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# A BILL FOR AN ACT

RELATING TO GOVERNMENT.

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

1 PART I

2 SECTION 1. Hawaii is at a crossroads. As the most  
3 geographically isolated state in the country, we are dangerously  
4 dependent on imports for basic food and energy. We import about  
5 eighty-five per cent of our food and ninety-five per cent of our  
6 energy. It has been estimated that Hawaii exported  
7 \$8,600,000,000 for food and oil in 2008, and every dollar  
8 exported is a lost opportunity to support and invest in local  
9 businesses. Our dependence on imports also exposes residents  
10 and businesses to volatile food and energy costs as oil prices  
11 fluctuate.

12 In addition, the mass consumption of fossil fuels, driven  
13 by our dependence on food and energy imports, contributes to  
14 climate change and the deterioration of the environment,  
15 including severe storm events, less rainfall, warmer  
16 temperatures that favor invasive species, a rise in sea levels,  
17 and ocean acidification that hampers coral growth. These  
18 climate changes will likely impose major, but not fully



1 understood, costs and other impacts on Hawaii's people and the  
2 natural capital we depend upon to support our lives in the  
3 middle of the Pacific Ocean. Nowhere is it more obvious than in  
4 remote island chains like Hawaii that our lives and the economy  
5 are intertwined with the health and function of the natural  
6 world around us.

7       Although Hawaii has available renewable resources like  
8 solar, wind, ocean, and geothermal energy, we as a community  
9 have not taken full advantage of alternative-energy and energy-  
10 efficiency solutions to make the state more energy-independent.  
11 As an example, despite year-round sunshine, only thirty per cent  
12 of Hawaii's residents have solar water heaters.

13       Similarly, many acres of highly productive agricultural  
14 lands are not being farmed. Currently, Hawaii has a fresh  
15 supply of produce for no more than ten days. Ninety per cent of  
16 the beef, sixty-seven per cent of fresh vegetables, sixty-five  
17 per cent of fresh fruits, and seventy per cent of all milk  
18 consumed in the state are imported. While Hawaii may never  
19 produce one hundred per cent of its food, the risks and costs to  
20 society for dependence on imported food cannot be ignored.

21       Like energy, producing local food would reduce Hawaii's  
22 demand for fossil fuels, keep money in our community, and



1 decrease the State's vulnerability to food-supply disruptions  
2 caused by natural disasters or worldwide economic events.

3 Now is the time for bold action to squarely address  
4 Hawaii's energy and food requirements and plan for and address  
5 the inevitable effects of climate change. It will require long-  
6 term commitment, dedication, and the investment of capital and  
7 human resources by government, the private sector, and Hawaii's  
8 people to dramatically shift our present course of importing  
9 food and energy toward a more energy-independent and  
10 agriculturally sustainable society. As a state and as a people,  
11 we must decide whether we will continue to be dependent on  
12 external sources for our basic needs, or whether we will build,  
13 invest in, and develop the capacity to become food- and energy-  
14 independent.

15 The legislature finds that it is in the best interests of  
16 Hawaii's people to build the capacity we need to become self-  
17 sufficient in our energy and food needs and to protect the  
18 health and function of our environment. As discussed in the  
19 "Hawaii 2050 Sustainability Plan" and the "Hawaii Clean Energy  
20 Initiative," Hawaii has all the necessary assets to  
21 significantly improve the state's energy and food sustainability  
22 and independence over the next twenty years if appropriate



1 personnel resources and funding are used wisely. To succeed,  
2 the State must ensure that our long-term strategy is well-  
3 resourced, coordinated, and focused.

4 The purpose of this Act is to:

5 (1) Promote economic development for local food and energy  
6 businesses by providing necessary funding, guidance,  
7 and infrastructure;

8 (2) Ensure Hawaii is energy and food self-sufficient and  
9 sustainable to the maximum extent feasible;

10 (3) Help Hawaii's natural resources and population adapt  
11 and be resilient to the inevitable challenges brought  
12 on by climate change caused by carbon dioxide and  
13 other greenhouse gas emissions from burning fossil  
14 fuels;

15 (4) Create a Hawaii economic development task force to  
16 accelerate and support public and private efforts to  
17 make Hawaii energy- and food-self-sufficient,  
18 consistent with the "Hawaii 2050 Sustainability Plan,"  
19 the "Hawaii Clean Energy Initiative," and other  
20 government and community planning efforts. The  
21 legislature intends for the Hawaii economic  
22 development task force to take an interdisciplinary



1 approach to seeking the most efficient and effective  
2 pathways for interagency coordination, to ensure that  
3 energy and food policy development will be integrated  
4 within the overall economic, social, environmental,  
5 and cultural aspects of society. With an  
6 understanding of these overlapping goals and  
7 resources, the State can maximize the opportunities to  
8 ensure food and energy security for generations to  
9 come;

10 (5) Establish an agricultural development and food  
11 security special fund to fund activities intended to  
12 increase agricultural production or processing that  
13 may lead to reduced importation of food, fodder, or  
14 feed from outside the state; and

15 (6) Establish a clean energy initiative to manage the  
16 state's transition to a clean energy economy.

