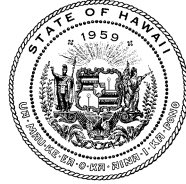


DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



RONA M. SUZUKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
Phone: (808) 587-1540 / Fax: (808) 587-1560  
Email: Tax.Directors.Office@hawaii.gov

To: The Honorable Rosalyn H. Baker, Chair;  
The Honorable Stanley Chang, Vice Chair;  
and Members of the Senate Committee on Commerce, Consumer Protection, and Health

From: Rona M. Suzuki, Director  
Department of Taxation

**Re: S.B. 2413, Relating to the General Excise Tax Exemptions**

Date: Wednesday, January 29, 2020

Time: 9:30 A.M.

Place: Conference Room 229, State Capitol

The Department of Taxation (Department) appreciates the intent of S.B. 2413 and offers the following comments.

S.B. 2413 adds three new sections to chapter 237, Hawaii Revised Statutes (HRS): (1) exemption of food items; (2) exemption for medical services; and (3) exemption for feminine hygiene products from the general excise tax (GET). The bill is effective on July 1, 2020.

The Department suggests limiting the food exemption to food for human consumption and further defining the term “food items” to be more specific to prevent confusion about the items that qualify for exemption. Section (b)(1) currently defines “food items” as “any food or food product for home consumption, except alcoholic beverages, tobacco, and food products prepared at the place of sale or at another location and sold primarily for immediate or nearly immediate consumption.”

For example, the State of California exempts “the gross receipts from the sale of, and the storage, use, or other consumption in this state of, food products for human consumption”<sup>1</sup> and provides a comprehensive list of the “food products” that qualify for exemption.

Lastly, the Department respectfully requests that this measure be made effective for gross receipts received on or after January 1, 2021. Moving the effective date out to January 1, 2021 will allow the Department sufficient time to make the necessary form and computer system updates.

Thank you for the opportunity to provide comments.

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<sup>1</sup> See Section 6359 of California Revenue and Taxation Code.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTIETH LEGISLATURE, 2020**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2413, RELATING TO GENERAL EXCISE TAX EXEMPTIONS.

**BEFORE THE:**

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

**DATE:** Wednesday, January 29, 2020 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Clare E. Connors, Attorney General, or  
Tammy Y. Kaneshiro, Deputy Attorney General

---

Chair Baker and Members of the Committee:

The Department of the Attorney General has concerns regarding this bill and provides the following comments.

One of the purposes of S.B. No. 2413 is to provide general excise tax exemptions for all of the gross proceeds or income arising from the manufacture, production, packaging, and sale of food items within the State.

This, however, could be subject to challenge as violative of the Commerce Clause of the United States Constitution.

The Commerce Clause provides that Congress shall have the power to “regulate Commerce . . . among the several States.” U.S. Const. art I, § 8, ct. 3. “Though phrased as a grant of regulatory power to Congress, the clause has long been understood to have a ‘negative’ aspect that denies the States the power unjustifiably to discriminate against or burden the interstate flow of articles in commerce.” Oregon Waste Systems, Inc. v. Dep’t of Env’tl. Quality, 511 U.S. 93, 98, 114 S. Ct. 1345, 1349 (1994). This implicit constitutional restriction upon the States has become known as the “negative” or “dormant” Commerce Clause doctrine. See Rocky Mountain Farmers Union v. Corey, 730 F.3d 1070, 1087 (9th Cir. 2013). The doctrine prohibits States from “advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state,” Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dep’t of

Natural Resources, 504 U.S. 353, 112 S. Ct. 2019 (1992) (internal brackets omitted), upon concern about “economic protectionism,” i.e., “regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.” Dep’t of Revenue of Ky. v. Davis, 553 U.S. 328, 337, 128 S. Ct. 1801, 1808 (2008). For example, in Bacchus Imports Ltd. v. Dias, 468 U.S. 263 (1984), the United States Supreme Court struck down an exemption from the liquor tax for locally produced alcoholic beverages upon finding that the exemption bestowed a commercial advantage on locally produced products.

Here, a tax exemption will be provided on “all of the gross proceeds or income arising from the *manufacture, production, packaging, and sale of food items within the State.*” (Emphases added.) See S.B. No. 2413, pg. 2, lines 12-16. Similar to the situation in Bacchus, the proposed tax exemption may be challenged as unconstitutional because it bestows a commercial advantage on locally produced products in the form of lower taxes, while burdening out-of-state competitors who would not be eligible for the same tax exemption. The bill may further be challenged under the Commerce Clause because it has “both the purpose and effect of discriminating in favor of local products.” Bacchus, 468 U.S. 263, 273.

Based on the foregoing, we respectfully ask that these concerns be addressed. One way to do this is to remove the following wording, “manufacture, production, packaging and” from page 3, line 15, of the bill. This would address the possible Commerce Clause challenge by allowing the tax exemption for both locally and out-of-state produced food items.

Harry Kim  
Mayor



Roy Takemoto  
Managing Director

Barbara J. Kossow  
Deputy Managing Director

## County of Hawai'i Office of the Mayor

25 Aupuni Street, Suite 2603 • Hilo, Hawai'i 96720 • (808) 961-8211 • Fax (808) 961-6553  
KONA: 74-5044 Ane Keohokālole Hwy., Bldg C • Kailua-Kona, Hawai'i 96740  
(808) 323-4444 • Fax (808) 323-4440

January 27, 2020

Senator Rosalyn Baker, Chair  
Senator Stanley Chang  
Committee on Consumer Protection and Health

Dear Chair Baker, Vice Chairs Chang, and Committee Members:

RE: **SB 2413, Relating to General Excise Tax Exemptions and  
SB 2327, Relating to General Excise Tax Exemptions**

Thank you for this opportunity to testify on two bills dealing with a crucial issue facing our State.

