

**SB 433**

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

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

The Honorable Lorraine R. Inouye, Chair  
and Members of the Senate Committee on Transportation and Energy

Date: Monday, February 6, 2017  
Time: 1:15 P.M.  
Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 433, Relating to Agriculture

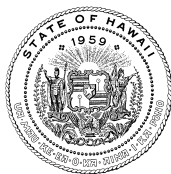
The Department of Taxation (Department) appreciates the intent of S.B. 433 and provides the following comments for your consideration.

S.B. 433 amends the Hawaii agricultural development revolving fund to allow contributions to the fund from environmental response, energy, and food security tax revenues, with the condition that those contributions be expended to acquire agricultural lands and assist with food sustainability. The measure also amends the allocation provision of the environmental response, energy, and food security tax to allocate an unspecified amount of the tax on each barrel to the Hawaii agricultural development revolving fund. The measure is effective July 1, 2017.

The Department is able to comply with the changes to the environmental response, energy, and food security tax created by this measure by the effective date.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
DIRECTOR

LAUREL A. JOHNSTON  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
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ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND  
TRANSPORTATION AND ENERGY  
ON  
SENATE BILL NO. 433

**February 6, 2017**  
**1:15 p.m.**  
**Room 224**

RELATING TO AGRICULTURE

Senate Bill No. 433 amends the allocation of environmental response, energy, and food security tax revenues to provide the Agricultural Development Revolving Fund (ADRF) with an unspecified percent of the taxes collected on each barrel of petroleum product sold provided that these moneys shall be expended at the sole discretion of the board of directors of the Agribusiness Development Corporation (ADC) to acquire agricultural lands and to assist with food sustainability.

The Department of Budget and Finance has concerns regarding the language of the bill. The bill mandates that the barrel tax revenues provided to the ADRF shall be expended at the sole discretion of ADC's board; however, the Constitution of the State of Hawaii states that no public money shall be expended except pursuant to appropriations made by law. Given that, the Legislature is the only entity authorized to make appropriations, the department is uncertain if the bill conforms to the Constitution.

The department also has concerns that the proposed allocation of environmental response, energy, and food security tax revenues to fund the effort will impact the Administration's general fund financial plan. Residual environmental response, energy, and food security tax revenues not designated to a specific fund are deposited into the general fund and the amended allocation would reduce this amount.

Below is a breakdown of the current and proposed barrel tax distribution under this bill:

<u>Fund</u>	<u>Distribution of Current*</u>	<u>Barrel Tax Proposed</u>
Environmental Response Revolving Fund	\$ .05	\$ .05
Energy Security Special Fund	\$ .15	\$ .15
Energy Systems Development Special Fund	\$ .10	\$ .10
Agricultural Development and Food Security Special Fund	\$ .15	\$ .15
Agricultural Loan Revolving Fund	\$ .00	unspecified

\*Current barrel tax is \$1.05.

Due to unspecified distribution to the Agricultural Loan Revolving Fund, it is difficult to determine the loss to the general fund.

**DAVID Y. IGE**  
Governor

**SHAN S. TSUTSUI**  
Lt. Governor



**JAMES J. NAKATANI**  
Executive Director

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**  
235 S. Beretania Street, Room 205  
Honolulu, HI 96813  
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**TESTIMONY OF JAMES J. NAKATANI**  
**EXECUTIVE DIRECTOR**  
**AGRIBUSINESS DEVELOPMENT CORPORATION**

**BEFORE THE COMMITTEE ON AGRICULTURE AND ENVIRONMENT**

Monday, February 6, 2017  
1:15 p.m.

**SENATE BILL NO. 433**  
**RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

My name is James Nakatani, Executive Director of the Agribusiness Development Corporation (“ADC”). The ADC strongly supports Senate Bill No. 433 which amends the environmental response, energy, and food security tax to allocate a portion of the proceeds to fund the acquisition of agricultural land and to assist with food sustainability in the State.

Today, many local farmers are struggling to stay in business, or are contemplating giving up their farm operations due to a number of challenges. The high cost of agricultural land and the inability to secure a long-term land agreement continue to be major barriers that inhibit local farms from thriving in Hawaii.

Providing a dedicated source of funding to acquire agricultural land is critical for enhancing the State’s food security. The funding will not only help the

State significantly increase its agricultural land inventory for food production, it will also provide opportunities to boost the economic viability of the agriculture industry as a whole.