17 The legislature finds that undertaking the important task  
18 of energy and food security requires a long-term commitment and  
19 the investment of substantial financial resources. To that end,  
20 this Act also increases the per-barrel tax on petroleum products  
21 under the environmental response, energy, and food security tax,  
22 formerly known as the environmental response tax.



PART II

ENVIRONMENTAL RESPONSE, ENERGY, AND FOOD SECURITY TAX

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

**"§128D-2 Environmental response revolving fund; uses.**

(a) There is created within the state treasury an environmental response revolving fund, which shall consist of moneys appropriated to the fund by the legislature, moneys paid to the fund as a result of departmental compliance proceedings, moneys paid to the fund pursuant to court-ordered awards or judgments, moneys paid to the fund in court-approved or out-of-court settlements, all interest attributable to investment of money deposited in the fund, moneys ~~[generated by]~~ deposited in the fund from the environmental response, energy, and food security tax [established in] pursuant to section 243-3.5, and moneys allotted to the fund from other sources ~~[-, provided that when the total balance of the fund exceeds \$20,000,000, the department of health shall notify the department of taxation of this fact in writing within ten days. The department of taxation then shall notify all distributors liable for collecting the tax imposed by section 243-3.5 of this fact in writing, and the imposition of the tax shall be discontinued beginning the first day of the~~

1 ~~second month following the month in which notice is given to the~~  
 2 ~~department of taxation. If the total balance of the fund~~  
 3 ~~thereafter declines to less than \$3,000,000, the department of~~  
 4 ~~health shall notify the department of taxation which then shall~~  
 5 ~~notify all distributors liable for collecting the tax imposed by~~  
 6 ~~section 243-3.5 of this act in writing, and the imposition of~~  
 7 ~~the tax shall be reinstated beginning the first day of the~~  
 8 ~~second month following the month in which notice is given to the~~  
 9 ~~department of taxation].~~

10 (b) Moneys from the fund shall be expended by the  
 11 department for response actions and preparedness, including  
 12 removal and remedial actions, consistent with this chapter;  
 13 provided that the revenues generated by the [~~environmental~~  
 14 ~~response tax~~ and] environmental response, energy, and food  
 15 security tax deposited into the environmental response revolving  
 16 fund:

- 17 (1) Shall [~~also~~] be used:
- 18 (A) For oil spill planning, prevention, preparedness,  
 19 education, research, training, removal, and  
 20 remediation; and
  - 21 (B) For direct support for county used oil recycling  
 22 programs; and



1           ~~[(C) For deposit into the energy security special~~  
2                           ~~fund, established under section 201-12.8, as may~~  
3                           ~~be appropriated by the legislature, and]~~

4           (2) May also be used to support environmental protection  
5                           and natural resource protection programs, including  
6                           ~~[but not limited to]~~ energy conservation and  
7                           alternative energy development, and to address  
8                           concerns related to air quality, global warming, clean  
9                           water, polluted runoff, solid and hazardous waste,  
10                          drinking water, and underground storage tanks,  
11                          including support for the underground storage tank  
12                          program of the department and funding for the  
13                          acquisition by the State of a soil remediation site  
14                          and facility."

15           SECTION 3. Section 201-12.8, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "**[+]§201-12.8[+] Energy security special fund; uses.** (a)

18 There is created within the state treasury an energy security  
19 special fund, which shall consist of:

20           (1) The portion of the environmental response, energy, and  
21                           food security tax specified under section 243-3.5;





1       ~~[(1)]~~ (2) Moneys appropriated to the fund by the  
2                   legislature;

3       ~~[(2)]~~ (3) All interest attributable to investment of money  
4                   deposited in the fund; and

5       ~~[(3)]~~ (4) Moneys allotted to the fund from other sources.

