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# A BILL FOR AN ACT

RELATING TO ENERGY.

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

1 **PART I.**

2 SECTION 1. Renewable energy resources offer Hawaii  
3 important economic, environmental, and energy security benefits,  
4 especially since Hawaii's dependency on petroleum is the highest  
5 in the nation, accounting for approximately ninety per cent of  
6 the State's energy needs. This high petroleum dependency makes  
7 consumers extremely vulnerable to any oil embargo, supply  
8 disruption, international market dysfunction, and many other  
9 factors beyond Hawaii's control.

10 Recognizing the importance and economic and environmental  
11 benefits of increasing energy self-sufficiency, over the past  
12 four years, the legislature and the department of business,  
13 economic development, and tourism have committed to energy  
14 objectives geared toward achieving dependable, efficient, and  
15 economical statewide energy systems, increased self-sufficiency,  
16 greater energy security, and reduction of greenhouse gas  
17 emissions.



1 Act 272, Session Laws of Hawaii 2001, recognized the  
2 economic, environmental, and fuel diversity benefits of  
3 renewable energy resources and the need to encourage the  
4 establishment of a market for renewable energy in Hawaii using  
5 the State's renewable energy resources. Act 240, Session Laws  
6 of Hawaii 2006, provided a framework for energy self-  
7 sufficiency. The State has also committed to a renewable energy  
8 standard, where twenty per cent of electricity sold will be  
9 generated from renewable resources by the end of 2020 and has  
10 sought to encourage private sector development of renewable  
11 energy projects.

12 However, renewable energy projects are often complex,  
13 large-scale undertakings requiring a number of permits. The  
14 process for obtaining the necessary permits for renewable energy  
15 projects and developments and the process for meeting state,  
16 county, and federal regulations has for decades been described  
17 as overly time-consuming, cumbersome, onerous, and costly. In  
18 fact, the "Hawaii Integrated Energy Policy Report" of 1991 found  
19 that the permit and approval process required for the  
20 development and siting of energy facilities for a single project  
21 can take up to seven years to complete. Thus, the inefficiency



1 of the permitting and development process acts as a barrier to  
2 meeting Hawaii's renewable energy goals.

3       Understanding that renewable energy projects can provide  
4 substantial and long-term benefits to the State and that  
5 development of renewable energy projects would further state  
6 policies of developing indigenous renewable energy resources and  
7 decreasing Hawaii's dependency on imported fossil fuels, the  
8 legislature finds that there is a need to streamline the  
9 permitting process to provide predictability and to encourage  
10 private companies to commit substantial amounts of capital,  
11 time, and effort necessary to develop such projects. Towards  
12 these ends the legislature also recognizes that investment in  
13 additional personnel is essential.

14       The purpose of this part is to appropriate funds to  
15 establish a full-time, permanent renewable energy facilitator  
16 position in the department of business, economic development,  
17 and tourism.

18       SECTION 2. Chapter 201, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:

21       "§201- Renewable energy facilitator; establishment;  
22 duties. (a) There is established within the department of



1 business, economic development, and tourism, the position of  
2 renewable energy facilitator, which shall be a permanent  
3 position exempt from chapter 76. The renewable energy  
4 facilitator shall possess a requisite level of knowledge and  
5 expertise in the areas of renewable energy, state and county  
6 permitting processes, and management necessary to carry out the  
7 duties of the position.

8 (b) The renewable energy facilitator shall have the  
9 following duties:

- 10 (1) Facilitate the efficient permitting of renewable  
11 energy projects;
- 12 (2) Initiate the implementation of key renewable energy  
13 projects by permitting various efficiency improvement  
14 strategies identified by the department;
- 15 (3) Administer the day-to-day coordination for renewable  
16 energy projects on behalf of the department and the  
17 day-to-day operations of the renewable energy facility  
18 siting process under chapter ; and
- 19 (4) Submit periodic reports to the legislature on  
20 renewable energy facilitation activities and the  
21 progress of the renewable energy facility siting  
22 process.





