

JAN 25 2010

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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. The legislature finds that it is in the public  
2 interest to provide free school transportation service to public  
3 and private school students in kindergarten through grade 12 and  
4 in special education classes to reduce traffic congestion and  
5 reduce carbon emissions, and to finance the cost of providing  
6 free school bus service through an increase in the state fuel  
7 tax.

8           The department of taxation has reported the following data  
9 for fuel consumption (in gallons) for fiscal years 2006-2007,  
10 2007-2008, and 2008-2009:

	<u>FY 2006-2007</u>	<u>FY 2007-2008</u>	<u>FY 2008-2009</u>
11 Gasoline	483,200,000	454,900,000	436,500,000
12 Diesel oil (highway)	120,400,000	224,400,000	64,900,000
13 Total highway	603,600,000	679,300,000	501,400,000

14           The cost of providing school bus service (not including  
15 curb-to-curb bus service for approximately three thousand  
16 students) is estimated to be approximately \$45 million in  
17



1 FY 2009-2010. According to the department of taxation's  
2 figures, a tax of 9 cents per gallon on gasoline and diesel oil  
3 for highway use could generate approximately \$45 million in  
4 fiscal year 2008-2009. However, the legislature finds that the  
5 fuel tax should be increased to a level that would be sufficient  
6 to fund not only the department of education's regular school  
7 bus program, but also to allow the department of education to  
8 expand school transportation services for all of Hawaii's  
9 children, either via department of education school bus or via  
10 public transportation.

11 The purpose of this Act is to allow the department of  
12 education to provide free school transportation services to  
13 public and private school students in kindergarten through  
14 grade 12, and in special education classes, by increasing the  
15 state fuel tax.

16 SECTION 2. Section 243-4, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Every distributor, in addition to any other taxes  
19 provided by law, shall pay a license tax to the department of  
20 taxation for each gallon of liquid fuel refined, manufactured,  
21 produced, or compounded by the distributor and sold or used by  
22 the distributor in the State or imported by the distributor, or



1 acquired by the distributor from persons who are not licensed  
2 distributors, and sold or used by the distributor in the State.  
3 Any person who sells or uses any liquid fuel, knowing that the  
4 distributor from whom it was originally purchased has not paid  
5 and is not paying the tax thereon, shall pay such tax as would  
6 have applied to such sale or use by the distributor. The rates  
7 of tax imposed are as follows:

- 8 (1) For each gallon of diesel oil, 2 cents;
- 9 (2) For each gallon of gasoline or other aviation fuel  
10 sold for use in or used for airplanes, 2 cents;
- 11 (3) For each gallon of naphtha sold for use in a  
12 power-generating facility, 2 cents;
- 13 (4) For each gallon of liquid fuel, other than fuel  
14 mentioned in paragraphs (1), (2), and (3), and other  
15 than an alternative fuel, sold or used in the city and  
16 county of Honolulu, or sold in any county for ultimate  
17 use in the city and county of Honolulu, [17]  
18 \_\_\_\_\_ cents state tax, and in addition thereto an  
19 amount, to be known as the "city and county of  
20 Honolulu fuel tax", as shall be levied pursuant to  
21 section 243-5;



1           (5) For each gallon of liquid fuel, other than fuel  
2                   mentioned in paragraphs (1), (2), and (3), and other  
3                   than an alternative fuel, sold or used in the county  
4                   of Hawaii, or sold in any county for ultimate use in  
5                   the county of Hawaii, [17] \_\_\_\_\_ cents state tax, and  
6                   in addition thereto an amount, to be known as the  
7                   "county of Hawaii fuel tax", as shall be levied  
8                   pursuant to section 243-5;

9           (6) For each gallon of liquid fuel, other than fuel  
10                   mentioned in paragraphs (1), (2), and (3), and other  
11                   than an alternative fuel, sold or used in the county  
12                   of Maui, or sold in any county for ultimate use in the  
13                   county of Maui, [17] \_\_\_\_\_ cents state tax, and in  
14                   addition thereto an amount, to be known as the "county  
15                   of Maui fuel tax", as shall be levied pursuant to  
16                   section 243-5; and

17           (7) For each gallon of liquid fuel, other than fuel  
18                   mentioned in paragraphs (1), (2), and (3), and other  
19                   than an alternative fuel, sold or used in the county  
20                   of Kauai, or sold in any county for ultimate use in  
21                   the county of Kauai, [17] \_\_\_\_\_ cents state tax, and  
22                   in addition thereto an amount, to be known as the



1 "county of Kauai fuel tax", as shall be levied  
2 pursuant to section 243-5.

