



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

In reply, please refer to:  
File:

**HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION**

**H.B. 2312, RELATING TO THE ENVIRONMENTAL RESPONSE, ENERGY,  
AND FOOD SECURITY TAX**

**Testimony of Gary L. Gill  
Acting Director of Health**

**February 6, 2014  
8:40 a.m.**

1 **Department's Position:** The Department of Health **STRONGLY SUPPORTS** this measure because it  
2 will further the State's ability to rapidly respond to hazardous material releases and environmental  
3 threats by assuring operational continuity and avoiding significant reductions in staff.

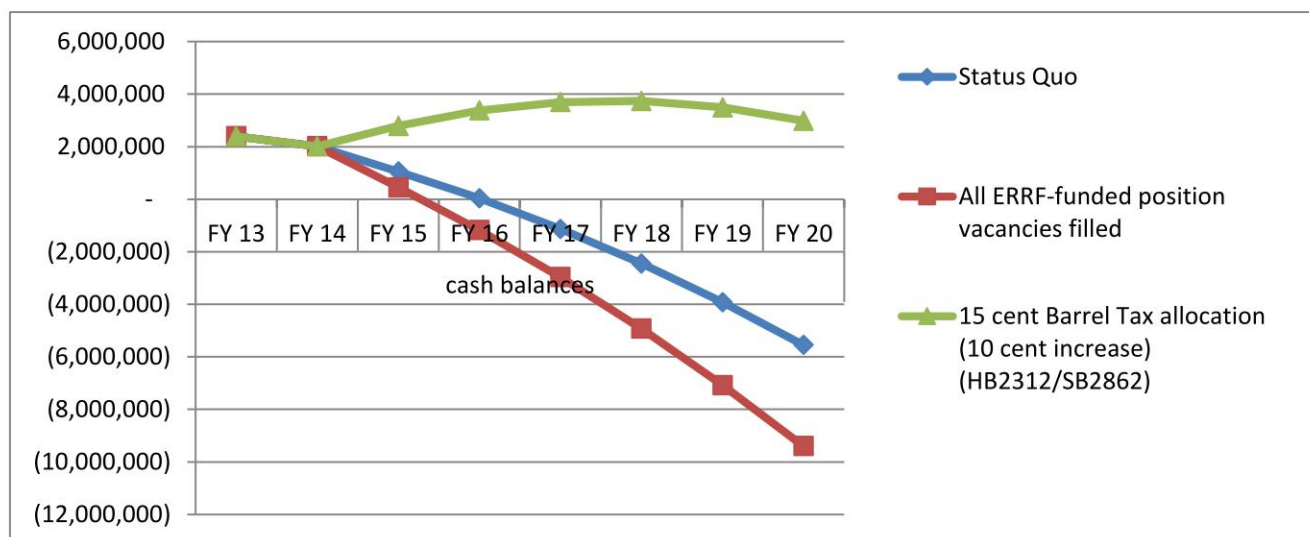
4 **Fiscal Implications:** Decreases in Environmental Response, Energy, and Food Security Tax (Barrel  
5 Tax) revenue have eroded the Environmental Response Revolving Fund (ERRF) balance to critical  
6 levels. The Department requests an increase in the total per barrel allocation from the Barrel Tax into  
7 the ERRF (from 5 to 15 cents per barrel) to secure the Department's ability to quickly, comprehensively,  
8 and effectively respond to hazardous material releases and environmental threats to ensure public safety.

9 **Purpose and Justification:** The ERRF assures the State's ability to respond to and protect Hawaii from  
10 the devastating impact of oil, chemical, and other potentially dangerous spills, such as molasses, on  
11 public health and safety, the environment, and the economy. The ERRF also funds preemptive  
12 measures, including the testing of potential or likely contaminated sites, remediation of contaminated  
13 sites, testing of state waters, and the regulation and management of solid and hazardous wastes. Barrel  
14 Tax revenues have been declining in recent years due to rising energy costs and growth in alternative

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1 energy resources, as well as a sluggish economy. Combined with the unpredictability of levying  
 2 environmental enforcement fines and demands on emergency response due to events such as the Tohoku  
 3 earthquake and tsunami, Honolulu Harbor molasses spill, and several ground contaminations, the ERRF  
 4 is projected to reach a cash balance deficit of over \$1 million by Fiscal Year 2017.