"Making Hawai'i a nice place to live" is simple to say, and almost too obvious a goal to highlight, but nevertheless that phrase sums up the most important task facing our elected community leaders. For this reason alone, I want to thank and praise any effort to deal with one of the most critical issues that we must confront, and that is the crisis in our healthcare system caused by our physician shortage.

We are justly proud of the Hawai'i Prepaid Healthcare Act, but how valuable is insurance if you cannot find a provider? How can we expect our people, especially our aging population, to live comfortably, if they believe that quality healthcare is only available if they have the time and ability to travel to the mainland? How can we attract more providers when they realize that they will be expected to work extraordinary hours because there is not a reasonable number of other providers to share the burden?

And the ramifications are important, too. To what extent do we limit our primary economic driver, tourism, when visitors are warned "Don't get sick in Hawai'i"?

I am not smart enough to know how to entirely solve our physician shortage problem. However, I am told, and do believe, that eliminating the General Excise Tax on healthcare services would be a very positive step in improving the economics for healthcare providers, thereby encouraging existing providers to stay in practice and enticing new providers to join us.

Of the two bills you are considering, it is much easier to support SB 2327 than SB 2413. SB 2413 goes beyond addressing our healthcare crisis and might be so expensive for the State as to amount to a "poison pill." Also, I believe that a substantial percentage of the tax on food is paid by our visitors, while virtually all of the tax on healthcare is borne by our local providers. For both those reasons, I would ask for a favorable vote on SB 2327.

In closing let me note that I try to use the word "provider" because, in truth, our healthcare crisis goes beyond our physician shortage. For that reason, I want to note that SB 2542, which is not on today's agenda but has been referred to this Committee, would provide a general excise tax exemption for medical services provided by physicians and advanced practice registered nurses acting in the capacity of primary care providers. It seems to me that broadening the exemption to APRNs is a sensible way to go, if the State is able to absorb the initial additional loss of revenue ("initial" because most or all of the loss would be offset as the higher earnings of the APRNs are spent and circulate through the community, generating new tax revenue).

Thank you again for addressing our healthcare dilemma.

Respectfully Submitted,

Harry Kim  
MAYOR

To: Chair Rosalyn H. Baker  
Vice Chair Stanley Chang  
Members of the Senate Consumer Protection and Health Committee

From: Michael Traub, ND  
Legislative Committee Chair, Hawaii Society of Naturopathic Physicians

Re: SB2413, Relating to General Excise Tax Exemptions  
January 29, 2020, at 9:30AM, Conference Room 229

Position: STRONG SUPPORT

As this bill states, “the general excise tax is levied on nearly every economic activity, which, due to the tax's highly regressive structure, disproportionately affects low-income and middle-class families, increasing the difficulty for average families to afford basic life expenses, such as food and medical care.”

The Hawaii Society of Naturopathic Physicians believes that GET imposed on medical care contributes to healthcare inequities, disparities, and deficiencies for the majority of the citizens of Hawaii, and threatens Hawaii's distinction as “the healthiest state in the U.S.”

Removing the GET from medical services would be a step towards improving the lives of our people.

Please support the passage of this bill.

Mahalo.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Traub", with a long horizontal flourish extending to the right.

Michael Traub ND  
Legislative Committee Chair, Hawaii Society of Naturopathic Physicians



1050 Bishop St. PMB 235 | Honolulu, HI 96813  
P: 808-533-1292 | e: info@hawaiiifood.com

#### Executive Officers

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**Toby Taniguchi**, KTA Superstores, *Advisor*

---

TO:

Committee on Commerce Consumer Protection and Health  
Senator Rosalyn H. Baker, Chair, Chair  
Senator Stanley Chang, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION  
Lauren Zirbel, Executive Director

DATE: January 29, 2020  
TIME: 9:30am  
PLACE: Conference Room 229

RE: SB2413 RELATING TO GENERAL EXCISE TAX EXEMPTIONS

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

We support this measure to exempt groceries medical services and feminine hygiene products from the GET. This is a commonsense way to immediately bring down the cost of living for all Hawaii residents. This measure will have the greatest benefit for lower income Hawaii households, who spend a larger proportion of their income on food and other essential items.

Food is a major expense for Hawaii families. In 2014, the average spent on food annually for a two-person household was \$9,978 in Maui county; \$9,901 in Kauai county; \$9,467 in Honolulu county; and \$7,676 in Hawaii county. As this bill points out average two-person household would save over \$400 each year if food were exempt from the general excise tax, which is significantly more than the existing food income tax credit for low-income families. Larger households would have an even greater savings.

Thirty-two states plus the District of Columbia exempt groceries from their sales taxes, and another six states tax groceries at lower rates than other goods. It is time for Hawaii to join this majority.

Hawaii's high cost of living is a constant topic of conversation and each year we see a lot of bills that try to address one segment of this problem or another. Exempting groceries from the GET is a comprehensive solution that would actually make it less expensive to live in Hawaii.

