



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Tuesday, March 19, 2013
8:30 a.m.
State Capitol, Conference Room 325

in consideration of
SB 17, SD2
RELATING TO FOSSIL FUELS.

Chair Lee, Vice Chair Thielen, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) supports SB 17, SD2, which expands the Environmental Response, Energy, and Food Security Tax (“barrel tax”) to all liquid, gaseous, and solid fossil fuels and reallocates the barrel tax to its original intended purposes.

DBEDT believes 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. Thus, DBEDT respectfully proposes that the allocation amounts in Section 3 be reinstated as it was in SB 17, SD1, such that the barrel tax funds will be distributed to its original intended purposes. Also, we urge the committee to reinstate an effective date upon approval to enable these important programs to begin immediately.

The reallocated clean energy funds will fully support the State Energy Office programs and staff positions to deploy clean energy programs 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 by 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 the 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 of Energy Star buildings and developing contract models to extend Hawaii's national leadership in energy savings performance contracting.

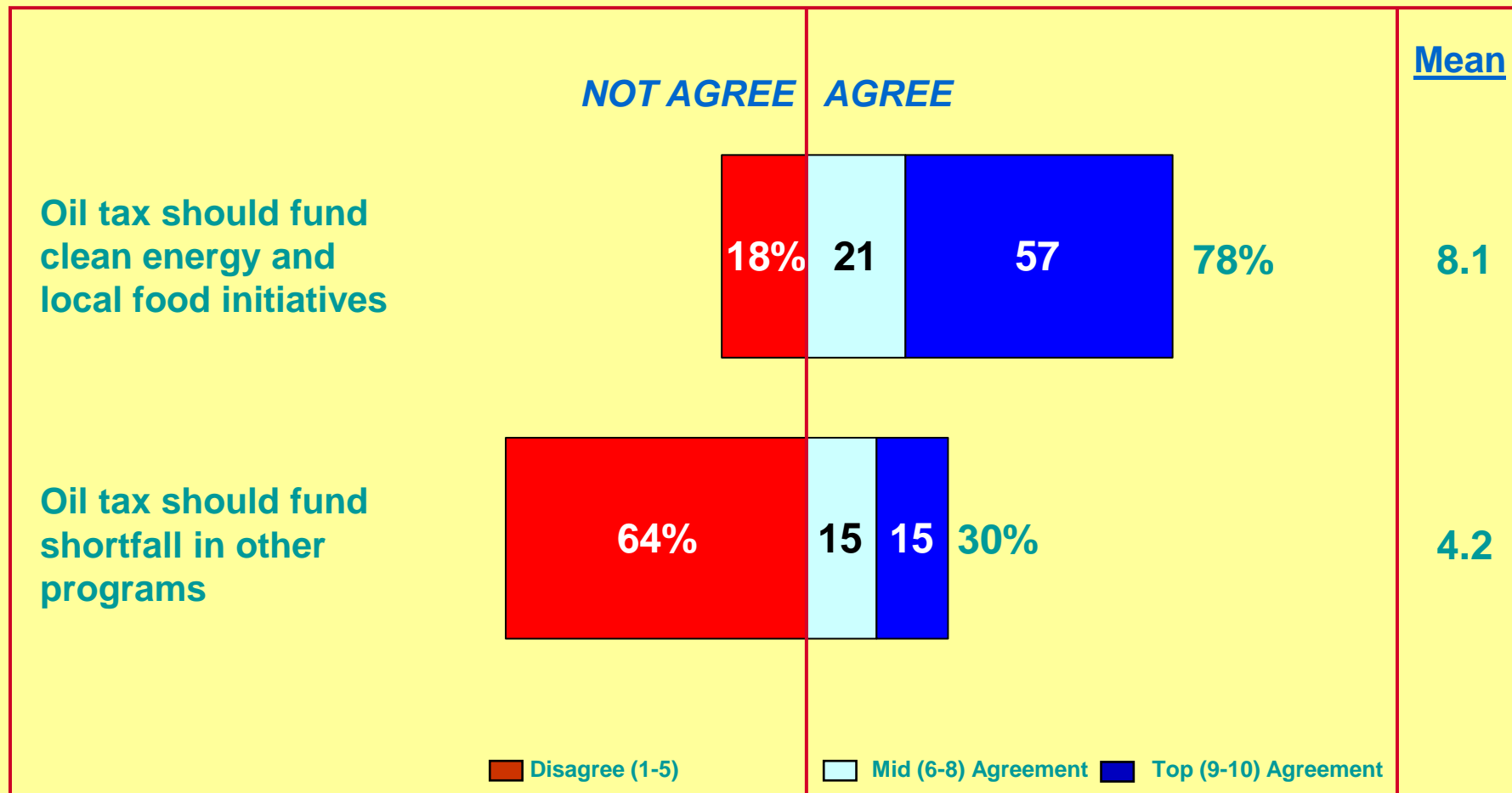
The proposed barrel tax funds will replace federal Recovery Act funds that previously served as the primary funding source for DBEDT's clean energy positions and programs. Because of previous funding for these programs, Hawaii is on track to meet its 2015 clean energy goals and the requested funds will 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 in support of SB 17, SD2.

Strong Support for Dedicated Funding of Energy and Food Sustainability Initiatives



Q: As you may know, in 2010 the legislature passed a \$1.05 tax on each barrel of oil imported into Hawaii, the purpose being three fold: first, to promote energy independence and clean energy alternatives, secondly, to promote locally-grown food and, third, to address environmental impacts like oil spills. However, most of the oil tax revenue was diverted to fund other state programs; and now some people want the monies from now on to be used for its original purpose. Using a 10-point scale where 10 means Completely Agree and 1 means Do Not Agree At All, how much do you agree or disagree that...?

- 1) Having clean energy sources and reducing reliance on imported food and energy are important and the oil tax revenue should go to fund these goals as intended
- 2) Most of the oil tax revenues should continue to fund the shortfall in the general state budget to pay for other governmental programs



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF RUSSELL KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL
PROTECTION
MARCH 19, 2013
ROOM 325
8:30 A.M.