Thank you for the opportunity to testify, and for your consideration of this bill.

# 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 433

INTRODUCED BY: DELA CRUZ, INOUYE, KEITH-AGARAN, KIDANI, NISHIHARA, Gabbard, K. Kahele, Wakai

EXECUTIVE SUMMARY: Redistributes the environmental response, energy, and food security tax by providing that 10 cents per barrel shall go to the Hawaii agricultural development revolving fund, for the purpose of acquiring agricultural lands. 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 10 cents per barrel of the environmental response, energy, and food security tax shall be distributed to the Hawaii agricultural development revolving fund (HRS section 163D-17).

Amends HRS section 163D-17 to provide that any moneys deposited into the fund pursuant to section 243-3.5 shall be expended at the sole discretion of the board to acquire agricultural lands and to assist with food sustainability.

EFFECTIVE DATE: July 1, 2017.

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, extended the tax to fossil fuels other than petroleum products as well, based on the BTU equivalent.

The environmental response tax was initially adopted to set 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 largely avoid scrutiny by either lawmakers or the public. Rather than perpetuate the problems of the barrel tax, lawmakers should consider repealing it and funding all programs that are funded out of the environmental response fund through appropriations against 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 can 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.

Digested 2/1/2017





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February 6, 2017

HEARING BEFORE THE  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT  
SENATE COMMITTEE ON TRANSPORTATION AND ENERGY

**TESTIMONY ON SB 433**  
RELATING TO AGRICULTURE

Room 224  
1:15 PM

Aloha Chair Gabbard, Chair Inouy Vice Chair Riviere, and Members of the Committee:

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 interests of our diverse agricultural community.

**The Hawaii Farm Bureau supports the intent of SB 433**, which amends the environmental response, energy, and food security tax to allocate a portion of the proceeds to the Hawaii agricultural development revolving fund.

HFB believes that in order for agriculture to flourish in Hawaii and reach their full potential, land availability and long-term leases at affordable and predictable lease rental rates are critical. The availability of agricultural land under the State's control will provide farmers with long-term leases that will enhance the economic viability of Hawaii's agriculture industry.

ADC was initiated by the agricultural industry as the closure of plantations escalated and there was a need to identify mechanisms that could quickly place farmers on lands that were destined to be idle.

HFB believes that ADC has a tremendous amount of power and has a responsibility in continuing to assist Hawaii's transition from plantation agriculture to smaller diversified agricultural operations.

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. As an organization opposed to new taxes, HFB took an unusual step by supporting the environmental response, energy, and food

security tax, or barrel tax. It was a desperate move by the industry to secure stable funding for Hawaii's agricultural industry.

The barrel tax was originally intended to increase local capacity to grow and produce import replacement products in order to fulfill the State's vision for increased self-sufficiency and sustainability. During the economic downturn, proceeds from this fund were reallocated to balance the budget. We understand that some of the proceeds continued to benefit agriculture.

While we support the intent of this measure to have the State acquire more agricultural lands and to provide funding for ADC to assist with food sustainability, we believe it is time to restore the original intent of the measure to focus to import replacements and to meet new needs of agriculture.

Thank you for this opportunity to testify on this measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 12:09 AM  
**To:** AEN Testimony  
**Cc:** legechair@gmail.com  
**Subject:** \*Submitted testimony for SB433 on Feb 6, 2017 13:15PM\*

**SB433**

Submitted on: 2/5/2017

Testimony for AEN/TRE on Feb 6, 2017 13:15PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Simon Russell	Hawaii Farmers Union United	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 3, 2017 10:33 AM  
**To:** AEN Testimony  
**Cc:** dale@hicattle.org  
**Subject:** \*Submitted testimony for SB433 on Feb 6, 2017 13:15PM\*

**SB433**

Submitted on: 2/3/2017

Testimony for AEN/TRE on Feb 6, 2017 13:15PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale Sandlin	Hawaii Cattlemens Council	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 5, 2017 6:34 AM  
**To:** AEN Testimony  
**Cc:** gordines@kauaiflowers.com  
**Subject:** \*Submitted testimony for SB433 on Feb 6, 2017 13:15PM\*

**SB433**

Submitted on: 2/5/2017

Testimony for AEN/TRE on Feb 6, 2017 13:15PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
John R. Gordines	Individual	Support	No

Comments:

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