsection shall be paid by the distributor of the [~~petroleum product.~~] fossil fuel."

2. By amending subsection (d) to read:

"(d) Every distributor shall keep in the State and preserve for five years a record in such form as the department of taxation shall prescribe showing the total number of [~~barrels~~] units and the fractional part of [~~barrels~~] units of [~~petroleum~~] fossil fuel product sold by the distributor during any calendar month. The record shall show such other data and figures relevant to the enforcement and administration of this chapter as the department may require."

SECTION 4. Act 253, Session Laws of Hawaii 2007, as amended by Act 151, Session Laws of Hawaii 2012, is amended by amending section 8 to read as follows:

"SECTION 8. This Act shall take effect on July 1, 2007[~~; provided that sections 304A-C, 304A-D, and 304A-E, Hawaii Revised Statutes, shall be repealed on June 30, 2013~~]."

SECTION 5. There is appropriated out of the energy security special fund the sum of $7,150,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the purposes authorized by section 201-12.8, Hawaii Revised Statutes.

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

SECTION 6. There is appropriated out of the agricultural development and food security special fund the sum of $7,150,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the purposes authorized by section 141-10, Hawaii Revised Statutes.

The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 7. There is appropriated out of the environmental response revolving fund the sum of $1,400,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the purposes authorized by section 128D-2, Hawaii Revised Statutes.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2013; provided that section 4 shall take effect June 29, 2013.

HAWAIʻI GAS
THE CLEAN ENERGY COMPANY

Friday, February 22, 2013 9:00 A.M.
State Capitol, Conference Room 211
SENATE COMMITTEE ON WAYS AND MEANS

Testimony in Opposition with proposed amendments of SB 17 SD1

Chair Ige, Vice Chair Kidani, Members of the Senate Committee on Ways and Means, my name is Joe Boivin and I am the Senior Vice President for Public Affairs and Communications at HAWAIʻI**GAS** testifying in opposition to SB17 SD1. HAWAIʻI**GAS** is the only franchised gas utility in the state of Hawaiʻi, providing gas service to over 70,000 utility and tank and bottled gas customers throughout the state.

HAWAIʻI**GAS** also opposes SB17 SD1 as written because HAWAIʻI**GAS** does not have the approval of the Public Utilities Commission ("Commission") to collect any new taxes at this time. HAWAIʻI**GAS**' rates, which include taxes, are set by the Commission in a rate case proceeding, which can last anywhere between fifteen to forty-three months.[1] Therefore, for reasons similar to why existing coal power purchase agreements are excluded from SB 17 SD1, passing this bill now could result in HAWAIʻI**GAS** being responsible for collecting and paying the tax without the necessary Commission approval to do so. HAWAIʻI**GAS** recommends this committee amend SB17 SD1 so that the tax will not apply to a public utility until after its next rate case.

Thank you.

[1] See Hawaii Public Utilities Commission *Informational Briefing: Senate Committees on Commerce and Consumer Protection and Energy and Environment*, January 29, 2013, Slide 13

HAWAIʻIGAS
THE CLEAN ENERGY COMPANY

Wednesday, February 20, 2013 2:00 P.M.
State Capitol, Conference Room 308
HOUSE COMMITTEE ON FINANCE

Testimony in Opposition of HB 451 HD1

Chair Luke, Vice Chairs Nishimoto and Johanson, Members of the House Committee on Finance, my name is Joe Boivin and I am the Senior Vice President for Public Affairs and Communications at HAWAIʻI**GAS** testifying in opposition, with proposed amendments to HB 451 HD1. HAWAIʻI**GAS** is the only franchised gas utility in the state of Hawaiʻi, providing gas service to over 70,000 utility and tank and bottled gas customers throughout the state.

HAWAIʻI**GAS** opposes HB451 HD1 as written because the bill does not fairly treat natural gas as a clean energy resource. According to the Environmental Protection Agency[1], natural gas emits 33% less carbon dioxide, four (4) times less nitrogen oxide, a thousand (1,000) time less sulfur dioxide and ten (10) times less particulates when burned as compared to oil or coal. Placing an environmental tax on fuel sources based on their energy content of $1.05 per 5.8 million British Thermal Units does not adequately reflect the different environmental impacts of each resource.

HAWAIʻI**GAS** also opposes HB451 HD1 as written because HAWAIʻI**GAS** does not have the approval of the Public Utilities Commission ("Commission") to collect any new taxes at this time. HAWAIʻI**GAS**' rates, which include taxes, are set by the Commission in a rate case proceeding, which can last anywhere between fifteen to forty-three months.[2] Therefore, for reasons similar to why existing coal power purchase agreements are excluded from the Senate

[1] See Environmental Protection Agency website Calculations and References at http://www.epa.gov/cleanenergy/energy-resources/refs.html
[2] See Hawaii Public Utilities Commission *Informational Briefing: Senate Committees on Commerce and Consumer Protection and Energy and Environment*, January 29, 2013, Slide 13

companion bill SB 17 SD1, passing this bill now could result in HAWAIʻI**GAS** being responsible for collecting and paying the tax without the necessary Commission approval to do so.