SENATE BILL NO. 17 SD 2
RELATING TO FOSSIL FUELS

Chairperson Lee and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 17 SD 2, relating to fossil fuels. This bill adds a new definition of "fossil fuel" to and amends the definition of "distributor" in section 243-1, Hawaii Revised Statutes. The bill also amends the Environmental Response, Energy, and Food Security Tax to be levied on liquid or gaseous fossil fuels. The Department appreciates the intent of the bill to expand the Environmental Response, Energy, and Food Security Tax to encompass all fossil fuels but believes language in SB1088 to reallocate 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 to be the best way forward.

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



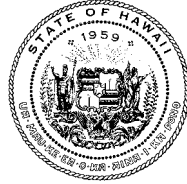
programmatic initiatives to move the state towards greater food self-reliance. Increased revenues provided through the barrel tax will fund positions and programs to preserve agricultural lands, repair irrigation systems, lower the costs of farming, and raise both the supply and demand of local food. 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

SHAN TSUTSUI
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

JOSHUA WISCH
DEPUTY DIRECTOR

To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy and Environmental Protection

The Honorable Clift Tsuji, Chair
and Members of the House Committee on Economic Development and Business

Date: Tuesday, March 19, 2013
Time: 8:30 A.M.
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 17 S.D. 2, Relating to Fossil Fuels

The Department **appreciates the intent** of S.B. 17 S.D. 2 and provides the following information and comments for your consideration.

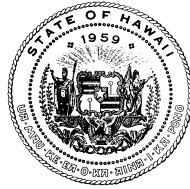
S.B. 17 S.D. 2 amends the environmental response, energy, and food security tax such that it would apply to "gaseous, liquid, or fossil fuels" rather than to "petroleum products," and appropriates funds generated from the tax in unspecified amounts to various special funds.

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 written, implementation of this bill will require substantial changes to the fuel tax form and instructions, including substantial changes to the Department's computer system. All of these changes could take approximately twelve to eighteen months, provided the Department had sufficient resources to implement the changes.

The Department additionally notes that proposed amendments to Section 243-3.5(a) will be difficult for the Department to implement. Specifically, the tax "shall not apply to a public utility until the conclusion of the public utility's next rate case." The Department suggests amending this provision to a date certain; an ambiguous date will likely result in confusion for taxpayers and will make it difficult for the Department to enforce compliance.

The Department also notes that the two fossil fuels specifically mentioned in the amendments to Section 243-3.5, liquid natural gas and coal, are already subject to the Fuel Tax. For clarity, the Department suggests changing the units of measure in this provision to match the units of measure currently used for Fuel Tax purposes. This will simplify compliance by taxpayers and allow for easier enforcement of these provisions.

Thank you for the opportunity to provide comments.



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

In reply, please refer to:
File:

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

S.B. 17, S.D.2, RELATING TO FOSSIL FUELS

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

**March 19, 2013
8:30 A.M.**

1 **Department's Position:** The Department of Health strongly supports this measure since it will further
2 the State goals of energy and food self-sufficiency and environmental response activities.

3 **Fiscal Implications:** The measure will result in the potential additional revenue to the Agricultural
4 Development and Food Security Special Fund; the Energy Security Special Fund; the Energy Systems
5 Development Fund and the Environmental Response Revolving Fund. In order to maintain proper
6 accuracy and clarity of the barrel tax administration, the department recommends that the "barrel" unit
7 of taxation for petroleum products be retained. The Department defers to the Department of Agriculture
8 (AG), the Department of Business, Economic Development, and Tourism (DBEDT), and Department of
9 Taxation (TAX) to determine more specific details of the their respective potential revenues and the
10 administration of the tax.

11 **Purpose and Justification:** The Department uses the Environmental Response Revolving Fund to
12 respond to and clean up hazardous material releases to the environment which may also affect public
13 health. Other uses of the fund include protection of state waters and regulation of solid and hazardous
14 wastes. Over the last several years, there has been a steady decrease in the environmental response

1 revolving fund revenues due to various factors, such as the global recession, an increase in more fuel
2 efficient and hybrid vehicles, and the trend towards alternative non-petroleum-based energy sources.
3 The current 5 cents per barrel that goes to the Environmental Response Revolving Fund will not provide
4 sufficient funding to support the Departments' statutorily mandated mission of protecting human health
5 and the environment given the decline in funding. The department respectfully proposes that the
6 allocation distribution as stated in SD 17, SD1, Section 3, be reinstated. This will allow the barrel tax
7 funds be distributed to its original intended purposes and achieve the "10 cents" equivalent for the
8 department to continue its critical environmental response responsibilities. In addition, the proposed
9 measure to expand the Environmental Response, Energy, and Food Security Tax ("barrel tax") to
10 include all liquid, gaseous, and solid fuels as part of the environmental response, energy, and food
11 security tax and reallocating the tax to its original intended purposes is critical to providing the
12 necessary resources to help protect the environment and to reduce the state's dependence on imported
13 energy resources.

14 Thank you for the opportunity to testify on this important measure.



Tuesday, March 19, 2013 at 8:30 A.M.
State Capitol, House Conference Room 325
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION (EEP)

Testimony in Opposition with proposed amendments of SB17 SD2

Chair Lee, Vice Chair Thielen, Members of the House Committee on Energy and Environmental Protection, my name is Joe Boivin and I am the Senior Vice President for Public Affairs and Communications at HAWAII'IGAS testifying in opposition to SB17 SD2.

HAWAII'IGAS, the state's only gas utility, provides reliable energy on every island in Hawai'i to nearly 70,000 residential and commercial customers, including nearly every restaurant and hotel in the state. Compared to electricity produced from oil and coal, our synthetic natural gas (SNG) and propane products provide a cleaner, more reliable and cost-effective way to heat water, cook, dry and light the outdoors at our homes and businesses.

