

# SB 2653

RELATING TO THE  
ENVIRONMENTAL RESPONSE,  
ENERGY AND FOOD SECURITY  
TAX

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

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TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON TRANSPORTATION AND ENERGY  
AND WATER, LAND, AND AGRICULTURE

February 9, 2016  
2:45 P.M.  
CONFERENCE ROOM 229

SENATE BILL NO. 2653  
RELATING TO THE ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD  
SECURITY TAX

Chairpersons Inouye and Gabbard and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 2653. This bill proposes to increase the allocations to the Environmental Response Revolving Fund, the Energy Security Special Fund, and the Agricultural Development and Food Security Special Fund. The Department is in support of this measure as long as it does not affect the Administration's budget.

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. As part of that act, the Agricultural Development and Food Security Special Fund was created with the mandate to fund activities intended to increase agricultural production or processing that may lead to reduced importation of food, fodder, or feed from outside the State. The Department has moved forward with this mandate and has funded positions and programs to build our agricultural capacity, create industry advantage, and to grow our markets; three pillars in our overall agricultural vision to move Hawaii towards a 21<sup>st</sup> century agricultural economy supported by all agencies of state government.

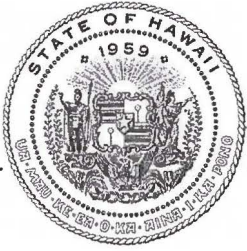
The Department would like to continue moving forward with its effort towards food security and views the Environmental Response, Energy, and Food Security Tax as a vital revenue source to provide the resources to realize the goal of greater food security and self-reliance. The Department is supportive of an increase in funding for the Environmental Response Revolving Fund, Energy Security Special Fund, and the



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Agricultural Development and Food Security Special Fund and would defer to the respective Departments on each of those funds.

Thank you for the opportunity to testify on this measure.



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

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Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEES ON TRANSPORTATION AND ENERGY  
AND  
WATER, LAND, AND AGRICULTURE**

Tuesday, February 9, 2016  
2:45 p.m.  
State Capitol, Conference Room 229

in consideration of  
**SB 2653**

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

Chairs Inouye and Gabbard, Vice Chairs Gabbard and Nishihara, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 2653 to provide additional funding for the Hawaii Clean Energy Initiative (HCEI) program. The bill increases the amount of the environmental response, energy, and food security tax ("Barrel Tax") from 15 cents to 45 cents of the tax on each barrel that shall be deposited into the energy security special fund and the agricultural development and food security special fund.

However, DBEDT is concerned that an increase from 15 cents to 45 cents of the tax for DBEDT and the Department of Agriculture would adversely impact the administration's priorities.

If the Committee is inclined to move this measure forward, DBEDT recommends that this measure include, in order to remain consistent with the intent of the environmental response, energy, and food security tax on fossil fuels created by Act 185, Session Laws of Hawaii, 2015, corresponding increases in the allocation of the tax on British Thermal Units of fossil fuel.

DBEDT respectfully defers to the Department of Agriculture on the allocation of the agricultural development and food security fund and the Department of Budget and Finance on the impact to the general fund.

Thank you for the opportunity to offer testimony on SB 2653.



**Testimony to the Senate Committee on Water, Land, & Agriculture, and  
Transportation & Energy  
Tuesday, February 9, 2016 at 2:45 P.M.  
Conference Room 229, State Capitol**

**RE: SENATE BILL 2653 RELATING TO THE ENVIRONMENTAL RESPONSE,  
ENERGY, AND FOOD SECURITY TAX**

Chairs Gabbard and Inouye, Vice Chairs Nishihara and Gabbard, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** SB 2653, which proposes to amend Chapter 243 HRS (Fuel Tax) by increasing the amount of the environmental response, energy, and food security tax from 15 cents to 45 cents that shall be deposited into the energy security special fund and the agricultural development and food security special fund.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Currently, Chapter §243-3.5 provides for a tax of \$1.05 on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- 5 cents of the tax on each barrel shall be deposited into the environmental response revolving fund established under section 128D-2 (Department of Health, Hazard Evaluation and Emergency Response);
- 15 cents of the tax on each barrel shall be deposited into the energy security special fund established under section 201-12.8 (Department of Business, Economic Development and Tourism, Hawaii Clean Energy Initiative);
- 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1 (Hawaii Natural Energy Institute); and
- 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10 (Department of Agriculture).



# Chamber of Commerce HAWAII

*The Voice of Business*

Under the proposed bill, the existing \$.15 tax going to the Energy Security Special Fund and the Agricultural Development and Food Security Special Fund would be increased to \$.45. By increasing the amount in each of these funds, the current \$1.05 Fuel Tax would be entirely distributed in these four (4) funds.