Based on the reasons, HAWAIʻI**GAS** recommends this committee defer HB 451 HD1 at this time.

Thank you.

The Nature Conservancy of Hawaiʻi
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Testimony of The Nature Conservancy of Hawaiʻi
Supporting S.B. 17 SD1 Relating to Fossil Fuels
Senate Committee on Ways and Means
Friday, February 22, 2013, 9:00AM, Room 211

The Nature Conservancy of Hawaiʻi is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawaiʻi. Today, we actively manage more than 32,000 acres in 10 nature preserves on Maui, Hawaiʻi, Molokaʻi, Lānaʻi, and Kauaʻi. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports S.B. 17 SD1 including its provisions to:

- Apply the barrel tax to other liquefied, gaseous and solid fossil fuels; and
- Reallocate barrel tax revenue to oil spill response, clean energy and local agriculture.

We also think the law should be amended to remove the sunset dates on the barrel tax.

Climate change caused by burning fossil fuels is an imminent and unprecedented threat to every person in Hawaiʻi. It is our responsibility to do what we can and what is necessary to reduce our own carbon emissions, however small on a global scale, to contribute to the worldwide effort needed to mitigate the growing effects of climate change.

Even if we drastically reduce CO_2 emissions now, however, we will still feel certain effects of climate change. In Hawaiʻi, science indicates that this will likely include:

- More frequent and more severe storms that can increase runoff and siltation;
- Overall, less rainfall and therefore less fresh water;
- Higher temperatures that affect watershed and agricultural health, while being beneficial to invasive species;
- Sea level rise and high waves that will harm coastal areas and groundwater systems;
- Ocean acidification that will inhibit the growth of protective coral reefs.

In response, we must plan and implement mitigative and adaptive measures to ensure the resilience of our natural and human systems. Protecting and enhancing the health of our forested watersheds as proposed by the Department of Land and Natural Resources is one critically important initiative. Likewise, investing in local energy and agriculture security are essential components of building self-reliance and resilience here in the middle of the Pacific Ocean.

This bill will help to reduce our dependence on imported fossil fuel and imported food, and improve the State's oil spill response capacity. It's a wise investment in our future. We urge your support.

From:	mailinglist@capitol.hawaii.gov
To:	WAM Testimony
Cc:	mendezj@hawaii.edu
Subject:	*Submitted testimony for SB17 on Feb 22, 2013 09:00AM*
Date:	Tuesday, February 19, 2013 10:48:29 AM

SB17
Submitted on: 2/19/2013
Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Friday, February 22, 2013
Time: 9:00 A.M.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 17 S.D. 1, Relating to Fossil Fuels

The Department appreciates the intent of S.B. 17, S.D. 1 and provides the following information and comments for your consideration.

S.B. 17, S.D. 1 amends the environmental response, energy, and food security tax such that it would apply to "liquid or gaseous fossil fuels" rather than to "petroleum products." The S.D. 1 version of the bill adds a definition of "fossil fuels" and makes numerous alterations to application of the tax.

The Department first notes that the effect of this bill would be to substantially increase the number of products subject to the Environmental Response, Energy, and Food Security Tax. As a result, implementation of this bill will require substantial changes to the tax form and instructions. Substantial changes to the current computer system could take approximately twelve to eighteen months to implement.

The Department additionally notes that the definition of "fossil fuels" as written in S.B. 17, S.D. 1 may not encompass all the types of fuel used in the State. Particularly the qualifying clause "derived from the anaerobic decomposition of organic matter buried underground over millions of years," would indicate that the Environmental Response, Energy, and Food Security Tax may not apply to fuels derived in some other fashion.

For example, although synthetic natural gas is generally derived from processing of petroleum, which is itself a "fossil fuel," synthetic natural gas would not necessarily meet the definition. The Department suggests an addition to the definition of "fossil fuels" that indicates that the tax applies to all fuel created from processing of the products described in the present definition, as well as the products themselves. This change will help alleviate taxpayer confusion and ease administration of the changes to the Environmental Response, Energy, and Food Security Tax.

Thank you for the opportunity to provide comments.

LATE

UNIVERSITY OF HAWAIʻI SYSTEM
Legislative Testimony

Written Comments for the
Senate Committee on Ways and Means
Friday, February 22, 2013 at 9:00 am
by
Richard Rocheleau, Director
Hawaiʻi Natural Energy Institute
School of Ocean and Earth Science and Technology
University of Hawaiʻi at Mānoa

SB 17 SD1 – RELATING TO FOSSIL FUELS

Chair Ige, Vice Chair Kidani, and Members of the Committee:

My name is Richard Rocheleau, Director of the Hawaiʻi Natural Energy Institute at the University of Hawaiʻi at Mānoa. We support SB 17 SD1, which reallocates the portion of the Environmental Response, Energy, and Food Security Tax (Barrel Tax) that currently goes into the general fund to the environmental response revolving fund (Dept. of Health), the energy security special fund (DBEDT), and the agricultural development and food security special fund (Dept. of Ag) as intended in the original legislation. The bill also amends the definition of fuels on which the barrel tax is levied to include gaseous, liquid, and solid fossil fuels.