HAWAII'IGAS opposes SB17 for the following reasons:

- This bill will increase the cost of energy for our families and businesses throughout the state when we already pay the highest cost of energy in the country.
 - Higher energy taxes will also increase the cost of secondary products and services such as food and water due to higher operating costs, which will further increase the cost of living and doing business in Hawai'i. This will negatively impact our competitiveness with other tourism destinations.
- Gaseous products such as SNG, propane and natural gas provide firm, clean, reliable and cost-effective energy and are the best energy alternatives available to Hawai'i today.
 - The Environmental Protection Agency reports that natural gas emits 30% less carbon dioxide, 80% less nitrogen oxide and 100% less particulate matter than oil and coal.
 - Gaseous products increase Hawai'i's energy security and are a critical part of our energy mix and must be included as part of our diversification strategy. When electricity is interrupted due to tsunamis, hurricanes, earthquakes or generation and distribution issues, gas stays on. This provides our homes and businesses with an added layer of energy security and safety unmatched by any other source of energy today because gas can heat water, cook food and light the outdoors when the electrical grid is down.



HAWAII GAS
THE CLEAN ENERGY COMPANY

- Today, gaseous products make living and conducting business in Hawaii more affordable providing an average savings over grid provided electricity of 30 to 50% on Oahu and 50 to 75% on the neighbor islands.

The primary reason energy costs continue to increase in Hawaii is our dependence on foreign oil. Domestic gas is the best energy alternative available to us today and it should not be taxed.

Thank you.

HOUSE COMMITTEE ON
ENERGY AND ENVIRONMENTAL PROTECTION

March 19, 2013

Senate Bill 17, SD2 Relating to Fossil Fuels

Chair Lee and members of the House Committee on Energy and Environmental Protection, 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 SUPPORTS Senate Bill 17, SD2 Relating to Fossil Fuels as currently drafted. 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 September 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.

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.

We ask that you pass Senate Bill 17, SD2 unamended.

Thank you for the opportunity to present this testimony.

**SB 17 SD2
RELATING TO FOSSIL FUELS**

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

MARCH 19, 2013

Chair Lee and Members of the House Committee on Energy & Environmental Protection:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural company Hawaiian Commercial & Sugar Company on SB 17 SD2, “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.

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 24/7, 365 days per year 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 the residual sugar cane stalk, 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 the residual sugar cane stalk is not available.

We support the provisions contained in Section 3 of this bill that excludes from the imposition of the Environmental Response, Energy, and Food Security Tax, 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. This provision will greatly assist in supporting the production of firm capacity renewable energy that is provided to MECO for use by the Maui community.

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 policies and provisions that support and assist firm capacity renewable energy production will enhance the development and use of this much needed resource here in Hawaii.

Thank you for the opportunity to testify.



Email: communications@uluponoinitiative.com

HOUSE COMMITTEES ON ENERGY & ENVIRONMENT/
ECONOMIC DEVELOPMENT & BUSINESS
Tuesday, March 19, 2013 — 8:30 a.m. — Room 325

Ulupono Initiative Strongly Supports SB 17 SD2, Relating to Fossil Fuels

Chairs Lee and Tsuji, Vice Chairs Thielen and Ward, and Members of the Committees:

My name is Kyle Datta, general partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally grown food, increase renewable energy, and reduce/recycle waste.

Ulupono strongly supports **SB 17 SD2**, which will redistribute the Environmental Response, Energy and Food Security Tax on barrels of petroleum products to restore the original intent of lawmakers in funding vital sustainability measures to help make our community more self-sufficient.

This tax was designed to support critical investments in clean energy, local agricultural production, and environmental response, reduce the State's dependence on imported fossil fuels and food products, and support environmental activities and programs. During difficult economic times, the fund was diverted temporarily. This measure also removes the scheduled repeal date of the tax to reflect a continuing commitment to this important policy.

Ulupono has joined with a diverse group of organizations who have come together for the first time as the Local Food Coalition to support proposals designed to help grow more local food. The coalition brings together farmers, ranchers, livestock producers, investors and other organizations. The idea is that putting more local food on local plates can best be accomplished by bringing people and organizations together who can work on the entire food value chain in a systematic way.

We believe that by working together, we can help produce more local food, and support an economically strong homegrown agriculture industry that strengthens our community with fresh, healthy food. Thank you for the opportunity to testify.

Respectfully,

Kyle Datta
General Partner

Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 2350, Honolulu, HI 96813

808 544 8960 o | 808 544 8961 f
www.uluponoinitiative.com





COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAI'I AT MĀNOA

Hawaii Energy Policy Forum

Inne Schultz Afuvai, Hawai'i Institute for Public Affairs
Ibbie Alm, Hawaiian Electric Co.
Ny Asselbaye, Office of US Congresswoman Tulsi Gabbard
Boivin, Hawai'i Gas
arren Bollmeier, Hawaii Renewable Energy Alliance
bert Chee, Chevron
p. Denny Coffman, Hawai'i State House of Representatives
zabeth Cole, The Kohala Center
lie Cole-Brooks, Hawai'i Solar Energy Assn
le Datta, Ulupono Initiative
ura Dierenfield, Queen Lili'uokalani Trust
ch Ewan, UH Hawai'i Natural Energy Institute
Fidell, ThinkTech Hawai'i, Inc.
rl Freedman, Haiku Design & Analysis
n. Mike Gabbard, Hawai'i State Senate
rk Glick, State Energy Office, DBEDT
stin Gruenstein, City & County of Honolulu
le Hahn, Office of Senator Brian Schatz
chael Hamnett, Research Corporation of the UH
bert Harris, Sierra Club
William Kaneko, Hawaii Institute for Public Affairs
n Kelly, Kaua'i Island Utility Cooperative
arren Kimura, Energy Industries Holdings
ily King, Sustainable Biodiesel Alliance
representative Chris Lee, Hawai'i State House of Representatives
adys Marrone, Building Industry Assn of Hawai'i
ug McLeod, Maui County
phen Meder, UH Center for Smart Building and Community Design
uren Montez-Hernandez, Office of Senator Mazie Hirono
rmina Morita, Public Utilities Commission
aron Moriwaki, UH Social Sciences Public Policy Center
n Nelson, U.S. Defense Energy Support Center
n O'Connell, U.S. Department of Agriculture, Rural Development
Frey Ono, Division of Consumer Advocacy, DCCA
intehn K. T. Park, Office of Congresswoman Colleen Hanabusa
elissa Pavlicek, Hawaii Public Policy Advocates, LLC
ck Rocheleau, UH Hawai'i Natural Energy Institute
ill Rolston, Hawai'i County
ter Rosegg, Hawaiian Electric Co.
ley Saito, SunPower Systems Corp
elle Simonpietri, U.S. Pacific Command Energy Office
Ray Starling, Hawaii Energy
Linn Sue, Hawaii Government Employees Assn
n Sullivan, Kaua'i County
nce Tanaka, Tesoro Hawai'i Corp
ria Tome, State Energy Office, DBEDT