Pursuant to Chapter 243-6 HRS, the fuel tax is to be used by the Counties for the following:

1. For payment of interest on and redemption of any bonds duly issued or sold on or after July 1, 1951, under chapter 47 for the financing or aiding in financing the construction of county highway tunnels, approach roads thereto, and highways. Such payments of interest and principal on the bonds when due, shall be first charges on such moneys so deposited in the fund.
2. For acquisition, designing, construction, reconstruction, improvement, repair, and maintenance of county main and general thoroughfares, highways, and other streets, street lights, storm drains, and bridges, including costs of new land therefor, when expenditures for the foregoing purposes cannot be financed under state-federal aid projects.
3. In the case of the city and county of Honolulu, for payment of the city and county's share in an improvement district initiated by the city and county for an improvement listed in (2) above which is permitted to be constructed in the city and county.
4. For the construction of county highway tunnels, overpasses, underpasses, and bridges, where such improvement cannot be made under state-federal aid projects.
5. For purposes and functions connected with county traffic control and preservation of safety upon the public highways and streets.
6. For purposes and functions in connection with mass transit.
7. For acquisition, design, construction, improvement, repair, and maintenance of bikeways.
8. No expenditure shall be made, out of the revenues paid into any such fund, which will jeopardize federal aid for highway construction.

It would appear that diverting the fuel tax from its proper use or nexus of investing in our transportation infrastructure (i.e. repair of roads) has contributed to the lack of funding and disrepair of the roads on all counties in Hawaii. Currently, \$.45 for each \$1.05 of the fuel tax or 42.8% of the tax is diverted to the four non-road related funds.

Perhaps the legislature should find appropriate sources to fund or prioritize funding for road maintenance, Hazard Evaluation and Emergency Response, Hawaii Clean Energy Initiative, Hawaii Natural Energy Institute, and Agricultural Development and Food Security rather than



Chamber *of* Commerce HAWAII  
*The Voice of Business*

redistribute the fuel tax into the four special funds. We are opposed to S.B. 2653 as presented drafted.

Thank you for the opportunity to express our views on this matter.



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** FUEL, Reallocate Environmental Response, Energy, and Food Security Tax

**BILL NUMBER:** SB 2653

**INTRODUCED BY:** GABBARD, CHUN OAKLAND, NISHIHARA, RIVIERE,  
SHIMABUKURO, Taniguchi

**EXECUTIVE SUMMARY:** Redistributes the environmental response, energy, and food security tax by tripling the amount going to the energy security special fund and tripling the amount going to the agricultural development and food security special fund. The tax has taken on a life of its own and lacks transparency, and the special funds it feeds do not come under close scrutiny by either lawmakers or the public.

**BRIEF SUMMARY:** Amends HRS section 243-3.5(a) to provide that the environmental response, energy, and food security tax shall be distributed as follows: (1) 5 cents to the environmental response revolving fund (HRS section 128D-2); (2) 45 cents (15 cents under present law) to the energy security special fund (HRS section 201-12.8); (3) 10 cents to the energy systems development special fund (HRS section 304A-2169.1); and (4) 45 cents (15 cents under present law) to the agricultural development and food security special fund (HRS section 201-12.8). Anything left over after those allocations goes to the general fund. The tax rate remains the same.

**EFFECTIVE DATE:** July 1, 2016.

**STAFF COMMENTS:** 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 collections of the tax were deposited into the environmental response revolving fund until such time the balance in the fund reached \$7 million at which time the imposition of tax was suspended until the balance in the fund declined.

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 a newly established environmental response revolving fund; 15 cents shall be deposited into a newly established energy security special fund, 10 cents shall be deposited into a newly established energy systems development special fund; 15 cents shall be deposited into the newly established 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. Act 107, SLH 2014, extended the sunset date of the \$1.05 environmental response, energy, and food security tax from 6/30/15 to 6/30/30. Act 185, SLH 2015, provided that the tax is to be imposed on fossil fuels other than petroleum products as well, based on the BTU equivalent.

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, 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.

The basic problem with the barrel tax is that 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 underwrite 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.

Digested 2/1/2016



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February 9, 2016

HEARING BEFORE THE  
SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE  
SENATE COMMITTEE ON TRANSPORTATION AND ENERGY

TESTIMONY ON  
SB2653 RELATING TO THE ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD  
SECURITY TAX.

Room 229  
2:45 PM

Aloha Chair Gabbard, Chair Inouye, and Members of the Committees:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF is in **strong support of SB2653**, increasing energy and agriculture's share of the environmental response, energy and food security tax.

The proposed allocation represents the original intent of what is commonly known as the "barrel tax". The measure sought to create a funding base to incentivize local enterprises to increase our level of self sufficiency. Energy and Agriculture are key elements to self-sufficiency.

Agriculture faces many challenges, much of it associated with global competition. Technology transfer is critical to increase the competitiveness of our farmers and ranchers in the marketplace. Successful competitiveness will ensure their viability resulting in a strong agricultural economy for the islands. A strong local industry would minimize imports that in turn would reduce risks to invasive species, thus protecting Hawaii's environment. The benefits of investing in local agriculture are varied and significant.

Therefore, HFBF respectfully requests your **support in advancing SB2653**. Thank you

**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 2:31 PM  
**To:** TRE Testimony  
**Cc:** ashman.janet@gmail.com  
**Subject:** \*Submitted testimony for SB2653 on Feb 9, 2016 14:45PM\*

**SB2653**

Submitted on: 2/8/2016

Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
J. Ashman	Individual	Support	No

Comments:

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