

# TAXBILLSERVICE

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**SUBJECT:** FUEL, Reallocate environmental response, energy, and food security tax

**BILL NUMBER:** SB 2196

**INTRODUCED BY:** Gabbard, Chun Oakland and 4 Democrats

**BRIEF SUMMARY:** Amends HRS section 243-3.5 to increase the amount deposited into the environmental response revolving fund from 5 cents to 10 cents, increase the amount deposited into the energy security special fund from 15 cents to 42.5 cents, and increase the amount deposited into the agricultural development and food security fund from 15 cents to 42.5 cents.

Adds new sections to HRS chapter 304A to reenact the energy systems development special fund and the periodic evaluation and plan of action requirements of the special fund.

Amends Act 73, SLH, 2010, to extend the various allocations of the environmental response, energy, and food security tax from June 30, 2015 to June 30, 2030.

**EFFECTIVE DATE:** Upon approval

**STAFF COMMENTS:** The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. The legislature by Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into a newly established environmental response revolving fund; 15 cents shall be deposited into a newly established energy security special fund, 10 cents shall be deposited into a newly established energy systems development special fund; 15 cents shall be deposited into the newly established agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15. This measure would increase the amount deposited into the environmental response revolving fund from 5 cents to 10 cents, increase the amount deposited into the energy security special fund from 15 cents to 42.5 cents, and increase the amount deposited into the agricultural development and food security special fund from 15 cents to 42.5 cents. It would also extend the various allocations to these special funds which were scheduled to sunset on 6/30/15.

Under the current distribution of the \$1.05, a residual of 60 cents per barrel is deposited into the general fund. This measure proposes to redistribute the \$1.05 to increase the amount deposited into the: (1) environmental response revolving fund; (2) energy security special fund; and (3) agricultural development and food security fund which results in nothing left to be deposited into the general fund.

The environmental response tax was initially adopted for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund,

including environmental protection, food security, and natural resource protection programs, energy conservation and alternative energy development, air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

The basic problem with the barrel tax is that it lacks transparency, and because the funds are earmarked they do not come under close scrutiny by either lawmakers or the public. Rather than perpetuating the problems of the barrel tax, it should be repealed and all programs that are funded out of the environmental response fund should be funded through the general fund. At least program managers would then have to justify their need for these funds. If general funds are insufficient to underwrite all the essential programs and programs such as those funded through the barrel tax, then lawmakers need to justify any increase in taxes which underwrite the general fund or lawmakers will be forced to set priorities for those precious general funds. Currently, lawmakers are able to side step that difficult task by creating these hidden taxes and earmarked funds like the barrel tax. By continuing to special fund these programs, it makes a statement that such programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

Digested 2/5/14