Testimony of Sharon Moriwaki
Co-chair, Hawaii Energy Policy Forum

House Committees on Energy & Environment and
Economic Development & Business
Tuesday, March 19, 2013, 8:30 a.m.
Conference Room 325

IN SUPPORT OF SB17 SD2 – Relating to Fossil Fuels

I am Sharon Moriwaki, Co-chair of the Hawaii Energy Policy Forum (Forum). The Forum, created in 2002, is comprised of 45 representatives from Hawaii's electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. Our vision and mission, and comprehensive "10 Point Action Plan" serves is designed to move Hawaii toward its preferred energy goals.

SB17, SD2 proposes to expand the products on which the environmental response, energy, and food security tax ("EREFS tax") is levied to include "fossil fuel;" to add a new definition of "fossil fuel;" and to amend the definition of "distributor."

The Forum supports this measure that would extend the levy on all fossil fuels -- gaseous, liquid and solid -- consistent with Hawaii's attainment of its clean energy goals and the Forum's goals of expanding renewable energy opportunities, promoting conservation and energy efficiency, supporting research and development of alternative energy sources, and ensuring the security and reliability of energy supply and distribution. Achieving these goals will take significant investment and commitment, as envisioned by the Legislature when it enacted Act 73 (2010). Funding, particularly at a time when federal and state funds are diminishing, will support needed investment for long-term energy and food sustainability.

The Forum supports SB17, SD2, and respectfully urges passage of the bill. Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organizations.



**Testimony of the Hawaii Green Growth Initiative
In Support of SB 17/HB 857/SB 1088 Relating to Fossil Fuels**

House Committee on Energy & Environment Protection

19 March 2013, 8:30am
Conference Room 325

Audrey Newman
Hawaii Green Growth Initiative
P.O. Box 535
Hoolehua, Hawai'i 96729

Aloha Chair Lee, Vice Chair Thielen, and Members of the Committee:

I am writing on behalf of the Hawaii Green Growth Initiative (HGG) in **support of SB 17/HB 857/SB 1088 on the barrel tax**. HGG brings leaders from the energy, food and environmental sectors together to achieve Hawaii's sustainability goals and to be a model for building a green economy. HGG's members include approximately 40 leaders and 30 advisors from government, private, and non-profit organizations in Hawai'i.

As a multi-sector partnership working towards Hawaii's sustainability, HGG strongly supports removing the sunset date on the barrel tax and redistributing the revenue to the originally intended oil spill response, diversified agriculture, and energy security purposes of this legislation.

Hawaii's dependence on imported oil contributes to climate change, caused by carbon dioxide and other greenhouse gas emissions from burning fossil fuels, and leaves the islands' natural resources and population unprepared for the inevitable challenges it will bring. Hawaii has the opportunity to use the barrel tax law as an innovative and sustainable funding mechanism for the expansion of green job opportunities in environmental response, clean energy, and food security, and to support the necessary development and implementation of actions that will achieve the Hawaii Clean Energy Initiative's goal to reduce the State's dependence on imported fossil fuels by 70% in 2030.

We ask you to support this bill to make critical investments that will allow these sectors to achieve their goals in increasing Hawaii's self-sufficiency. These investments will help build a more diversified economy and a more resilient and sustainable future for everyone in Hawai'i.

Mahalo nui for your time and consideration,

A handwritten signature in black ink that reads "Audrey Newman".

Audrey Newman
Senior Advisor, Global Island Partnership (GLISPA)
Promoting action for island conservation and sustainable livelihoods. www.glispa.org



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Energy and Environmental Protection
Tuesday, March 19, 2013 at 8:30 am
by
Richard Rocheleau, Director
Hawai'i Natural Energy Institute
School of Ocean and Earth Science and Technology
University of Hawai'i at Mānoa

SB 17 SD2 – RELATING TO FOSSIL FUELS

Chair Lee, Vice Chair Thielen, and Members of the Committee:

My name is Richard Rocheleau, Director of the Hawai'i Natural Energy Institute at the University of Hawai'i at Mānoa. We support SB 17 SD2, which amends the Environmental Response, Energy, and Food Security Tax (Barrel Tax) to apply to all fossil fuels, and reallocates the Barrel Tax collections to its original intended uses.

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 and decisions made today will dictate the shape of our energy system for decades to come. This reallocation back to the original intent of the Barrel Tax is essential to ensure that the best possible path forward is identified to help Hawaii attain food and energy security and sustainability.

I would also like to call the committee's attention to the energy systems development special fund (ESDSF), which is administered by HNEI. The ESDSF will sunset on June 30, 2013, a little more than three months from now, if no action is taken. Section 4 of this bill repeals the sunset date on the ESDSF. Other funds supported by the barrel tax, administered by the DOA and DBEDT are due to sunset on June 30, 2015. **We are asking that, at a minimum, 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. 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 Hawaii. A description of our current spend plan has been provided in our most recent Annual Report to the Legislature (November 2012).

Last year the Legislature extended the sunset on the ESDSF for one year, until June 30, 2013 (Act 151). Thus, if no change is made, the ESDSF will sunset this year. 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 or repealing the sunsets of all funds.

Energy projects of sufficient scope to impact fossil fuel use require time for planning, formation of partnerships, and implementation. HNEI has made significant strides with the initial portfolio of activities including projects in the areas of renewable technologies, grid integration, smart grid, energy efficiency and support for geothermal development and biofuels; each selected to help move Hawaii toward a more secure and sustainable future. In less than 24 months, the ESDSF has been used to leverage more than \$12 million in federal funds for projects with high impact in Hawaii.

Repeal or extension of the sunset, to be consistent with the other funds supported by the Barrel Tax, will allow time for these efforts already underway or in the planning phase to be completed in the most cost effective manner and for critical new projects to be implemented and completed.

