
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL RESPONSE TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that under the Hawaii
2 Constitution, the State is responsible for providing its people
3 with a healthful environment; protecting the public health;
4 conserving and protecting the natural beauty and natural
5 resources of the state, including the land, water, air,
6 minerals, and energy resources; balancing the development and
7 conservation of the State's natural resources; and protecting
8 the State's marine resources and water resources.

9 In an effort to meet these constitutional responsibilities,
10 the State established a long-term energy strategy that includes:

- 11 (1) Providing dependable, efficient, and economical
12 statewide energy systems that are capable of
13 supporting the needs of the people and increasing
14 energy self-sufficiency and energy security;
- 15 (2) Establishing greenhouse gas and energy consumption
16 reduction goals for state facilities and requiring the
17 use of energy-efficient products in state facilities;



- 1 (3) Providing incentives for the deployment of energy-
2 efficient devices and renewable energy technologies;
- 3 (4) Establishing an enforceable renewable energy portfolio
4 standard under which a percentage of Hawaii's
5 electricity is to be generated from renewable
6 resources;
- 7 (5) Reducing greenhouse gas emissions from the energy
8 supply and energy use;
- 9 (6) Increasing hydrogen and biofuel research and use in
10 the state; and
- 11 (7) Supporting the achievement of alternate fuel
12 standards.

13 While the State has made great strides in the last several
14 years to update its long-term energy strategy and give key state
15 agencies direction regarding the energy objectives that need to
16 be met, the legislature finds that committed financial resources
17 are necessary to develop a long-term energy strategy to secure a
18 sustainable energy future for Hawaii.

19 In 1991, the Hawaii integrated energy policy found that
20 adequate staffing, funding, and relevant statutory authority are
21 more important to effective state energy management than a
22 specific organizational option. Similarly, a 1995 feasibility



1 study by the legislative reference bureau determined that the
2 creation of an energy commission would be expensive and
3 counterproductive. The recommendation was to periodically
4 review the energy resource coordinator and the energy division's
5 progress toward completing projects intended to further the
6 state energy objectives.

7 The legislature further finds that for decades, the energy
8 program within the strategic industries division of the
9 department of business, economic development, and tourism
10 stewarded Hawaii's federal oil overcharge funds, known as
11 petroleum violation escrow funds, and invested these funds in
12 energy projects and program activities. These funds supported
13 the energy program's ability to develop innovative policy
14 initiatives, including programs that focused on energy emergency
15 preparedness, ethanol, and biofuels strategies.

16 However, the legislature further finds that in recent
17 years, as the energy program's assignments and functions have
18 expanded, it has become much more difficult to maintain and
19 improve the program's effectiveness due to declining federal
20 funding. This situation has resulted in diminished program
21 budgets and reduced staff positions. Currently, oil overcharge
22 funds support 66.6 per cent of the strategic industries



1 division's energy program budget, but the availability of these
2 funds is diminishing, and the funds will be exhausted in
3 approximately four years at the current expenditure rate.

4 Furthermore, Act 253, Session Laws of Hawaii 2007,
5 established the energy systems development special fund, to be
6 administered by the Hawaii natural energy institute, for the
7 purpose of developing an integrated approach and portfolio
8 management of renewable energy and energy-efficiency technology
9 projects that would reduce Hawaii's dependence on fossil fuels
10 and imported oil and other imported energy resources and move
11 Hawaii toward energy self-sufficiency. No funding for this
12 important endeavor has been appropriated, therefore a portion of
13 the environmental response and energy security tax will be
14 dedicated for this purpose.

15 The legislature further finds that the success of achieving
16 Hawaii's energy policy objectives is dependent on adequate
17 funding and staff and, in light of waning federal funds,
18 increased state funding is necessary to support core energy
19 program functions, as well as to carry out other mandates passed
20 in previous years.