Saving 4.712% on their grocery bill would mean that Hawaii families can put that money towards things like buying more fruits and vegetables, saving for retirement, and investing in their communities. Keeping the money in the local economy and in the hands of people that need it benefits everyone. In fact, it would benefit lower income households the most. Lower income families spend a significantly higher percentage of their income on food. Removing food from the GET would also save the state some money by eliminating the need for the Refundable Food Excise Tax Credit.

For these reasons we encourage you to vote yes on this measure, we thank you for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemptions for Food, Medical Services, Feminine Hygiene Products

BILL NUMBER: SB 2413

INTRODUCED BY: FEVELLA, KANUHA, RIVIERE, RUDERMAN, Ihara, K. Kahele, Keith-Agaran, J.Keohokalole, Kim, Moriwaki, Nishihara, Shimabukuro, Wakai

EXECUTIVE SUMMARY: Enacts GET exemptions for food items, medical services, and feminine hygiene products. The revenue impact could be considerable.

SYNOPSIS: Adds a new section to HRS chapter 237 to exempt gross proceeds or income arising from the manufacture, production, packaging, and sale of food items within the State. Food items generally mean food or food products for home consumption, except alcoholic beverages, tobacco, and food products prepared at the place of sale or at another location and sold primarily for immediate or nearly immediate consumption. Exceptions are provided for meals delivered to the elderly, disabled, those in domestic violence shelters, or the homeless.

Adds a new section to HRS chapter 237 to exempt gross proceeds arising from the sale of medical services, generally defined as services provided by a person licensed under any of the several HRS chapters that regulate medical services.

Adds a new section to HRS chapter 237 to exempt gross proceeds arising from the sale of feminine hygiene products. Defines "feminine hygiene product" as a sanitary napkin, sanitary towel, tampon, panty liner, douche, feminine hygiene syringes, menstrual cup, sanitary pad, or vaginal creams, foams, ointments, jellies, powders, and sprays used for hygiene purposes.

EFFECTIVE DATE: July 1, 2020.

STAFF COMMENTS: The bill is intended to exempt all groceries and medical services from GET.

According to the State of Hawaii Data Book 2017 published by DBEDT (Table 13.37), food and beverages purchased for off-premises consumption in Hawaii totaled about \$5.576 billion in 2016 and \$5.826 billion in 2017. Exempting this category of consumption could cost 4.5% of this, or north of \$250 million.

According to the State of Hawaii Data Book 2017 published by DBEDT (Table 13.37), health care services expenditures totaled about \$9.245 billion in 2016 and \$9.857 billion in 2017. Many of these services are provided by GET-exempt hospitals. The revenue impact for the GET-taxable entities could be considerable.

Regarding feminine hygiene products, section 237-24.3(6), HRS, exempts the sale of prescription drugs and prosthetic devices already. The proposed new exemption appears to be



Re: SB 2413

Page 2

consistent with the rationale of this exemption, so the legislature may consider rephrasing this proposed exemption as an amendment to section 237-24.3(6), HRS.

Digested 1/26/2020

**SB-2413**

Submitted on: 1/27/2020 11:29:35 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jacqueline Hahn, ND	Testifying for Hilo Naturopathic Clinic, Inc	Support	No

Comments:

Medical bills are costly enough and tend to bankrupt elderly and sick Americans. Dropping excise tax on medical billing makes sense. I see first hand the harsh reality of medical expenses on fixed income patients, and any break in extra fees would translate to improved patient well being. Sincerely,

Dr. Jacqueline Hahn

**SB-2413**

Submitted on: 1/27/2020 11:20:17 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
danika odama	Testifying for Kona Health & Healing, LLC	Support	No

Comments:

As a business owner of a natural medicine clinic, I support this measure.

**SB-2413**

Submitted on: 1/27/2020 12:36:01 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
JoAnn Chisholm-Dueno	Testifying for Hearts For Animals Inc	Support	No

Comments:

To: Chair Rosalyn H. Baker

Vice Chair Stanley Chang

Members of the Senate Consumer Protection and Health Committee

From: JoAnn Dueno

Re: SB2413, Relating to General Excise Tax Exemptions

January 29, 2020, at 9:30AM, Conference Room 229

Position: STRONG SUPPORT

As this bill states, “the general excise tax is levied on nearly every economic activity, which, due to the tax's highly regressive structure, disproportionately affects low-income and middle-class families, increasing the difficulty for average families to afford basic life expenses, such as food and medical care.”

The Hawaii Society of Naturopathic Physicians believes that GET imposed on medical care contributes to healthcare inequities, disparities, and deficiencies for the majority of the citizens of Hawaii, and threatens Hawaii’s distinction as “the healthiest state in the U.S.”

Removing the GET from medical services would be a step towards improving the lives of our people.

Please support the passage of this bill.

Mahalo.

Sincerely,

JoAnn C. Dueno

HFAI

**SB-2413**

Submitted on: 1/27/2020 11:46:28 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bonnie Marsh	Testifying for UpCountry Doctor	Support	No

Comments:

Please pass this bill through for it effects Hawaiian citizens of all socioeconomic statuses, especially the poor.

Medical services and purchasing food are both basic needs that should not be taxed.