- 1 (1) Providing dependable, efficient, and economical  
2 statewide energy systems that are capable of  
3 supporting the needs of the people and increasing  
4 energy self-sufficiency and energy security;
- 5 (2) Establishing greenhouse gas and energy consumption  
6 reduction goals for state facilities and requiring the  
7 use of energy-efficient products in state facilities;
- 8 (3) Providing incentives for the deployment of energy-  
9 efficient devices and renewable energy technologies;
- 10 (4) Establishing an enforceable renewable energy portfolio  
11 standard under which a percentage of Hawaii's  
12 electricity is to be generated from renewable  
13 resources;
- 14 (5) Reducing greenhouse gas emissions from energy supply  
15 and use;
- 16 (6) Increasing hydrogen and biofuel research and use in  
17 the State; and
- 18 (7) Supporting the achievement of alternate fuel  
19 standards.

20 While the State has made great strides in the last several  
21 years to update its long-term energy strategy and give key state  
22 agencies direction regarding the state energy objectives that



1 need to be met, the legislature finds that committed financial  
2 resources are necessary to develop a long-term energy strategy  
3 to secure a sustainable energy future for Hawaii.

4 In 1991, the Hawaii integrated energy policy found that  
5 adequate staffing, funding, and relevant statutory authority are  
6 more important to effective state energy management than a  
7 specific organizational option. Similarly, a 1995 feasibility  
8 study by the legislative reference bureau determined that the  
9 creation of an energy commission would be expensive and  
10 counterproductive. The recommendation was to periodically  
11 review the energy resource coordinator and the energy division's  
12 progress toward completing projects intended to further the  
13 state energy objectives.

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



1           However, the legislature further finds that in recent  
2 years, as the energy program's assignments and functions have  
3 expanded, it has become much more difficult to maintain and  
4 improve the program's effectiveness due to declining federal  
5 funding. This situation has resulted in diminished program  
6 budgets and reduced staff positions. Currently, oil overcharge  
7 funds support 66.6 per cent of the strategic industries  
8 division's energy program budget, but the availability of these  
9 funds is diminishing, and the funds will be exhausted in  
10 approximately four years at the current expenditure rate.

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





1           The legislature further finds that the success of achieving  
2 Hawaii's energy policy objectives is dependent on adequate  
3 funding and staff and, in light of waning federal funds,  
4 increased state funding is necessary to support core energy  
5 program functions as well as to carry out other mandates passed  
6 in previous years.

7           The purpose of this part is to provide additional funding  
8 for the energy initiatives to carry out Hawaii's long-term  
9 energy strategy through the environmental response and energy  
10 security tax and energy security special fund to secure a  
11 sustainable energy future for Hawaii.

12           SECTION 5. Chapter 201, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15           "§201-    Energy security special fund; uses. (a) There  
16 is created within the state treasury an energy security special  
17 fund, which shall consist of:

- 18           (1) Moneys appropriated to the fund by the legislature;  
19           (2) All interest attributable to investment of money  
20                 deposited in the fund;  
21           (3) Moneys generated by the environmental response and  
22                 energy security tax pursuant to section 243-3.5;



1       (4) Fees generated by the renewable energy facility siting  
2           process pursuant to chapter       ; and

3       (5) Moneys allotted to the fund from other sources;  
4       provided that any amount to be deposited into the energy  
5       security special fund from the revenues collected pursuant to  
6       section 243-3.5 that causes the energy security special fund to  
7       exceed \$10,000,000 shall be deposited into the general fund. No  
8       further deposits from the revenues collected pursuant to section  
9       243-3.5 shall be made into the energy security special fund  
10       until the balance of the energy security special fund drops  
11       below \$5,000,000, in which event the appropriate portion of the  
12       revenues collected pursuant to section 243-3.5 shall be  
13       deposited into the energy security special fund until the  
14       balance equals \$10,000,000.

15       (b) Moneys from the fund shall be expended by the  
16       department of business, economic development, and tourism for  
17       the following purposes, and shall be used for no other purposes  
18       except for those set forth in this section:

19       (1) To support its energy program, including projects that  
20           ensure dependable, efficient, and economical energy,  
21           promote energy self-sufficiency, and provide greater  
22           energy security for the State;



- 1        (2) To fund the renewable energy facilitator pursuant to
- 2            section 201-     ; and
- 3        (3) To support the renewable energy facility siting
- 4            process pursuant to chapter     ."