3 If it is shown to the satisfaction of the department, based  
4 upon proper records and from any other evidence as the  
5 department may require, that liquid fuel, other than fuel  
6 mentioned in paragraphs (1), (2), and (3), is used for  
7 agricultural equipment that does not operate upon the public  
8 highways of the State, the user thereof may obtain a refund of  
9 all taxes thereon imposed by this section in excess of 1 cent  
10 per gallon. The department shall adopt rules to administer such  
11 refunds."

12 SECTION 3. Section 243-6, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§243-6 ~~[Fuel]~~ State and county fuel taxes, dispositions.

15 (a) The "city and county of Honolulu fuel tax" shall be paid by  
16 the department of taxation into the state treasury, and shall,  
17 by the state director of finance, be paid over to the director  
18 of finance of the city and county of Honolulu for deposit into  
19 the fund known as the "highway fund" created by section 249-18.

20 The "county of Kauai fuel tax" shall be paid by the  
21 department into the state treasury, and shall, by the state  
22 director of finance, be paid over to the director of finance of



1 the county of Kauai for deposit into the fund known as the  
2 "highway fund" created by section 249-18.

3 The "county of Hawaii fuel tax" shall be paid by the  
4 department into the state treasury, and shall, by the state  
5 director of finance, be paid over to the director of finance of  
6 the county of Hawaii for deposit into the fund known as the  
7 "highway fund" created by section 249-18.

8 The "county of Maui fuel tax" collected on account of  
9 liquid fuel sold or used on the island of Lanai or sold  
10 elsewhere for ultimate use on the island of Lanai, shall be paid  
11 by the department into the state treasury, and shall, by the  
12 state director of finance, be paid over to the director of  
13 finance of the county of Maui for deposit into the fund known as  
14 the "highway fund" created by section 249-18, for expenditure on  
15 the island of Lanai. The "county of Maui fuel tax" collected on  
16 account of liquid fuel sold or used on the island of Molokai or  
17 sold elsewhere for ultimate use on the island of Molokai, shall  
18 be paid by the department into the state treasury, and shall, by  
19 the state director of finance, be paid over to the director of  
20 finance of the county of Maui for deposit into the fund known as  
21 the "highway fund" created by section 249-18, for expenditure on  
22 the island of Molokai. The remainder of the "county of Maui



1 fuel tax" shall be paid by the department into the state  
2 treasury, and shall, by the state director of finance, be paid  
3 over to the director of finance of the county of Maui for  
4 deposit into the fund known as the "highway fund" created by  
5 section 249-18.

6 Each of the foregoing taxes shall be expended for the  
7 following purposes, for the island for which the tax revenue is  
8 specially indicated, or, if none, for the county for which the  
9 tax revenue is indicated:

10 (1) For payment of interest on and redemption of any bonds  
11 duly issued or sold on or after July 1, 1951, under  
12 chapter 47 for the financing or aiding in financing  
13 the construction of county highway tunnels, approach  
14 roads thereto, and highways. Such payments of  
15 interest and principal on the bonds when due, shall be  
16 first charges on such moneys so deposited in the fund.

17 (2) For acquisition, designing, construction,  
18 reconstruction, improvement, repair, and maintenance  
19 of county main and general thoroughfares, highways,  
20 and other streets, street lights, storm drains, and  
21 bridges, including costs of new land therefor, when



1 expenditures for the foregoing purposes cannot be  
2 financed under state-federal aid projects.

3 (3) In the case of the city and county of Honolulu, for  
4 payment of the city and county's share in an  
5 improvement district initiated by the city and county  
6 for an improvement listed in (2) above which is  
7 permitted to be constructed in the city and county.

8 (4) For the construction of county highway tunnels,  
9 overpasses, underpasses, and bridges, where such  
10 improvement cannot be made under state-federal aid  
11 projects.

12 (5) For purposes and functions connected with county  
13 traffic control and preservation of safety upon the  
14 public highways and streets.

15 (6) For purposes and functions in connection with mass  
16 transit.

17 (7) For acquisition, design, construction, improvement,  
18 repair, and maintenance of bikeways.

19 (8) No expenditure shall be made, out of the revenues paid  
20 into any such fund, which will jeopardize federal aid  
21 for highway construction.





1        (b) For each gallon of liquid fuel for which state license  
2 taxes are collected pursuant to sections 243-4(a)(4), (5), (6),  
3 and (7),        cents of the state tax collected shall be paid by  
4 the department of taxation into the school transportation  
5 revolving fund established under section 302A-4075. The  
6 remaining portion of the state tax collected shall be deposited  
7 by the department of taxation as provided in section 248-8."