Mahalo for your consideration,

Dr. Bonnie Marsh

January 28, 2020

Senator Rosalyn Baker  
Chairman, Committee on Commerce, Consumer Protection, and Health

Senator Stanley Chang  
Vice Chair, Committee on Commerce and Consumer Affairs

RE: Testimony in SUPPORT of SB2413, Relating to GET Exemptions  
Hearing, Wednesday, January 29, 2020, 9:30 AM  
Conference Room 229

FROM: James A. Pleiss, DC  
Past President, Hawaii State Chiropractic Association  
2045 Main Street, Wailuku, Maui, Hawaii 96793  
808-242-8844

Dear Chairman Baker and Vice Chair Chang:

Thank you for the opportunity to testify in support of SB2413.

The HSCA supports SB2413 which exempts the majority of healthcare practitioners to GET tax which will save money for the healthcare of the people of Hawaii.

Thank you for the opportunity to testify before your committee in support of SB2413.

---

James A. Pleiss, DC, DABCO  
Past President, Hawaii State Chiropractic Association

Council Chair  
Alice L. Lee

Vice-Chair  
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore  
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Tamara Paltin  
Shane M. Sinenci  
Yuki Lei K. Sugimura



Director of Council Services  
Traci N. T. Fujita, Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

January 26, 2020

TO: The Honorable Rosalyn Baker, Chair  
Senate Committee on Commerce, Consumer Protection, and Health

FROM: Tamara Paltin, Councilmember for West Maui  
Maui County Council

SUBJECT: **HEARING OF JANUARY 29, 2020; SUPPORT OF SB 2413, RELATING  
TO GENERAL EXCISE TAX EXEMPTIONS**

Thank you for the opportunity to offer testimony in **SUPPORT** of this important measure. The purpose of this bill establishes general excise tax exemptions for food, medical services, and feminine hygiene products.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this support in my capacity as an individual member of the Maui County Council.

Recognizing the increasing hyper economy of Hawai'i and the regressive structure of general excise tax levied on nearly all economic activity in the state, I support establishing exemptions on food, medical services, and feminine hygiene products. The passing of this measure will assist the vulnerable in our low and middle income families and further ensure these families can better afford basic life expenses.

Thank you, once again, for the opportunity to testify and for your consideration.



**SB-2413**

Submitted on: 1/27/2020 12:33:15 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alex Steelsmith	Individual	Support	No

Comments:

To: Chair Rosalyn H. Baker, Vice Chair Stanley Chang, and Members of the Senate Consumer Protection and Health Committee

Re: SB2413, Relating to General Excise Tax Exemptions  
January 29, 2020, at 9:30AM, Conference Room 229

Position: SUPPORT

Dear Chair Rosalyn H. Baker, Vice Chair Stanley Chang, and Members of the Senate Consumer Protection and Health Committee,

As this bill states, “the general excise tax is levied on nearly every economic activity, which, due to the tax's highly regressive structure, disproportionately affects low-income and middle-class families, increasing the difficulty for average families to afford basic life expenses, such as food and medical care.”

The Hawaii Society of Naturopathic Physicians believes that GET imposed on medical care contributes to healthcare inequities, disparities, and deficiencies for the majority of the citizens of Hawaii, and threatens Hawaii’s distinction as “the healthiest state in the U.S.”

Removing the GET from medical services would be a step towards improving the lives of our people. Please support the passage of this bill.

Thank you,  
Alex Steelsmith

**SB-2413**

Submitted on: 1/27/2020 12:39:31 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Corinne Maul De Soto	Individual	Support	No

Comments:

I support bill SB2413 to remove general exise tax (GET) from medical services. Health services are an essential service for our public and as such should not be subject to taxation. I am a primary care physician, and many of my patients struggle to cover their medical expenses without being subject to additional burden from the state. Please consider offsetting this revenue stream from raising GET from non-essential services to the public like sugary-drinks.

**SB-2413**

Submitted on: 1/27/2020 11:44:52 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dean Shivers	Individual	Support	Yes

Comments:

Dear Senator Baker:

I support SB2413 which establishes general excise tax exemptions for food, medical services and feminine hygiene products.

These products and services are essentials of everyday living, not optional or luxury type of items. Most states throughout the nation recognize the special status of food supplies and health care services as vital for existence and provide exemption from taxation on these items.

I urge your committee and the entire legislature to support and pass this measure in its present form. I applaud the simple, direct language and intent of this bill.

Dean Shivers

**SB-2413**

Submitted on: 1/27/2020 12:50:23 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Erin Heidrich L.Ac	Individual	Support	No

Comments:

As an Acupuncturist I would love for my patients to not have to pay taxes on medical services. It makes it even more affordable in an already expensive medical climate.

Mahalo

**SB-2413**

Submitted on: 1/27/2020 11:52:01 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gil Winkelman	Individual	Support	No

Comments:

Vice Chair Stanley Chang

Members of the Senate Consumer Protection and Health Committee

From: Gil Winkelman, ND

Re: SB2413, Relating to General Excise Tax Exemptions

January 29, 2020, at 9:30AM, Conference Room 229

Position: STRONG SUPPORT

As this bill states, “the general excise tax is levied on nearly every economic activity, which, due to the tax’s highly regressive structure, disproportionately affects low-income and middle-class families, increasing the difficulty for average families to afford basic life expenses, such as food and medical care.”

I believe that GET imposed on medical care contributes to healthcare inequities, disparities, and deficiencies for the majority of the citizens of Hawaii, and threatens Hawaii’s distinction as “the healthiest state in the U.S.”

Removing the GET from medical services would be a step towards improving the lives of our people.

Please support the passage of this bill.

Mahalo.