HNEI supports repeal or extension of the sunset of the ESDSF and looks forward to working with the legislature to help transition Hawaii to a more economic and secure energy future.

Thank you.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Before the House Committee on Energy & Environmental Protection
Before the House Committee on Economic Development & Business
Tuesday, March 19, 2013, 8:30 a.m., Conference Room 325
SB 17 SD 2: RELATING TO FOSSIL FUELS

Aloha Chair Lee, Chair Tsuji, Vice-Chair Thielen, Vice-Chair Ward, and members of the House Committee on Energy & Environmental Protection, and House Committee on Economic Development & Business,

On behalf of the Hawaii Solar Energy Association (HSEA), I would like to testify **in support of SB 17 SD 2**, which levies the environmental response, energy, and food security tax on liquid or gaseous fossil fuels.

LNG is a fossil fuel

Due to recent developments in drilling technology, LNG previously not economical to extract has become available to the world market. Although the selling price for LNG is currently less than that of traditional fossil fuels, there is no escaping the simple fact that regardless of the method of extraction LNG is still a non-renewable fossil fuel. LNG should therefore pay the same barrel tax currently levied on other fossil fuels being exported to Hawaii.

LNG not free from doing environmental harm

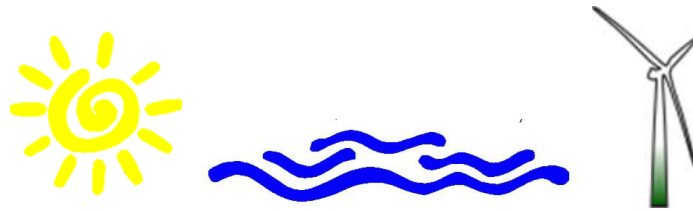
In addition, although LNG is touted as a “clean” fossil fuel with less particulates and carbon dioxide when compared with coal, LNG still pollutes the atmosphere. Although lower in carbon dioxide emissions when burned, LNG has a higher proportion of methane gas, which is a powerful greenhouse gas. In addition, there are many concerns as to the potential damage caused by the new “fracking” technology where gas containing shale is fractured underground and then flooded with a solution that extracts the gas. Thus, given LNG’s non-renewable status and its potential to harm the environment, LNG should be levied the fee just like other fossil fuels imported to Hawaii. Let’s not subsidize a fuel that might only serve to prolong our dependence on non-indigenous fuel.

Restore barrel tax to original intent

HSEA also strongly supports the restoration of the barrel tax to its original intent, which was to provide a fund for environmental response, food security, and to make critical investments in clean energy. Hawaii has already established ambitious and much needed goals for clean energy and sustainability, but these goals lose their meaning if funding intended to support these goals is diverted in part to other uses.

Thank you for the opportunity to testify.

Leslie Cole-Brooks
Executive Director
Hawaii Solar Energy Association



LIFE OF THE LAND

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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Chris Lee, Chair

Rep. Cynthia Thielen, Vice Chair

COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Rep. Clift Tsuji, Chair

Rep. Gene Ward, Vice Chair

DATE: Tuesday, March 19, 2013

TIME: 8:30 AM

PLACE: Conference Room 325

Re SB 17, SD2 RELATING TO FOSSIL FUELS

COMMENTS

Aloha Chairs Lee and Tsuji, Vice Chairs Thielen and Ward and Members of the Committees

My name is Henry Curtis and I am the Executive Director of Life of the Land, 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.

SB 17 would tax refiners, manufacturers and producers of fossil fuel . The tax would be used to support the state environmental response, energy, and food security programs.

SB 17 gives an exemption to Hawaiian Commercial & Sugar (HC&S) Company which burns 60,000 tons of coal and 100,000 tons of bagasse per year at their **Puunene**, Maui facility. The HC&S air permit allows the burning of up to 107,000 tons per year.¹

¹ Covered Source Permit 0054-01-C Application Review of Application No. 0054-05

[http://yosemite.epa.gov/R9/AIR/EPSS.NSF/6924c72e5ea10d5e882561b100685e04/be4544fa1d7c0db40a2579c4000653e6/\\$FILE/HC&S%20review.PROPOSED.pdf](http://yosemite.epa.gov/R9/AIR/EPSS.NSF/6924c72e5ea10d5e882561b100685e04/be4544fa1d7c0db40a2579c4000653e6/$FILE/HC&S%20review.PROPOSED.pdf)

Testimony of The Nature Conservancy of Hawai'i
Supporting S.B. 17 SD 2 Relating to Fossil Fuels
House Committee on Energy and Environmental Protection
Tuesday, March 19, 2013, 8:30AM, Room 325

The Nature Conservancy of Hawai'i 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 Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on 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 S.B. 17 SD2 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 Hawai'i. It is our responsibility to do what we can and what is necessary 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 CO₂ emissions now, however, we will still feel certain effects of climate change. In Hawai'i, 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.

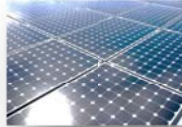
In response, we must plan and implement mitigative and adaptive measures to ensure the resilience of our natural and human systems. Protecting and enhancing the health of our forested watersheds as proposed by the Department of Land and Natural Resources is one critically important initiative. Likewise, 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.

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HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 19, 2013, 8:30 A.M.

Room 325

(Testimony is 6 pages long)

TESTIMONY IN SUPPORT OF SB 17 SD2, SUGGESTED AMENDMENTS

Chair Lee and members of the Energy & Environmental Protection Committee:

The Blue Planet Foundation strongly supports SB 17 SD2, ensuring that the environmental response, energy, and food security tax (the “barrel tax”) on petroleum imports will also be levied on solid and gaseous fossil fuels, and reallocating the tax to its original purpose: energy and food security. We fully support this equitable and responsible approach to extending Hawaii’s fossil fuel fee to gaseous and solid fossil fuels such as coal. We believe that this measure properly amends Hawaii’s “fossil fuel fee” to reflect the original intent of the policy. Blue Planet has found that the policy of taxing our fossil fuel imports to fund clean energy solutions has broad support among Hawaii residents.