5 The ERRF cannot be sustained by its current 5 cents per barrel allocation (see graph below).



6  
 7 In the past six years, ERRF revenue has decreased by \$500,000. The projected deficit would  
 8 severely impact matching funds for the present Hazardous Waste Management, Leaking Underground  
 9 Storage Tank, Water Pollution Control-Surface Water, Public Water System Supervision, and  
 10 Hazardous Materials Emergency Preparedness grants. The lack of \$823,168 in matching ERRF funds  
 11 would jeopardize a total of \$4,116,906 in federal dollars. This is because many of the Department's  
 12 federal grants require non-federal support or commitment to grant purposes in the form of dollars and/or  
 13 personnel time, and without state matching funds, federal funds will not be awarded.

14 This growing ERRF deficit would eliminate funding for 42 vital positions throughout  
 15 Environmental Health Administration programs. The Department has also requested a one-time  
 16 appropriation of \$2.6 million in General Funds to the ERRF in Governor's Package companion bills  
 17 H.B. 2306 and S.B. 2856, which will bridge the Department's ERRF funding gap for the immediate

1 future but will not provide a permanent solution to the funding problem. To ensure ongoing fund  
2 stability, the Department requests an increase in the total per barrel allocation from the Barrel Tax into  
3 the ERRF from 5 to 15 cents per barrel, which will allow the Department to continue to quickly and  
4 effectively respond to hazardous material releases and environmental threats to protect public safety and  
5 the environment.

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

Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 2312 Relating to the Environmental Response,  
Energy, and Food Security Tax  
House Committee on Energy and Environmental Protection  
Thursday, February 6, 2014, 8:40AM, Room 325

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*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.*

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The Nature Conservancy supports H.B. 2312 and its proposal to provide additional barrel tax revenue to the Environmental Response Revolving Fund. We all were already aware that the State Department of Health's oil and chemical emergency response capacity was lacking and in need of increased resources. Last year's molasses spill in Honolulu harbor provided a preview of the problem, albeit with a different substance.

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# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** FUEL, Increase earmark to environmental response revolving fund

**BILL NUMBER:** SB 2862; HB 2312 (Identical)

**INTRODUCED BY:** SB by Kim by request; HB by Souki by request

**BRIEF SUMMARY:** Amends HRS section 243-3.5 to increase the amount deposited into the environmental response revolving fund from 5 cents to 15 cents.

**EFFECTIVE DATE:** July 1, 2014

**STAFF COMMENTS:** This is an administration measure submitted by the department of health HTH-16 (14). The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. The legislature by Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into the environmental response revolving fund; 15 cents shall be deposited into the energy security special fund, 10 cents shall be deposited into the energy systems development special fund; 15 cents shall be deposited into the agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15. This measure would increase the amount deposited into the environmental response revolving fund from 5 cents to 15 cents.

It should be remembered that when the environmental response tax was initially adopted, it was established for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state.

Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund, including environmental protection and natural resource protection programs, such as energy conservation and alternative energy development, air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

It should be remembered that the State Auditor has singled out the environmental response revolving fund as not meeting the criteria established for legitimacy of special funds, and recommended that it be repealed. The Auditor criticized the use of such funds as they hide various sums of money from policymakers as they are not available for any other use and tend to be tacitly acknowledged in the budget process. More importantly, it is not only the users of petroleum products who benefit from a cleaner environment, but it is the public who benefits. If this point can be accepted, then the public, as a whole, should be asked to pay for the clean up and preservation of the environment.

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

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, including moneys deposited into the agricultural development and food security special fund, should be funded through the general fund. At least program managers would then have to justify their need for these funds. By continuing to special fund these programs, it makes a statement that such programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

Digested 2/4/14

**HB2312**

Submitted on: 2/4/2014

Testimony for EEP on Feb 6, 2014 08:40AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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