Sincerely,

**Dr. John Lauris Wade**  
**Legislative Liaison Hawaii Radiologic Society**  
**Member Hawaii Physician Shortage Task Force**

## **Hawaii SB 2413 Relating to General Excise Tax Exemptions**

### **Testimony**

The Hawaii Radiologic Society and the Hawaii Physician Shortage Task Force appreciate the opportunity to testify on behalf of SB 2413. Regressive taxes on healthcare, basic food, and feminine hygiene products disproportionately and adversely affect low-income and middle class families. While exemptions for basic food and hygiene products are self explanatory, the need for an exemption on healthcare services deserves closer examination.

The Legislature has recognized the findings of the Annual Report on Findings from the Hawai'i Physician Workforce Assessment Project. The Report to the 2020 Legislature determined that there is a serious 24% Physician Shortage in the State of Hawai'i. The Neighbor Island shortage is more severe and measures 44% in Hawaii County, 36% in Maui County, and 32% in Kauai County. Federal Government has validated the shortage and designated Hawaii, Maui and Kauai Counties as Health Professional Shortage Areas. Hawai'i's Congressional Delegation has written to the Centers for Medicare and Medicaid Services and recognizes the risk to our most vulnerable communities. The Legislature should recognize the Physician Shortage will worsen unless mitigating steps are taken immediately.

General Excise Tax and County Surcharges are levied on Hawai'i businesses on the sale of goods and services. The tax applies to medical services provided by group and private practice physicians. Hawai'i is the only state in the nation broadly taxing medical services in this way.

General Excise Tax and County Surcharges are applied to the gross receipts of Hawai'i medical practices without regard to the high costs of providing medical services in a high cost State. Community physicians are operating small businesses with narrow profit margins. Medicare, Medicaid and Private Insurer payments for Medical Services are well below national levels. The General Excise Tax and County Surcharges make some

medical practices unviable and result in practice closures. Surviving practices find it difficult or impossible to recruit and retain new or younger physicians.

General Excise Tax and County Surcharges are highly regressive forms of taxation and disproportionately and adversely affect low-income and middle class families struggling to cope with the state's high cost of living. Physicians who receive Medicare, Medicaid, and Tricare payments are subject to the General Excise Tax and may recoup this cost from patients as a way to recover the expense. Most physicians do not currently pass this cost along to patients. This shifts the tax burden from patient to provider. However, with medical practices under immense financial pressure, this may soon change. This would result in state taxation of patients needing surgical or medical treatments at a time when their families are most vulnerable.

General Excise Tax and County Surcharges currently exempt hospitals and their employed physicians. The Legislature should recognize that hundreds of rural hospitals have closed nationwide. Despite an exemption, many Hawai'i hospitals continue to operate at a loss. The few profitable hospitals are barely so. Imposing GET on hospitals would result in nearly all hospitals having negative margins, essentially taxing the institutions out of existence and significantly impairing patient access to healthcare. The Legislature should acknowledge the same principal applies to all medical services. In order to safeguard patient access to care, The General Excise Tax and County Surcharges should exempt medical services performed within group and private practices.

General Excise Tax and County Surcharges on medical services are not considered in the United States Centers for Medicare and Medicaid Services Physician Fee Schedule. The GET effectively reduces the Medicare Geographic Practice Cost Index and resultant Medicare healthcare payments by 4.5%. As a result, Hawai'i providers have the worst Medicare reimbursement in the Nation. The GET tax's adverse effects on medical providers are further compounded by high corporate and individual income tax rates.

General Excise Tax and County Surcharges contribute to a Statewide Physician Shortage Crisis. Effects vary from island to island. Hawaii County is in a Healthcare Access State of Emergency and suffers a 44%



shortage of physicians. This will worsen. 32% of Big Island physicians are age 65 years or older and approaching retirement. Meanwhile the Big Island population is projected to cross 300,000 by 2045 and the shortage will soon exceed 50%. A projected net increase of 440 physicians will be needed to serve Hawaii County alone.

General Excise Tax and County Surcharges contribute to a statewide Physician Shortage of 820. As such, the GET damages the state economy. The 2018 American Medical Association study on the National Economic Impact of Physicians indicates every Physician in the U.S. generates \$3,166,901 in aggregate economic output, 17 new jobs, \$1,417,958 in total wages and benefits and \$126,129 in state and local tax revenues. 830 new doctors in Hawaii could reasonably be expected to generate \$2.6 billion in aggregate economic output, 13,940 new jobs, \$1.1 billion in wages and benefits, and \$100 million in state and local tax revenue.

In summary.....

The General Excise Tax and County Surcharges on Medical Services:

1. Contribute to an ongoing Physician Shortage Crisis.
2. Negatively impact Patient Access to Care.
3. Negatively impact Medical Practice Viability.
4. Disproportionately and adversely affect low income and middle class families through a highly regressive form of taxation.
5. Result in Hawai'i having the worst Medicare Reimbursement in the Nation.
6. Damages the State Economy.

**SB-2413**

Submitted on: 1/25/2020 7:38:40 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Lee Buenconsejo-Lum	Individual	Support	No

Comments:

**To: Chair John M. Mizuno  
Vice Chair Bertrand Kobayashi  
Members of the Committee on Health**

**From: Dr. Rachel Klein, Hilo, Hawai'i**

**Re: HB1797, Relating to Medical Cannabis  
January 28, 2020, at 8:35 am, Conference Room 329**

**Position: STRONG SUPPORT**

Current Hawaii law states allows a Hawaii-licensed Medical Doctor, Doctor of Osteopathy, or Advanced Practice Registered Nurse to certify a patient for the Medical Cannabis Program.