Blue Planet respectfully requests that the Ways and Means Committee amend SB 17 SD2 in three critical ways:

1. Ensure that the tax on fossil fuels applies to all existing coal and gas consumption, not just future agreements;
2. Revise the tax amount for gaseous products so all fossil fuels are treated fairly on a per-BTU basis; and
3. Restore the proper allocation amounts for the fossil tax to the SD1 version of SB 17.

The fossil tax should apply equally and fairly to all uses of current uses of coal, oil, and gas

Fossil fuel users and providers have sought numerous exemptions from the proposed fossil tax. Unfortunately, the previous committee allowed such exemptions, rendering the proposed tax on coal and gas meaningless. For example:

1. The SD2 possibly won't apply to any coal use on O'ahu for a decade or longer;
2. The SD2 won't apply to any coal use on Maui; and
3. The SD2 won't apply to the fossil gas for years.

The legislature should set clear, fair policy: treat coal, oil, and gas the same—no matter what facility or what company is involved with its use. Carving out exemptions only introduces ambiguity, creates unfairness, reduces the food and energy security fund's effectiveness, and encourages further fossil fuel use.

1. The tax on solid fossil fuel (coal) should apply to existing coal consumption, not just future agreements. The largest consumer of coal in the state, AES, is already moving forward on re-negotiating their power purchase agreement with Hawaiian Electric Company, proposing that they be exempt from the competitive bidding framework. This suggests that they could have a long-term agreement in place before this measure takes effect, and certainly before 2016. Further, the fact that they are starting to renegotiate the power purchase agreement means that they would be able to include this nominal additional tax in the contract. Finally, it is disingenuous for AES to suggest that a small tax on coal is somehow going to impinge on the ability to integrate more renewables onto the electricity grid. Coal-fired boilers are likely the worst complement to renewable energy sources, owing to their inability to quickly ramp up and down to match changing demand.
2. Exempting the consumption of coal by HC&S on Maui makes no sense. First, since coal is such a small percentage of the electricity generation on Maui (likely less than 2%) this tax will have a nominal impact on the company or ratepayers. Second, the funds developed through the coal tax will be dedicated to programs that support agriculture and renewable energy—ostensibly the main businesses of HC&S. Finally, if dirty, polluting, imported coal is necessary for biomass operations to function perhaps we should rethink how these operations fit within Hawaii's clean energy future.
3. The Gas Company naturally doesn't want to pay a fossil tax, so they are asking that it be delayed for years—after their next rate case. But when the last barrel tax amendments took effect July 1, 2010, they applied immediately to independent power producers and public utilities that used the fuel. This amendment should be no different. Further, the Gas Company has been claiming that imported liquefied natural gas (LNG)—which it intends to begin importing shortly—is far cheaper than its current source of gas. What is the policy rationale for letting them off the hook?

The fossil fuel tax policy should be clear and fair. We respectfully request that the exemptions on Page 3, lines 7 through 20 be stricken:

~~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 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 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. The tax collected pursuant to this subsection shall not apply to a public utility until the conclusion of the public utility's next rate case.~~

Expanding barrel tax to all fossil fuels fair and sensible— *if done right*

The legislative intent of SB 17 SD2 is to ensure that if Hawai'i chooses to import industrial liquefied methane (i.e. natural gas, or "LNG") barrel tax revenues will not be detrimentally impacted, as well as to have coal pay its fair share. This is sensible and responsible. The petroleum products currently covered by the barrel tax are fossil fuels, just like LNG and coal. The environmental response, energy, and food security issues addressed by the barrel tax are no less threatened by LNG and coal imports than by any other fossil fuel.

Unfortunately, the approach taken in SB 17 SD2—basing the fossil tax on estimated combustion emissions alone—provides an unfair advantage to fossil gas products. If an emissions-based tax is sought, the fair approach would be to examine the entire lifecycle emissions of each fossil fuel and then to determine an appropriate price per unit of fuel. We recognize that such an approach would be challenging, so an alternative was suggested in the original draft of SB 17: taxing all fossil fuels based on their *energy content* (using an approximation of 5.8 Mbtu per barrel of petroleum as the benchmark). In taking this approach, the various fuels are rewarded for efficient end-use. For example, if a fuel's energy content is more efficiently converted to power, the total barrel tax revenues from that fuel source will be lower (because less of the fuel will be imported to produce a given amount of power). Similarly, if a fuel's energy content is not converted efficiently, then the barrel tax revenues for that fuel will be higher (because more fuel must be imported to make a given amount of power). This approach—based on energy content—is fair, sensible, and rationally related to the environmental and energy purposes of the barrel tax.

Blue Planet proposes that fossil energy be taxed at the following amounts:

- Barrel of oil (existing): \$1.05 (5.8 MMBtu)
- Thousand cubic feet of gas: \$0.19 (1.03 MMBtu)
- Short ton of coal: \$4.50 (approximately 25 MMBtu)

Therefore, SB 17 SD2, page 3 line 22 through page 4 line 2 would be amended to read as follows:

petroleum product that is not aviation fuel[+], \$0.19 per thousand cubic feet of gaseous fuel, and \$4.50 per short ton of coal;

A fossil energy tax is smart policy

Hawaii's barrel tax law is keystone 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.

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 expansion of the fossil energy tax to all fossil fuels would provide additional 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. The majority of these revenues should be directed to clean energy planning, development, integration, incentives, and other activities facilitating Hawaii's energy transformation.

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 policy is to help make fossil fuels pay their honest costs to society; 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 fossil fuel 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.