21 The purpose of this Act is to provide additional funding
22 for the energy initiatives to carry out Hawaii's long-term



1 energy strategy through the environmental response and energy
2 security tax and energy security special fund to secure a
3 sustainable energy future for Hawaii.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new section to be appropriately designated and to read
6 as follows:

7 "§ -A Energy security special fund; uses. (a) There is
8 created within the state treasury an energy security special
9 fund, which shall consist of:

10 (1) Moneys appropriated to the fund by the legislature;

11 (2) All interest attributable to investment of money
12 deposited in the fund;

13 (3) Moneys generated by the environmental response and
14 energy security tax pursuant to section 243-3.5; and

15 (4) Moneys allotted to the fund from other sources;

16 provided that any amount to be deposited into the energy
17 security special fund from the revenues collected pursuant to
18 section 243-3.5 that causes the energy security special fund to
19 exceed \$10,000,000 shall be deposited into the general fund. No
20 further deposits from the revenues collected pursuant to section
21 243-3.5 shall be made into the energy security special fund
22 until the balance of the energy security special fund drops



1 below \$5,000,000, in which event the appropriate portion of the
2 revenues collected pursuant to section 243-3.5 shall be
3 deposited into the energy security special fund until the
4 balance equals \$10,000,000.

5 (b) Moneys from the fund shall be expended by the
6 department of business, economic development, and tourism for
7 its energy program, including projects that ensure dependable,
8 efficient, and economical energy, promote energy self-
9 sufficiency, and provide greater energy security for the state."

10 SECTION 3. Section 128D-2, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§128D-2 Environmental response revolving fund; uses. (a)**
13 There is created within the state treasury an environmental
14 response revolving fund, which shall consist of moneys
15 appropriated to the fund by the legislature, moneys paid to the
16 fund as a result of departmental compliance proceedings, moneys
17 paid to the fund pursuant to court-ordered awards or judgments,
18 moneys paid to the fund in court-approved or out-of-court
19 settlements, all interest attributable to investment of money
20 deposited in the fund, moneys generated by the environmental
21 response and energy security tax established in section 243-3.5,
22 and moneys allotted to the fund from other sources; provided



1 ~~that [when the total balance of the fund exceeds \$20,000,000,~~
2 ~~the department of health shall notify the department of taxation~~
3 ~~of this fact in writing within ten days. The department of~~
4 ~~taxation then shall notify all distributors liable for~~
5 ~~collecting the tax imposed by section 243-3.5 of this fact in~~
6 ~~writing, and the imposition of the tax shall be discontinued~~
7 ~~beginning the first day of the second month following the month~~
8 ~~in which notice is given to the department of taxation. If the~~
9 ~~total balance of the fund thereafter declines to less than~~
10 ~~\$3,000,000, the department of health shall notify the department~~
11 ~~of taxation which then shall notify all distributors liable for~~
12 ~~collecting the tax imposed by section 243-3.5 of this fact in~~
13 ~~writing, and the imposition of the tax shall be reinstated~~
14 ~~beginning the first day of the second month following the month~~
15 ~~in which notice is given to the department of taxation.] any~~
16 amount to be deposited into the environmental response revolving
17 fund from the revenues collected pursuant to section 243-3.5
18 that causes the environmental response revolving fund to exceed
19 \$20,000,000 shall be deposited into the general fund. No
20 further deposits from the revenues collected pursuant to section
21 243-3.5 shall be made into the environmental response revolving
22 fund until the balance of the environmental response revolving



1 fund drops below \$3,000,000, in which event the appropriate
2 portion of the revenues collected pursuant to section 243-3.5
3 shall be deposited into the environmental response revolving
4 fund until the balance equals \$20,000,000.

5 (b) Moneys from the fund shall be expended by the
6 department for response actions and preparedness, including
7 removal and remedial actions, consistent with this chapter;
8 provided that the revenues generated by the [u]environmental
9 response and energy security tax[u] and deposited into the
10 environmental response revolving fund:

11 (1) Shall also be used:

12 (A) For oil spill planning, prevention, preparedness,
13 education, research, training, removal, and
14 remediation; and

15 (B) For direct support for county used oil recycling
16 programs;

17 and

18 (2) May also be used to support environmental protection
19 and natural resource protection programs, including
20 but not limited to [~~energy conservation and~~
21 ~~alternative energy development, and to address~~]
22 addressing concerns related to air quality, global



1 warming, clean water, polluted runoff, solid and
2 hazardous waste, drinking water, and underground
3 storage tanks, including support for the underground
4 storage tank program of the department and funding for
5 the acquisition by the State of a soil remediation
6 site and facility."