The proposed legislation would allow Naturopathic Physicians to certify a patient for the Medical Cannabis Program by amending the law to authorize Naturopathic Physicians to obtain a Drug Enforcement Agency (DEA) number and a Hawaii Controlled Substance License.

Naturopathic Physicians are experts in the use of botanical medicines including potential interaction with other medications. Therefore, allowing Naturopathic Physicians to certify qualifying patients for medical cannabis is a safe and effective way of increasing access to healthcare for these patients in need.

**How and Why do Naturopathic Doctors Use Botanical Medicine?<sup>1</sup>**

Botanical medicine, also known as herbal medicine, is the science and practice of using medicinal plants and extracts to improve overall health, support wellness, and treat acute and chronic disease. Many conventional pharmaceutical drugs are derived from plants. Modern botanical medicine combines evidence-based science along with centuries-old experience to provide safe and effective treatments that support the body's ability to heal.

Botanical medicines are complex substances that differ in many ways from pharmaceutical drugs. There may be multiple active constituents, some that may have potential for dose-dependent toxicity. Botanical medicine may be contaminated in the growing or harvesting or manufacturing processes. They may be adulterated. They may interact with prescription drugs in positive or negative ways.

**Naturopathic physicians are experts in botanical medicine and understand these complexities and how to use medicinal plants safely.**

Cannabis is a perfect example of a complex plant that requires a different understanding than that required for a pharmaceutical cannabis-derived drug. In many other states, naturopathic physicians are authorized to prescribe cannabis and certify patients for medicinal cannabis. This authority comes with the responsibility of knowing what conditions may benefit from cannabis products, as well as conditions for which cannabis may be of no use.

Botanical medicine expands treatment options for patients. Alone or in combination with other naturopathic treatments, botanical medicines can be a safe, appropriate, and effective choice for addressing numerous health concerns ranging from frequent illness to gastrointestinal discomfort to depression, and more. During medical school, NDs complete an average of 130 classroom hours of botanical medicine education.

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<sup>1</sup> Patricia Gaines, ND, and Sheila Kingsbury, ND, *How and Why do Naturopathic Doctors Use Botanical Medicine?* (American Association of Naturopathic Physicians and the Institute for Natural Medicine, FAQs)

A cornerstone of naturopathic medicine, botanical medicine is one of the most effective therapies that licensed naturopathic doctors (NDs) use to gently and safely treat illness while minimizing the risk of harmful side effects

Botanical medicine is taught in a series of courses that build upon each other through an ND's four-year, science-based medical education. Naturopathic medical schools are accredited and are recognized by the United States Department of Education. In addition to classroom study, naturopathic medical students refine and apply learnings in various settings, including over 1,200 hours of clinical rotations with patients.

### **Naturopathic Botanical Medicine Curriculum**

Through this rigorous curriculum, naturopathic doctors learn how to choose and effectively prescribe herbal medicines to treat the underlying cause(s) of illness, minimize side effects and drug interactions, and individualize doses and formulations for the maximum therapeutic benefit. Core areas of focus in naturopathic botanical medicine curriculum include:

- History and current use of Western herbal medicine
- Herbal properties and actions of plants
- Herbal constituents (compounds that have medicinal properties), medicinal actions (function in the body), and indications
- Critical evaluation of literature and research in regard to both efficacy and interactions/contraindications of botanical medicines
- Optimal extraction and delivery for a variety of plants
- Botanical prescription writing
  - Organ systems-based botanical medicine formulation and topical application, including gastrointestinal, respiratory, immune, cardiovascular, ears/eyes/nose/throat, reproductive, urinary, endocrine, musculoskeletal, and nervous systems
- Choosing, assessing and preparing herbal medicine in various forms including aqueous extracts, tinctures, herbal oils and salves, syrups, capsules, oxymels, poultices, and compresses. This includes evaluating comparable advantages and disadvantages of each type of preparation
- Dose ranges, contraindications, toxicity, side effects, and interactions
- Sustainability of herbal medications
- Effective creation of individualized formulas for patients
- Translation of labels to determine the purpose and application of over-the-counter herbal products

This comprehensive training combined with a focus on treating the whole person—mind, body, and spirit—enables naturopathic doctors to utilize botanical medicine when best suited to effectively treat the patient based on their diagnosis and presentation. By spending extra time to evaluate and diagnose patients and then drawing on a spectrum of therapies including botanical medicine, clinical nutrition, and behavioral and lifestyle medicine, naturopathic doctors tailor comprehensive treatment to each patient, with a close eye on safety.

In addition to being experts in botanical medicine, naturopathic physicians are primary physicians and manage prescriptions for many of their patients. Adding naturopathic physicians to the provider types eligible to certify patients for the Hawaii Medical Cannabis program would increase access to healthcare and benefit the people of Hawaii for whom medical cannabis may be a good therapeutic option.

**SB-2413**

Submitted on: 1/27/2020 3:48:09 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Grosskreutz, M.D.	Testifying for Hawaii Physician Shortage Crisis Task Force	Support	No

Comments:

The Hawaii Physician Shortage Task Force agrees that there are significant issues with food security and supports the intent of this bill. At this time, the severe shortage of health care providers is felt the most urgent challenge facing Hawaii Island.