8        SECTION 4. Section 248-8, Hawaii Revised Statutes, is  
9 amended to read as follows:

10        "**§248-8 Special funds in treasury of State.** There are  
11 created in the treasury of the State three special funds to be  
12 known, respectively, as the state highway fund, the airport  
13 revenue fund, and the boating special fund. ~~[All]~~ Except for  
14 that portion of state tax collected pursuant to sections  
15 243-4(a)(4), (5), (6), and (7), that shall be deposited into the  
16 school transportation revolving fund as provided in section  
17 243-6(b), all other taxes collected under chapter 243 in each  
18 calendar year, except the "county of Hawaii fuel tax", "city and  
19 county of Honolulu fuel tax", "county of Maui fuel tax", and  
20 "county of Kauai fuel tax", shall be deposited in the state  
21 highway fund; provided that:



1 (1) All taxes collected under chapter 243 with respect to  
2 gasoline or other aviation fuel sold for use in or  
3 used for airplanes shall be set aside in the airport  
4 revenue fund; and

5 (2) All taxes collected under chapter 243 with respect to  
6 liquid fuel sold for use in or used for small boats  
7 shall be deposited in the boating special fund.

8 As used in this section, "small boats" means all vessels  
9 and other watercraft except those operated in overseas  
10 transportation beyond the State, and ocean-going tugs and  
11 dredges. The chairperson of the board of land and natural  
12 resources, from July 1, 1992, and every three years thereafter,  
13 shall establish standards or formulas that will as equitably as  
14 possible establish the total taxes collected under chapter 243  
15 in each fiscal year that are derived from the sale of liquid  
16 fuel for use in or used for small boats. The amount so  
17 determined shall be deposited in the boating special fund.

18 An amount equal to 0.3 per cent of the highway fuel tax but  
19 not more than \$250,000 collected under chapter 243 shall be  
20 allocated each fiscal year to the special land and development  
21 fund for purposes of the management, maintenance, and  
22 development of trails and trail accesses under the jurisdiction



1 of the department of land and natural resources established  
2 under section 198D-2."

3 SECTION 5. Section 302A-406, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) The department may, to the extent that funds are  
6 appropriated for this purpose or available for this purpose in  
7 the school transportation revolving fund, provide for or  
8 subsidize the cost of suitable free transportation to and from  
9 school [~~and for educational field trips~~] for [all] children in  
10 grades kindergarten to twelve and in special education  
11 classes[-], including subsidizing all or a part of the cost of  
12 public transportation through a monthly pass for eligible  
13 students. The department shall adopt such policy, procedure,  
14 and program as it deems necessary to provide suitable  
15 transportation. In formulating the policy, procedure, and  
16 program, the department shall consider the school district; the  
17 school attendance area in which a school child normally resides;  
18 the distance the school child lives from the school; the  
19 availability and cost of public carriers or other means of  
20 transportation; the frequency, regularity, and availability of  
21 public transportation; and the grade level, physical handicap,  
22 or special learning disability of a school child, and it may



1 also consider such conditions and circumstances unique or  
2 peculiar to a county or area."

3 SECTION 6. Section 302A-407, Hawaii Revised Statutes, is  
4 amended by amending subsection (f) to read as follows:

5 "(f) All moneys received from students and parents or  
6 guardians of students by public schools for state-provided  
7 school busing services, as authorized by section 302A-406, if  
8 any, shall be deposited into the school [~~bus-fare~~]  
9 transportation revolving fund. Except as otherwise provided by  
10 the legislature, expenditures for the operation of  
11 state-contracted school bus services, as authorized by section  
12 302A-406, shall be made from this fund."

13 SECTION 7. Section 302A-407.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[~~+~~]§302A-407.5[~~-~~] School [~~bus-fare~~ transportation  
16 revolving fund. (a) There is established in the state treasury  
17 the school [~~bus-fare~~] transportation revolving fund, into which  
18 shall be deposited:

19 (1) [~~all~~] All moneys received from students and parents or  
20 guardians of students by public schools for state-  
21 provided school [~~busing~~] transportation services, as  
22 authorized by section 302A-406 [~~-~~];



1        (2) That portion of moneys received from state fuel taxes,  
2                    as authorized by section 243-6; and

3        (3) All other moneys appropriated for school  
4                    transportation services.

5        (b) Except as otherwise provided by the legislature,  
6 moneys in the school [~~bus fare~~] transportation revolving fund  
7 shall be used for school busing and transportation costs and  
8 services, as authorized by section 302A-406."

9        SECTION 8. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11        SECTION 9. This Act shall take effect upon its approval;  
12 provided that the amendments made to section 243-4, Hawaii  
13 Revised Statutes, by section 2 of this Act shall not be repealed  
14 when that section is reenacted on December 31, 2012, by  
15 section 3 of Act 198, Session Laws of Hawaii 2009.

16

INTRODUCED BY:

Norman Sakomaha



**Report Title:**

Fuel Tax; Free School Transportation; Students

**Description:**

Increases the state fuel tax, and directs the increase to the school transportation revolving fund. Authorizes the department of education to provide free school transportation for public and private school students in kindergarten through grade 12 and in special education classes.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