Gaseous fossil fuels have significant negative impacts

The myth that LNG is a “clean energy” resource has been scientifically debunked. “Natural” gas is comprised primarily of methane (CH₄). Methane is a potent greenhouse gas – more potent than CO₂. According to the U.S. EPA, “methane emissions released to the atmosphere (without burning) are about 21 times more powerful than CO₂ in terms of their warming effect on the atmosphere.”¹ This is critical, because LNG production is known to release large quantities of methane into the atmosphere, long before the LNG reaches a power plant to be burned. For example, on January 3, 2013, the highly respected scientific journal *Nature* reported on findings presented by NOAA scientists who measured methane leakage rates from LNG wells. The title of that report is “Methane leaks erode green credentials of natural gas.”² Among other things, the report notes that the NOAA scientists measured methane leakage from LNG wells in Utah equating to 9% of well production. This is approximately three times higher than “the 3.2% threshold beyond which gas becomes worse for the climate than coal.”³ Studies of other well fields and natural gas systems have similarly reported methane leakage exceeding the 3.2% threshold.⁴

Similarly, coal is the dirtiest fossil fuel and produces the most carbon dioxide per energy output at the point of combustion (with significant upstream environmental impacts as well).⁵ Therefore, it would be unfair, and make little analytical sense, to exempt gaseous and solid fossil fuels from the barrel tax.

¹ See <http://www.epa.gov/cleanenergy/energy-resources/refs.html>

² See Tollefson, Methane Leaks Erode Green Credentials of Natural Gas, *NATURE* (January 3, 2013) (reporting “alarmingly high” leaks of 9% of well production).

³ See Alvarez et al., Greater focus needed on methane leakage from natural gas infrastructure, *PROC. NAT'L ACAD. SCI.* (April 24, 2012).

⁴ See, e.g., Pétron et al., Hydrocarbon emissions characterization in the Colorado Front Range: A pilot study, *J. GEOPHYS. RES.* 117; (2012); Howarth et al., Methane Emissions from Natural Gas Systems, Background Paper Prepared for the National Climate Assessment, Ref. no. 2011-0003, available at <http://www.eeb.cornell.edu/howarth/Howarth%20et%20al.%20--%20National%20Climate%20Assessment.pdf>

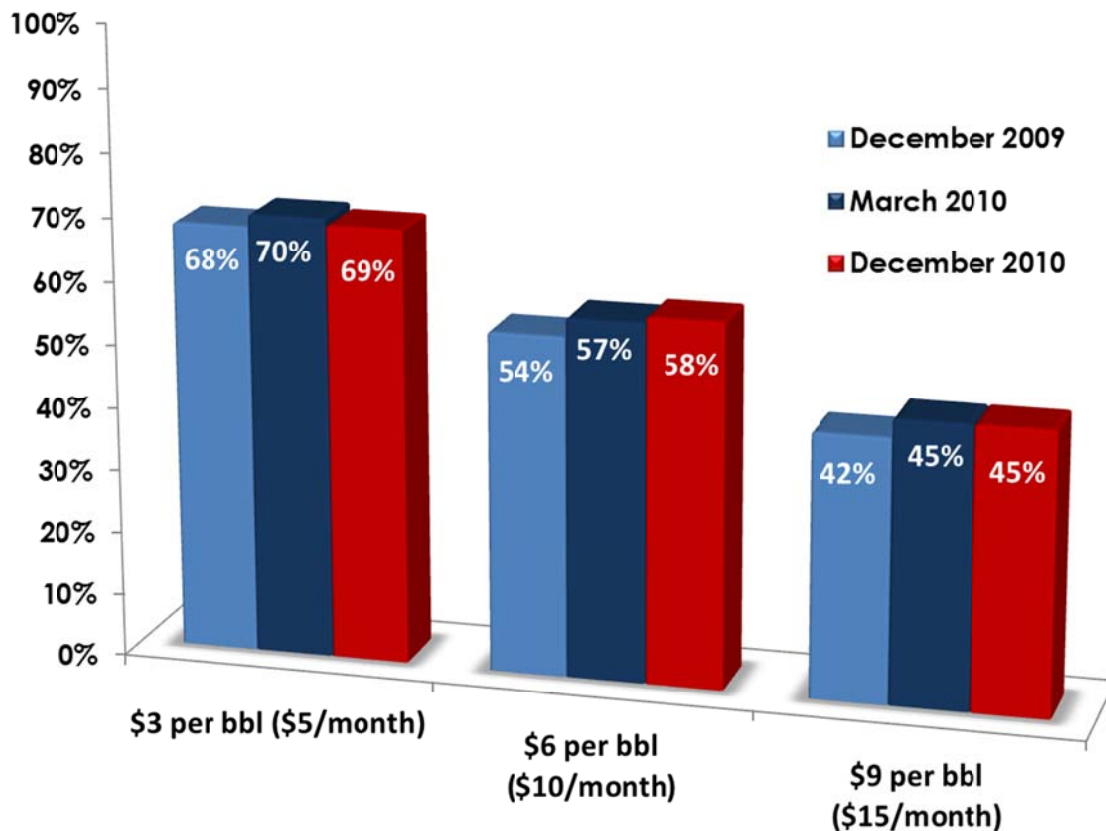
⁵ Energy Information Administration, Emissions of Greenhouse Gases in the United States 1985-1990, DOE/EIA-0573 (Washington, DC, September 1993), p. 16.

Public Support

Blue Planet Foundation conducted market research in December 2009, March 2010, and December 2010 to discern the level of public support for a fossil fuel tax for clean energy investment. The statewide survey of residents found broad support for a fossil 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 total 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 below.*

We respectfully urge the Energy & Environmental Committee to forward an amended SB 17 SD2.



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-2

INTRODUCED BY: Senate Committee on Ways and Means

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, and any fuel created from the processing of such fuels. 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 utilized by an independent power producer that provides firm capacity power to a public utility where 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 not be applicable to coal used to fulfill a signed power purchase agreement in effect as of June 30, 2013 and the tax shall apply to coal used to fulfill any power purchase agreement extended, modified, or renewed after September 1, 2016. Changes the amount deposited into the: (1) environmental response revolving fund from 5 cents to ___%; (2) energy security special fund from 15 cents to ___%; (3) energy systems development special fund from 10 cents to ___%; and (4) agricultural development and food security special fund from 15 cents to ___%.

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.

EFFECTIVE DATE: July 1, 2050

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 ___ cents deposited into the environmental response revolving fund, ___ cents to be deposited into the energy security special fund, ___ cents to be deposited into the energy systems development special fund and ___ 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 sidestep 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.