Hawaii has a statewide critical shortage of physicians, estimated at 820 currently. The Big Island has a 44% shortage of 231 doctors. We estimate this shortage worsening to 440 doctors by 2040, as Hawaii County's population is projected to increase to 310,000. Currently many local students leave Hawaii for medical school or residency, never to return. Therefore new solutions must be considered to solve our healthcare access crisis.

Currently due to the high costs of providing medical services, low levels of reimbursements and high levels of taxation, starting a private practice in Hawaii is unattractive to many new doctors. Many medical practices operate on razor thin margins, especially for treating Medicare and Medicaid patients. The 4.7% GET and County surcharges on gross practice revenues often strip away any profit margin, and place many private practice budgets in the red. This results in doctors leaving Hawaii and closing their practice. Hawaii's hospitals and hospital employed physicians are already exempt from the GET. Taxing our struggling hospitals, with their narrow profit margins with the GET would place nearly every Hawaii hospital in the red and resulting in closure or reduction of services. Already several major hospital systems are losing tens of millions of dollars annually. If taxing hospital employed doctors is recognized as being highly detrimental to healthcare access, how can

taxing private practice providers make any sense?!

No other U.S. state taxes healthcare benefits to this extent or degree. Hawaii's unique GET tax is a regressive tax, often paid by sick and injured patients struggling with finances and unable to work. When this tax is absorbed by doctors and other providers, it frequently is a practice killer.

it is likely that by making private practice of medicine in Hawaii increasingly unsustainable, the GET actually lowers the overall amount of tax revenue that would be raised if Hawaii could successfully recruit the 820 needed physicians. According to a AMA study, each physician's medical practice results in over 3 million in increased economic activity, provides an estimated 17 jobs in the community and increases state and local tax revenues by \$126,000.

Doctors trained in the U.S. typically have educational debt in the hundreds of thousands of dollars. I would love for my daughter and son-in-law, both in residency training on the mainland, to practice in Hawaii. But with \$400,000 of debt between them, they would have to choose between buying a home or paying their loans in Hawaii, with our local levels of reimbursement. But we must recruit new doctors to avoid a worsening access to healthcare crisis. Hawaii has the second oldest physician workforce in the U.S.. On Hawaii Island, a third of practicing doctors are age 65 or older, and often forgoing retirement, as there are no new providers to care for their patients.

The result is a severe crisis with access to healthcare on Hawaii Island, with many patients without a primary care provider going to the hospital ER for even routine healthcare. Our healthcare delivery is already severely strained. The addition of any healthcare crisis, such as coping with an epidemic would likely exceed our current resources.

The timeframe to address these challenge is now, this session. Thank you to our Big Island Representatives, and

Senators, and Mayor Kim for their strong support to address this crisis!

**SB-2413**

Submitted on: 1/27/2020 11:49:10 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa Hernandez	Individual	Support	No

Comments:

Dear Senator Baker:

I support SB2413 which establishes general excise tax exemptions for food, medical services and feminine hygiene products.

These products and services are essentials of everyday living, not optional or luxury type of items. Most states throughout the nation recognize the special status of food supplies and health care services as vital for existence and provide exemption from taxation on these items.

I urge your committee and the entire legislature to support and pass this measure in its present form. I applaud the simple, direct language and intent of this bill.



**SB-2413**

Submitted on: 1/27/2020 8:01:06 PM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carrie Brennan, N.D.	Individual	Support	No

Comments:

To: Chair Rosalyn H. Baker

Vice Chair Stanley Chang

Members of the Senate Consumer Protection and Health Committee

From: Carrie Brennan, ND

Re: SB2413, Relating to General Excise Tax Exemptions

January 29, 2020, at 9:30AM, Conference Room 229

Position: STRONG SUPPORT

As this bill states, “the general excise tax is levied on nearly every economic activity, which, due to the tax's highly regressive structure, disproportionately affects low-income and middle-class families, increasing the difficulty for average families to afford basic life expenses, such as food and medical care.”

The Hawaii Society of Naturopathic Physicians believes that GET imposed on medical care contributes to healthcare inequities, disparities, and deficiencies for the majority of the citizens of Hawaii, and threatens Hawaii’s distinction as “the healthiest state in the U.S.”

Removing the GET from medical services would be a step towards improving the lives of our people.

Please support the passage of this bill.

Mahalo.

Sincerely,

Carrie Brennan, ND

**SB-2413**

Submitted on: 1/28/2020 7:48:31 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michelle Mitchell	Individual	Support	No

Comments:

**SB-2413**

Submitted on: 1/27/2020 9:12:01 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dr. Rachel Klein	Individual	Support	No

Comments:

As this bill states, “the general excise tax is levied on nearly every economic activity, which, due to the tax's highly regressive structure, disproportionately affects low-income and middle-class families, increasing the difficulty for average families to afford basic life expenses, such as food and medical care.”

I believe that GET imposed on medical care contributes to healthcare inequities, disparities, and deficiencies for the majority of the citizens of Hawaii, and threatens Hawaii’s distinction as “the healthiest state in the U.S.”

Removing the GET from medical services would be a step towards improving the lives of our people.

Please support the passage of this bill.

**SB-2413**

Submitted on: 1/28/2020 8:02:23 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Loren Tsugawa	Individual	Support	No

## Comments:

I support this bill because as a Big Island resident, I'm concerned over the doctor shortage we are experiencing and projected to get worse. This bill is in the right direction to help solve that problem.