6       (b) ~~[Moneys]~~ Subject to legislative appropriation, moneys  
7 from the fund ~~[shall]~~ may be expended by the department of  
8 business, economic development, and tourism for the following  
9 purposes and ~~[shall be]~~ used for no other purposes, except for  
10 those set forth in this section:

11       (1) To support ~~[its]~~ the Hawaii clean energy initiative  
12                   program, including its energy division, including  
13                   funding staff positions within the division, and  
14                   projects that ensure dependable, efficient, and  
15                   economical energy, promote energy self-sufficiency,  
16                   and provide greater energy security for the ~~[State,~~  
17                   ~~and]~~ state;

18       (2) To fund the renewable energy facilitator pursuant to  
19                   section 201-12.5 and any other positions necessary for  
20                   the purposes of paragraph (1) as determined by the  
21                   legislature~~[-]~~; and



1       (3) To fund, to the extent possible, the greenhouse gas  
2       emissions reduction task force, climate change task  
3       force, grants-in-aid to the economic development  
4       boards of each county, and grants-in-aid to economic  
5       development agencies of each county to meet the stated  
6       objectives of the Hawaii clean energy initiative  
7       program.

8       (c) The department of business, economic development, and  
9       tourism shall submit a report to the legislature, no later than  
10      twenty days prior to the convening of each regular session, on  
11      the status and progress of existing programs and activities and  
12      the status of new programs and activities funded by the energy  
13      security special fund. The report shall also include:

14      (1) The spending plan of the energy security special fund;  
15      (2) All expenditures of energy security special fund  
16      moneys; and  
17      (3) The targeted markets of the expenditures, including  
18      the reason for selecting those markets; the persons to  
19      be served; and the specific objectives of the  
20      expenditures, including measurable outcomes."

21       SECTION 4. Section 243-3.5, Hawaii Revised Statutes, is  
22      amended as follows:



1           1. By amending its title and subsection (a) to read:  
2           "§243-3.5 Environmental response, energy, and food  
3 security tax; uses. (a) In addition to any other taxes  
4 provided by law, subject to the exemptions set forth in section  
5 243-7, there is hereby imposed [~~at times provided in section~~  
6 ~~128D-2~~] a state environmental response, energy, and food  
7 security tax [~~of 5 cents~~] on each barrel or fractional part of a  
8 barrel of petroleum product sold by a distributor to any retail  
9 dealer or end user[~~,~~] of petroleum product, other than a  
10 refiner[~~,~~ ~~of petroleum product~~]. The tax shall be \$1.05 on  
11 each barrel or fractional part of a barrel of petroleum product  
12 that is not aviation fuel; provided that of the tax collected  
13 pursuant to this subsection:

14           (1) 5 cents of the tax on each barrel shall be [~~used~~  
15 ~~pursuant to section 128D-2 to address concerns~~  
16 ~~relating to drinking water.~~] deposited into the  
17 environmental response revolving fund established  
18 under section 128D-2;

19           (2) 15 cents of the tax on each barrel shall be deposited  
20 into the energy security special fund established  
21 under section 201-12.8;



1        (3) 10 cents of the tax on each barrel shall be deposited  
2                    into the energy systems development special fund  
3                    established under section 304A-2169; and

4        (4) 15 cents of the tax on each barrel shall be deposited  
5                    into the agricultural development and food security  
6                    special fund established under section 141-\_\_\_\_\_.

7            The tax imposed by this subsection shall be paid by the  
8 distributor of the petroleum product."

9            2. By amending subsection (c) to read:

10           " (c) Notwithstanding section 248-8 to the contrary, the  
11 environmental response, energy, and food security tax collected  
12 under this section shall be paid over to the director of finance  
13 for deposit [~~into the environmental response revolving fund~~  
14 ~~established by section 128D-2.~~] as provided in subsection (a)."

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

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

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

19           (2) The portion of the environmental response, energy, and  
20           food security tax specified under section 243-3.5; and





- 1 (1) Identify and review each state and county agency's  
2 policy objectives, mandates, organizational structure,  
3 and resources to address energy and food security  
4 issues;
- 5 (2) Identify all federal and private funds available to  
6 the State and counties to address energy and food  
7 security issues;
- 8 (3) Identify effective measures for interagency  
9 cooperation, coordinate efforts with the counties, and  
10 promote public- and private-sector partnerships to  
11 achieve the objective of energy and food security;
- 12 (4) Identify existing programs and agreements addressing  
13 energy and food security that may be enhanced through  
14 legislation;
- 15 (5) Investigate alternative institutional mechanisms to  
16 promote the efficient execution and implementation of  
17 a multi-year strategy to achieve energy and food  
18 security;
- 19 (6) Investigate the streamlining of administrative  
20 processes to accelerate and achieve energy and food  
21 security;