5            SECTION 6. Section 128D-2, Hawaii Revised Statutes, is  
6 amended to read as follows:

7            "**§128D-2 Environmental response revolving fund; uses.** (a)

8 There is created within the state treasury an environmental  
9 response revolving fund, which shall consist of moneys  
10 appropriated to the fund by the legislature, moneys paid to the  
11 fund as a result of departmental compliance proceedings, moneys  
12 paid to the fund pursuant to court-ordered awards or judgments,  
13 moneys paid to the fund in court-approved or out-of-court  
14 settlements, all interest attributable to investment of money  
15 deposited in the fund, moneys generated by the environmental  
16 response and energy security tax established in section 243-3.5,  
17 and moneys allotted to the fund from other sources; provided  
18 that ~~[when the total balance of the fund exceeds \$20,000,000,~~  
19 ~~the department of health shall notify the department of taxation~~  
20 ~~of this fact in writing within ten days. The department of~~  
21 ~~taxation then shall notify all distributors liable for~~  
22 ~~collecting the tax imposed by section 243-3.5 of this fact in~~



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



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

7 (1) Shall also be used:

8 (A) For oil spill planning, prevention, preparedness,  
9 education, research, training, removal, and  
10 remediation; and

11 (B) For direct support for county used oil recycling  
12 programs; and

13 (2) May also be used to support environmental protection  
14 and natural resource protection programs, including  
15 but not limited to [~~energy conservation and~~  
16 ~~alternative energy development, and to address~~]  
17 addressing concerns related to air quality, global  
18 warming, clean water, polluted runoff, solid and  
19 hazardous waste, drinking water, and underground  
20 storage tanks, including support for the underground  
21 storage tank program of the department and funding for



1 the acquisition by the State of a soil remediation  
2 site and facility."

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

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

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

20 (1) 5 cents of the revenue collected on each barrel shall  
21 be deposited into the environmental response revolving  
22 fund established in section 128D-2;



1        (2) 7 cents of the revenue collected on each barrel shall  
2        be deposited into the energy security special fund  
3        established in section 201-     ; and

4        (3) 3 cents of the revenue collected on each barrel shall  
5        be deposited into the energy systems development  
6        special fund established in section 304A-2169.

7        ~~[(b)]~~ (c) Each distributor subject to the tax imposed by  
8 subsection (a), on or before the last day of each calendar  
9 month, shall file with the director, on forms prescribed,  
10 prepared, and furnished by the director, a return statement of  
11 the tax under this section for which the distributor is liable  
12 for the preceding month. The form and payment of the tax shall  
13 be transmitted to the department of taxation in the appropriate  
14 district.

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

20        ~~[(d)]~~ (e) Every distributor shall keep in the State and  
21 preserve for five years a record in such form as the department  
22 of taxation shall prescribe showing the total number of barrels



1 and the fractional part of barrels of petroleum product sold by  
2 the distributor during any calendar month. The record shall  
3 show such other data and figures relevant to the enforcement and  
4 administration of this chapter as the department may require."

5 SECTION 8. Section 304A-2169, Hawaii Revised Statutes, is  
6 amended by amending subsection (b) to read as follows:

7 "(b) The special fund shall be funded by:

8 (1) Appropriations from the legislature; [~~and~~]

9 (2) Investment earnings, gifts, donations, or other income  
10 received by the [~~+~~]Hawaii natural energy[~~+~~]  
11 institute[~~-~~]; and

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

14 SECTION 9. There is appropriated out of the environmental  
15 response revolving fund the sum of \$ \_\_\_\_\_ or so much  
16 thereof as may be necessary for fiscal year 2008-2009 for  
17 deposit in the energy security special fund for the purpose of  
18 providing initial funding for the renewable energy facilitator  
19 position until adequate revenue from the environmental response  
20 and energy security tax is deposited.

21 SECTION 10. There is appropriated out of the energy  
22 security special fund the sum of \$ \_\_\_\_\_ or so much thereof





1 as may be necessary for fiscal year 2008-2009 for the purpose of  
2 this Act.

3 The sum appropriated shall be expended by the department of  
4 business, economic development, and tourism for the purposes of  
5 this Act.

6 **PART III.**

7 SECTION 11. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 12. This Act shall take effect on July 1, 2050.



**Report Title:**

Energy Resources; Renewable Energy; DBEDT

**Description:**

Establishes a renewable energy facilitator position within the department of business, economic development, and tourism and provides funding from the energy security special fund. 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. Effective 7/1/2050. (HB2505 SD2)