**SB-2413**

Submitted on: 1/28/2020 8:12:26 AM

Testimony for CPH on 1/29/2020 9:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Obadiah Elkins	Individual	Support	No

Comments:

Kelley Withy, MD, PhD

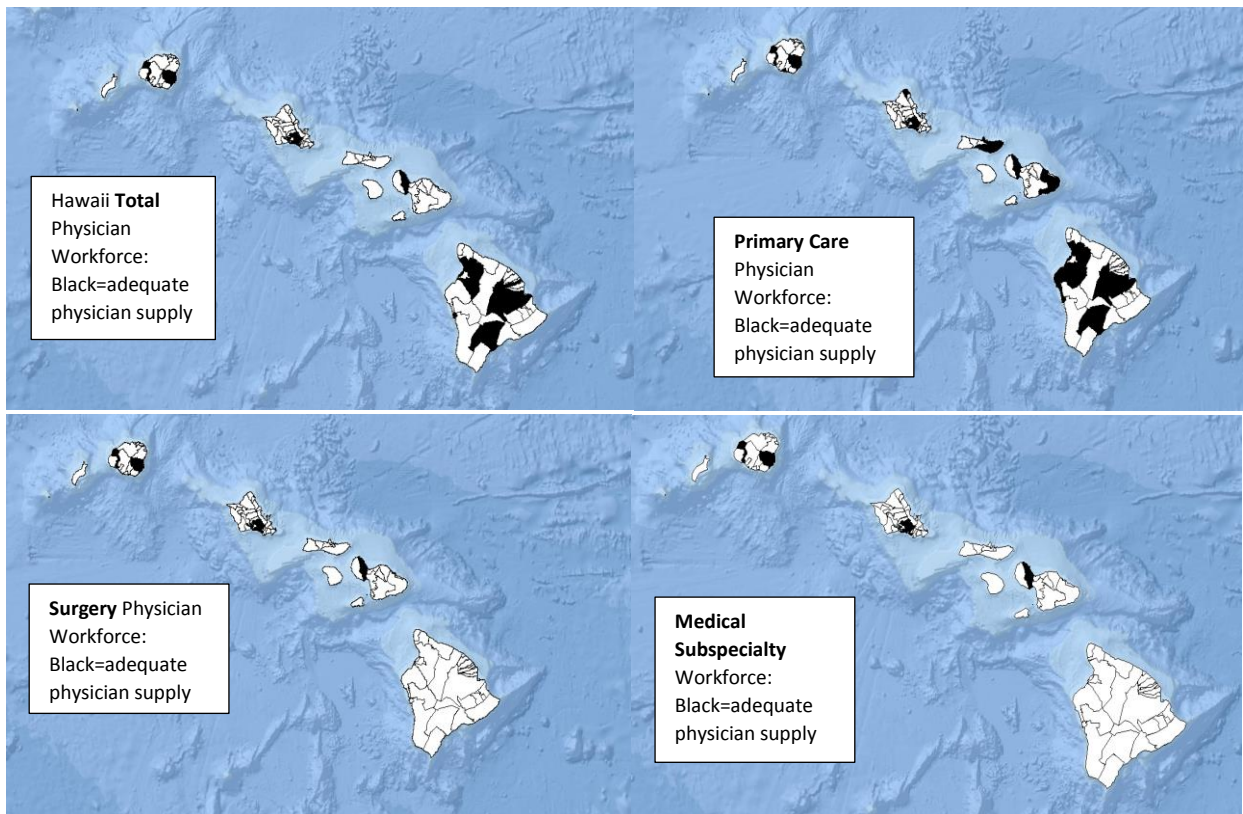
January 28, 2020

RE: SB2413 In Support

Dear Senator Baker and Senator Chang,

As you have heard my say many times, we have a severe shortage of physicians, as well as nurse practitioners, physician assistants and almost all types of healthcare providers. There are many reasons for this, but the number one reason is high cost of living and low reimbursement for services/pay. For physicians with private offices, it is very difficult to make ends meet. I know it sounds funny to say that doctors are not making much money, BUT IT'S TRUE for many small practices in Hawaii. We have dozens of solo and small practice owners in Hawaii who have told me that they may have to close their practices because of the high overhead and low reimbursement. Unfortunately I have watched many practice do just that. This includes primary care, surgery and specialty care.

Some people say, "That's okay, they should close their medical practice and work for a larger medical group, it's more efficient." BUT, what if there is no large medical group in their area? If they close their office, then there is NOBODY to help the patients in that area. Below I provide the latest maps of where the physician shortages are in Hawaii, and to my eye it looks like the greatest shortages and biggest need are where we have less representation from large medical groups. Therefore we must help the small and solo practices survive.



I applaud your efforts in introducing this bill, because it will eliminate the double tax on doctors taking care of Medicare and Medicaid patients. My understanding is that the GET is charged on all goods and services. Therefore it is charged on all supplies, rent and employees a doctor pays. Then, when a doctor supplies services, s/he has to charge excise tax on that service. BUT, Medicare and Medicaid won't let any doctor charge more than their accepted rate. So the doctor can't charge the tax and absorbs that cost (pays it him/herself basically). I believe that hospitals and hospital clinics are exempt from this, so I believe that small and solo practices should be exempted too, as they are suffering. We need to keep these practices open to care for the patients in Hawaii!

I offer my full support for SB 2413. Thank you for your time considering this! Kelley Withy, MD, PhD