1 (7) Provide an appropriate forum for all affected or  
2 interested parties to address energy and food security  
3 issues;

4 (8) Recommend appropriate legislation resulting from its  
5 findings to improve, accelerate, and achieve the  
6 objective of energy and food security;

7 (9) Review whether:

8 (A) The apportionment of the environmental response,  
9 energy, and food security tax among the funds  
10 listed under section 243-3.5, Hawaii Revised  
11 Statutes, is appropriate;

12 (B) The apportionment should be changed; and

13 (C) Any additional special, trust, or revolving fund  
14 should receive a share of the tax;

15 and

16 (10) Perform any other function necessary to effectuate the  
17 purposes of this part.

18 (b) The Hawaii economic development task force shall  
19 consist of the following members:

20 (1) The director of business, economic development, and  
21 tourism or the director's designee, who shall chair  
22 the Hawaii economic development task force;



- 1           (2) The chairperson of the board of agriculture or the
- 2                    chairperson's designee;
- 3           (3) The director of the office of planning or the
- 4                    director's designee;
- 5           (4) The chairperson of the board of land and natural
- 6                    resources or the chairperson's designee;
- 7           (5) The dean of the University of Hawaii college of
- 8                    tropical agriculture and human resources or the dean's
- 9                    designee;
- 10          (6) Three members to be designated by the speaker of the
- 11                    house of representatives;
- 12          (7) Three members to be designated by the president of the
- 13                    senate; and
- 14          (8) A representative from each county's private economic
- 15                    development board.

16           (c) The Hawaii economic development task force's members  
17 shall serve without compensation but shall be reimbursed for  
18 expenses, including travel expenses, necessary for the  
19 performance of their duties.

20           (d) In the performance of its duties, the Hawaii economic  
21 development task force shall consult with appropriate private,  
22 nonprofit, community, and government stakeholders.





1 (e) The department of business, economic development, and  
2 tourism may contract with the University of Hawaii for any  
3 services to support the work of the Hawaii economic development  
4 task force.

5 (f) The Hawaii economic development task force shall  
6 submit a report of its findings and recommendations, including  
7 any proposed legislation, to the legislature no later than  
8 twenty days prior to the convening of the regular session of  
9 2011.

10 The task force shall also submit a follow-up report to the  
11 legislature no later than twenty days prior to the convening of  
12 the regular session of 2012. The report shall include a  
13 description of the activities funded by the environmental  
14 response, energy, and food security tax, progress made toward  
15 energy and food self-sufficiency, and any additional action  
16 necessary to achieve energy and food self-sufficiency.

17 (g) The Hawaii economic development task force shall cease  
18 to exist on June 30, 2012.

19 PART IV

20 AGRICULTURAL DEVELOPMENT AND FOOD SECURITY



1 SECTION 7. Chapter 141, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§141- Agricultural development and food security  
5 special fund; establishment. (a) There is established within  
6 the state treasury the agricultural development and food  
7 security special fund.

8 (b) The following moneys shall be deposited into the  
9 special fund:

10 (1) The portion of the environmental response, energy, and  
11 food security tax specified under section 243-3.5;

12 (2) Any appropriation by the legislature into the special  
13 fund;

14 (3) Any grant or donation made to the special fund; and

15 (4) Any interest earned on the balance of the special  
16 fund.

17 (c) Subject to legislative appropriation, moneys in the  
18 special fund may be expended for the following purposes:

19 (1) The awarding of grants to farmers for agricultural  
20 production or processing activity;

21 (2) The acquisition of real property for agricultural  
22 production or processing activity;



- 1        (3) The improvement of real property, irrigation systems,  
2        and transportation networks necessary to promote  
3        agricultural production or processing activity;
- 4        (4) The purchase of equipment necessary for agricultural  
5        production or processing activity;
- 6        (5) The conduct of research on and testing of agricultural  
7        products and markets;
- 8        (6) The funding of agricultural inspector positions within  
9        the department of agriculture;
- 10       (7) The promotion and marketing of agricultural products  
11       grown or raised in the state; and
- 12       (8) Any other activity intended to increase agricultural  
13       production or processing that may lead to reduced  
14       importation of food, fodder, or feed from outside the  
15       state.
- 16       (d) The department of agriculture shall submit a report to  
17       the legislature no later than twenty days prior to the convening  
18       of each regular session on the status and progress of existing  
19       programs and activities and the status of new programs and  
20       activities funded under the agricultural development and food  
21       security special fund. The report shall also include:



- 1        (1) The spending plan of the agricultural development and
- 2                food security special fund;
- 3        (2) All expenditures of agricultural development and food
- 4                security special fund moneys;
- 5        (3) The targeted markets of the expenditures, including
- 6                the reason for selecting those markets;
- 7        (4) The persons to be served using the expenditures; and
- 8        (5) The specific objectives of the expenditures,
- 9                including measurable outcomes."