So while lawmakers may profess to care for the disadvantaged and downtrodden, measures such as the barrel tax increase contradict that intent as it drives up the cost of survival in Hawaii and makes survival that much more difficult. Lawmakers need to revisit the actions of their predecessors and total up how much they have added to the cost living in Hawaii. So perhaps the old and tired question should be posed at this juncture in Hawaii's history, are families in Hawaii better off than they were 25 years ago as far as being able to put food on the tables and a roof over their heads? The obvious answer is "no" given all the taxes and fees which have been levied in the past ten years. So while these elected officials hide behind issues such as energy independence and "protecting the aina" for which these fees and taxes have been levied, it is this heavier tax burden that has set Hawaii's families on a path of extinction by creating an even wider chasm between the "haves" and the "have nots."

Digested 3/18/13



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 19, 2013, 8:30 A.M.
(Testimony is 1 page long)

TESTIMONY IN STRONG SUPPORT OF SB 17 SD 2 WITH A PROPOSED AMENDMENT

Aloha Chair Lee and members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* SB 17 SD2. This measure ensure fairness by applying the barrel tax to all forms of fossil fuels, rather than simply taxing one fuel source: oil. The bill is a smart and needed improvement to Hawaii's historic carbon tax and ensures we don't favor one fossil fuel over another.

The proposed changes would increase the funding available to invest in commonsense measures to advance clean energy, phase out life-threatening fossil fuels, clean up Hawaii's air and water, protect our families, and create new jobs. Dirty fossil fuels could pave the way for a clean and prosperous future for Hawaii.

Proposed Amendment. This measure does 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 . . . exceeds the annual heat input from fossil fuels.” This is a mistake. It potentially opens up a loophole that could be abused. If the intent is to reduce the use of fossil fuels or to utilize proceeds to fund renewable energy, then this measure should apply to all fossil fuels.

Mahalo for the opportunity to testify.

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 16, 2013 6:35 PM
To: EEPtestimony
Cc: w9w@hotmail.com
Subject: *Submitted testimony for SB17 on Mar 19, 2013 08:30AM*

SB17

Submitted on: 3/16/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kurt Hanson	Individual	Oppose	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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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 8:33 PM
To: EEPtestimony
Cc: leealdrige@msn.com
Subject: Submitted testimony for SB17 on Mar 19, 2013 08:30AM

SB17

Submitted on: 3/17/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lee Aldridge	Individual	Oppose	No

Comments: I wish to thank the House Committee on Energy & Environmental Protection for this opportunity to submit testimony on SB17. I OPPOSE SB17. Just as Hawaii Gas has previously testified, SB 17 as written because does not fairly treat natural gas as a clean energy resource. According to the Environmental Protection Agency, 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. Nor does the tax consider the environmental impacts of burning coal, which is a primary source of fossil fuel energy in Hawaii. SB17 should be amended or if not amended, then not passed for this legislative session.

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thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 8:21 PM
To: EEPtestimony
Cc: leealdridge@msn.com
Subject: Submitted testimony for SB17 on Mar 19, 2013 08:30AM

SB17

Submitted on: 3/17/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Rosemary Aldridge	Individual	Oppose	No

Comments: I wish to thank the House Committee on Energy & Environmental Protection for this opportunity to submit testimony on SB17. I OPPOSE SB17. Just as Hawaii Gas has previously testified, SB 17 as written because does not fairly treat natural gas as a clean energy resource. According to the Environmental Protection Agency, 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. Nor does the tax consider the environmental impacts of burning coal, which is a primary source of fossil fuel energy in Hawai'i. SB17 should be amended or if not amended, then dropped for this legislative session.

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Testimony Presented before the
House Committee on Energy & Environmental Protection
Representative Chris Lee, Chair
Representative Cynthia Thielen, Vice Chair
and
House Committee on Economic Development and Business
Representative Clift Tsuji, Chair
Representative Gene Ward, Vice Chair
by
Dr. Sylvia Yuen

Support for SB 17 SD2, Relating to Fossil Fuels

Chairs Lee and Tsuji, Vice Chairs Thielen and Ward, and members of the House Committees on Energy and Environmental Protection and Economic Development and Business: Thank you for the opportunity to present my personal testimony in support of SB 17 SD 2, which removes the 2015 sunset date and increases the allocation of state oil barrel tax revenue for diversified agriculture and renewable energy programs, and for oil spill response.

Agriculture is an important contributor to Hawaii's economy, but it also preserves green spaces, and is in keeping with the culture, history, and lifestyle of our island communities. There is a symbiotic relationship between agriculture and energy—agricultural products can be a source of energy, as in biofuels, and energy efficiencies in growing and processing food can enable agriculturists to reduce costs and to be economically viable. As the Food and Energy Security Act 73 (10) recognized, it is in the best interests of Hawaii's people to build the capacity of the state to become self-sufficient in its energy and food needs as stated in the *Hawaii 2050 Sustainability Plan* and the *Hawaii Clean Energy Initiative*. There are, however, several long-standing issues that impede progress toward self-sufficiency in agriculture, including the need to preserve agricultural lands, repair irrigations systems, lower the costs of farming, and increase public awareness and support for locally grown products. Hawaii is also dangerously dependent on imported energy, and must develop high-impact energy efficiencies and renewable energy solutions to reach its goal of 70 percent clean energy by 2030. All of the aforementioned require long-term strategies, focused attention and actions, consistent resources, and coordination among stakeholders. Unfortunately, progress in many areas has been slow or erratic because consistent and sufficient resources have not been available.

SB 17 SD 2 will address the problem of inconsistent resources and/or the dearth of resources which have stunted the growth of agriculture and energy self sufficiency in the State. This bill is critically important to Hawaii's people, communities, and economy, and I urge you to support its adoption.

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 9:37 PM
To: EEPtestimony
Cc: 808val@hawaii.rr.com
Subject: Submitted testimony for SB17 on Mar 19, 2013 08:30AM

SB17

Submitted on: 3/17/2013

Testimony for EEP on Mar 19, 2013 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Sisneros	Individual	Oppose	No

Comments: Another bad idea. Tulsi Gabbard is a nightmare for the state of Hawaii. You cannot continue to tax the people on every bad idea you come up with. There is only so much \$\$ to rob from the citizens. This is another idea that showcases the idiocy of environmental extremism. Please oppose this bill. Thank you.

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