7 SECTION 4. Section 243-3.5, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§243-3.5 Environmental response and energy security tax;
10 **uses.** (a) In addition to any other taxes provided by law,
11 subject to the exemptions set forth in section 243-7, there is
12 hereby imposed [~~at times provided in section 128D-2~~] a state
13 environmental response and energy security tax of [5] 20 cents
14 on each barrel or fractional part of a barrel of petroleum
15 product sold by a distributor to any retail dealer or end user,
16 other than a refiner, of petroleum product [~~; provided that~~
17 ~~_____ cents of the tax on each barrel shall be used pursuant to~~
18 ~~section 128D-2 to address concerns relating to drinking water~~].
19 The tax imposed by this subsection shall be paid by the
20 distributor of the petroleum product.



1 (b) Revenues collected pursuant to this section shall be
2 distributed as follows, with the excess revenues, if any, to be
3 deposited into the general fund:

4 (1) 5 cents of the revenue collected on each barrel shall
5 be deposited into the environmental response revolving
6 fund established in section 128D-2; provided that
7 cents of the tax on each barrel shall be used pursuant
8 to section 128D-2 to address concerns relating to
9 drinking water;

10 (2) 12.5 cents of the revenue collected on each barrel
11 shall be deposited into the energy security special
12 fund established in section -A; and

13 (3) 2.5 cents of the revenue collected on each barrel
14 shall be deposited into the energy systems development
15 special fund established in section 304A-2169.

16 ~~[(b)]~~ (c) Each distributor subject to the tax imposed by
17 subsection (a), on or before the last day of each calendar
18 month, shall file with the director, on forms prescribed,
19 prepared, and furnished by the director, a return statement of
20 the tax under this section for which the distributor is liable
21 for the preceding month. The form and payment of the tax shall



1 be transmitted to the department of taxation in the appropriate
2 district.

3 ~~[(e)]~~ (d) Notwithstanding section 248-8 to the contrary,
4 the environmental response and energy security tax collected
5 under this section shall be paid over to the director of finance
6 for deposit ~~[into the environmental response revolving fund~~
7 ~~established by section 128D-2.]~~ pursuant to subsection (b).

8 ~~[(d)]~~ (e) Every distributor shall keep in the ~~[State]~~ state
9 and preserve for five years a record in such form as the
10 department of taxation shall prescribe showing the total number
11 of barrels and the fractional part of barrels of petroleum
12 product sold by the distributor during any calendar month. The
13 record shall show such other data and figures relevant to the
14 enforcement and administration of this chapter as the department
15 may require."

16 SECTION 5. Section 304A-2169, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

- 18 "(b) The special fund shall be funded by:
- 19 (1) Appropriations from the legislature; ~~[and]~~
 - 20 (2) Investment earnings, gifts, donations, or other income
21 received by the ~~[+]Hawaii natural energy[+]~~
22 institute[-]; and



1 (3) Moneys generated by the environmental response and
2 energy security tax pursuant to section 243-3.5."

3 SECTION 6. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2008-2009 for
6 deposit in the energy security special fund.

7 SECTION 7. There is appropriated out of the energy
8 security special fund the sum of \$ or so much thereof
9 as may be necessary for fiscal year 2008-2009 for the purpose of
10 this Act.

11 The sum appropriated shall be expended by the department of
12 business, economic development, and tourism for the purposes of
13 this Act.

14 SECTION 8. In codifying the new section added by section 2
15 of this Act, the revisor of statutes shall substitute an
16 appropriate section number for the letter used in designating
17 the new section in this Act.

18 SECTION 9. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 10. This Act shall take effect on July 1, 2050.



Report Title:

Environmental Response Tax; Petroleum Products

Description:

Establishes the Energy Security Special Fund. Renames the Environmental Response Tax the "Environmental Response and Energy Security Tax" and increases the tax. Amends the uses of tax revenue to include deposits to the Energy Security Special Fund and the Energy Systems Development Special Fund. Amends uses of the Environmental Response Revolving Fund by deleting energy conservation and alternative energy development uses. Appropriates moneys to the Energy Security Special Fund.
(SB2932 HD1)