PART V

HAWAII CLEAN ENERGY INITIATIVE

12        SECTION 8. Chapter 196, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15        "§196- Hawaii clean energy initiative program. (a)

16 There is established within the department of business, economic  
17 development, and tourism, a Hawaii clean energy initiative  
18 program to manage the state's transition to a clean energy  
19 economy. The clean energy program shall design, implement, and  
20 administer activities that include:



1        (1) Strategic partnerships for the research, development,  
2        testing, deployment, and permitting of clean and  
3        renewable technologies;

4        (2) Engineering and economic evaluations of Hawaii's  
5        potential for near-term project opportunities for the  
6        state's renewable energy resources;

7        (3) Electric grid reliability and security projects that  
8        will enable the integration of a substantial increase  
9        of electricity from renewable-energy resources;

10       (4) A statewide clean energy public education and outreach  
11       plan to be developed in coordination with Hawaii's  
12       institutions of public education;

13       (5) Promotion of Hawaii's clean and renewable resources to  
14       potential partners and investors;

15       (6) A plan, to be implemented from 2011 to 2030, to  
16       transition the state to a clean energy economy; and

17       (7) A plan, to be implemented from 2011 to 2030, to assist  
18       each county in transitioning to a clean energy  
19       economy.

20       (b) Prior to the initiation of any activities authorized  
21       under subsection (a), the department of business, economic  
22       development, and tourism shall develop a plan of action with the



1 intent of promoting effective prioritization and focusing of  
2 efforts consistent with the State's energy programs and  
3 objectives.

4 (c) The department of business, economic development, and  
5 tourism shall submit a report to the legislature no later than  
6 twenty days prior to the convening of each regular session on  
7 the status and progress of new and existing clean energy  
8 initiatives. The report shall also include:

9 (1) The spending plan of the Hawaii clean energy  
10 initiative program;

11 (2) All expenditures of energy security special fund  
12 moneys; and

13 (3) The targeted markets of the expenditures, including  
14 reasons for selecting those markets, the persons to be  
15 served, specific objectives of the program, and  
16 program expenditures, including measurable outcomes."

17 PART VI

18 SECTION 9. Subject to the availability of federal funding  
19 for energy programs provided by grants, and subject to the  
20 constraints, oversight, and reporting requirements of those  
21 federal programs, the governor is authorized to establish  
22 positions necessary to accomplish the management of those energy



1 projects funded by federal grants; provided that the positions  
2 shall be exempt from chapters 76 and 89, Hawaii Revised  
3 Statutes; and provided further that the governor shall submit a  
4 report to the legislature on all positions established as of  
5 December 31 and June 30 of each fiscal year that the positions  
6 exist and are occupied.

7 PART VII

8 SECTION 10. Any unexpended or unencumbered funds remaining  
9 in the agricultural development and food security special fund  
10 established by this Act, as of the close of business on June 30,  
11 2015, shall lapse to the credit of the general fund.

12 PART VIII

13 SECTION 11. The department of business, economic  
14 development, and tourism shall study and analyze the  
15 environmental response, energy, and food security tax in section  
16 4 of this Act, including its amount and allocation, and its  
17 effectiveness in accomplishing the goals and objectives of this  
18 Act. The department shall report its findings and  
19 recommendations, including any proposed legislation, to the  
20 legislature at least twenty days prior to the convening of each  
21 regular session, ending with the regular session of 2015.

22 PART IX



1 SECTION 12. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun, before its effective date.

4 SECTION 13. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect on July 1, 2010;  
7 provided that sections 2, 3, 4, and 7 of this Act shall be  
8 repealed on June 30, 2015, and sections 128D-2, 201-12.8, and  
9 243-3.5, Hawaii Revised Statutes, shall be reenacted in the form  
10 in which they read on June 30, 2010.





**Report Title:**

Food and Energy Security

**Description:**

Establishes various initiatives to promote economic development for local food and energy businesses, ensures Hawaii is energy and food self-sufficient and sustainable to the maximum extent feasible, and helps Hawaii's natural resources and humankind adapt and be resilient to the inevitable challenges brought on by climate change. Increases and changes the name of the environmental response tax, and sunsets the tax on June 30, 2015. (HB2421 CD1)

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