The Barrel Tax was intended to support critical investments in clean energy, local agricultural production, and environmental response to reduce the State's dependence on imported fossil fuels and food products. In enacting the barrel tax legislation, the legislature found that: "undertaking the important task of energy and food security requires a long-term commitment and the investment of substantial financial resources." The efforts needed to reduce our dependence on fossil fuels are complex. Capital investments today will dictate the shape of our energy system for decades to come. This reallocation back to the original intent of the Barrel Tax will help ensure that the best possible path forward is identified, and help ensure the long term commitment necessary to help Hawaiʻi attain food and energy security and sustainability.

Section 4 of the bill would repeal the sunset date on the agricultural development and food security special fund and portions of the energy security special fund administered by DOA and DBEDT, respectively. Similarly, Section 3 of the bill would repeal the sunset date on the energy systems development special fund (ESDSF), which is administered by HNEI. **Whether or not these sunsets are repealed, we are asking that the sunset for the ESDSF be changed to be consistent with the other funds supported by the Barrel Tax, and the Barrel Tax itself.**

The ESDSF was established in 2007 by Act 253, three years before the current Barrel Tax was established by Act 73. Both Act 253 and Act 73 were enacted with provisions to sunset portions of them in five years. Last year the Legislature extended the sunset on the ESDSF for one year, until June 30, 3013 (Act 151). Thus, if no change is made, the ESDSF will sunset in less than five months. Since a portion of the Barrel Tax is deposited into the ESDSF, HNEI believes it is best to make the two laws consistent by either aligning the sunsets or repealing them altogether.

While the ESDSF is not the largest source of funding for HNEI activities, it plays a crucial role in leveraging federal investment, removing roadblocks in programs critical for the success of HCEI, and contributing to programs likely to spur economic development.

Despite being established in 2007, no funding was provided to the ESDSF until 2010, when Act 73 directed 10 cents of the tax on each barrel of imported petroleum product go into the fund. Access to the funds was delayed an additional 12 months due to administrative errors.

Since receiving access to the funds in June 2011, HNEI has worked in close collaboration with DBEDT and other stakeholders to identify and initiate projects with significant near term potential to reduce the use of fossil fuels in Hawai‘i. A description of our current spend plan has been provided in our most recent Annual Report to the Legislature (November 2012).

Activities funded or in process for funding by ESDSF money include:

- **A Wave Energy Test Site** (WETS). A $500,000 cost-share from the fund leveraged over $3.5 million in additional funding from USDOE to support Navy's $11 million investment to develop a wave energy test site in Kaneohe Bay. When completed this will be the only grid-connected wave energy test site in the Unites States; providing developers a site where they can test their technology for proof of seaworthiness, functionality, system integrity, and technology viability; and providing significant economic benefit to many Hawai‘i small businesses who will be called upon to participate.

- **Smart Inverter Deployment.** Under this project, a $400,000 cost share from the fund leveraged a $1.5 million award from USDOE with an additional $4.5 million from USDOE upon successful demonstration of the go/no-go deliverables later this year. This project will develop and demonstrate smart grid-enabled PV inverters which have the potential to significantly reduce the impacts of high penetrations of PV, allowing additional installations without negatively impacting utility operation.

- ***Hawai‘i Clean Energy Programmatic Environmental Impact Statement:*** In July 2012, in coordination with DBEDT, HNEI contracted New West Technologies to conduct a Programmatic Environmental Impact Study for alternative scenarios for deployment of undersea electrical cables for interconnection of O‘ahu, Maui, and Hawai‘i Counties electrical grids. The PEIS is analyzing, at a programmatic level, the potential environmental impacts of a broad range of clean energy activities and technologies required for completion of this effort. This PEIS is intended to provide federal and local agencies, and policymakers with information and guidance they can use to make decisions about actions to support achieving HCEI goals. *($1,000,000)*

- ***Sea Water Air Conditioning Monitoring:*** Seawater air conditioning has the potential to contribute significantly to the state's energy efficiency goals but potential environmental impacts of plume discharges have not been well characterized. This uncertainty can increase project costs, negating possible benefits of this technology. Under this program, $200,000 from the fund is expected to leverage over $500,000 of federal funds to conduct studies to reduce this uncertainty. A portion of this funding will be used to establish very sensitive monitoring to insure that environmental impacts are minimal.

These and other HNEI current and planned projects in the areas of renewable technologies, grid integration, smart grid, energy efficiency and support for geothermal development and biofuels will help move Hawai‘i toward a more secure and sustainable future.

HNEI also supports amending the law to define the taxed product as liquid, gaseous, or solid fossil fuels to ensure the intent of the law is not averted and the revenue stream it provides will not be diminished should liquefied natural gas or other fossil fuel products not covered by the current law be imported to the state and displace a portion of our use of petroleum products.

Thank you.