
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. The purpose of this Act is to:

- 3 (1) Promote economic development for local food and energy
4 businesses by establishing necessary funding,
5 guidance, and infrastructure;
- 6 (2) Ensure Hawaii is energy and food self-sufficient and
7 sustainable to the maximum extent feasible; and
- 8 (3) Raise general funds during fiscally challenging times.

9 Hawaii is at a crossroads. As the most geographically
10 isolated state in the country, we are dangerously dependent on
11 imports for basic food and energy needs. We import about
12 eighty-five per cent of our food and ninety-five per cent of our
13 energy. It has been estimated that Hawaii exported \$8.6 billion
14 for food and oil in 2008, and every dollar exported is a lost
15 opportunity to support and invest in local business. Our
16 dependence on imports also exposes residents and businesses to
17 volatile food and energy costs as oil prices fluctuate.



1 In addition, the mass consumption of fossil fuels, driven
2 by our dependence on food and energy imports, contributes to
3 global warming and the deterioration of the environment,
4 imposing potentially major but unknown costs and other impacts
5 on Hawaii's people.

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

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

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



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

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

13 The legislature finds that it is in the best interests of
14 Hawaii's people to build the capacity we need to become energy
15 and food self-sufficient. As discussed in the Sustain 2050
16 Report and Hawaii Clean Energy Initiative, Hawaii has all the
17 necessary assets to significantly improve sustainability and
18 independence over the next twenty years if appropriate personnel
19 resources and sustainable funding are used wisely. To succeed,
20 the State must ensure that our long-term strategy is well-
21 resourced, coordinated, and focused.



1 This Act creates a Hawaii economic development task force
2 to accelerate and support public and private efforts to make
3 Hawaii energy and food self-sufficient, consistent with the
4 Sustain 2050 task force, the Hawaii Clean Energy Initiative, and
5 other government and community planning efforts. The Hawaii
6 economic development task force shall set priorities for
7 government agencies, determine how funds shall be allocated,
8 develop an overall road map to achieve the purpose of this Act,
9 and identify the economic development, workforce, and consumer
10 education issues relating to the production of food and energy.

11 The legislature intends that the Hawaii economic
12 development task force take an interdisciplinary approach to
13 seek the most efficient and effective pathways for interagency
14 coordination. The Hawaii economic development task force shall
15 work collaboratively with all levels of government and the
16 private and nonprofit sectors to address water, land,
17 regulatory, and natural resource issues intertwined with food
18 and fuel production. Such an approach ensures that energy and
19 food policy development is integrated within the overall
20 economic, social, environmental, and cultural aspects of
21 society. With an understanding of these overlapping goals and



1 resources, our State can maximize the opportunities to ensure
2 food and energy security for generations to come.

3 The legislature finds that undertaking this important task
4 of energy and food security requires substantial financial
5 resources. An investment and long-term commitment by the State
6 must be made. To that end, this Act also increases the per-
7 barrel tax on petroleum products under the environmental
8 response, energy, and food security tax, formerly known as the
9 environmental response tax.

10 The legislature also recognizes that the businesses and
11 people of this State would be adversely impacted by the pass-on
12 of the increased barrel tax. In these tough economic times, the
13 legislature chooses to implement a measure that is intended to
14 reduce the price of gasoline at the pump while increasing tax
15 revenue.

16 To accomplish this, this Act suspends the requirement that
17 gasoline sold in this state for use in motor vehicles shall
18 contain ten per cent ethanol by volume. At present, the cost of
19 a barrel of oil is much less than the cost of a barrel of
20 ethanol. Thus, the repeal of the ethanol content requirement is
21 intended to result in the replacement of more expensive ethanol
22 with less expensive oil in the refining process that produces a



1 gallon of gasoline. The suspension applies for thirty-six
2 months. Before the expiration of this suspension, the
3 legislature intends that the prices of ethanol and oil be re-
4 examined to determine if the suspension should be discontinued,
5 extended, or allowed to expire.

6 The legislature has not included in this Act a requirement
7 that refiners, jobbers, and dealers pass-on any savings to the
8 consumer. The legislature is confident that market forces and
9 competition will suffice to lower the price of gasoline to
10 offset the additional barrel tax imposed by part II.

11 PART II

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

15 "§141- Food security special fund; establishment. (a)

16 There is established within the state treasury the food security
17 special fund.

18 (b) The following shall be deposited into the special
19 fund:

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



- 1 (2) Any appropriation by the legislature into the special
2 fund;
- 3 (3) Any grant or donation made to the special fund; and
- 4 (4) Any interest earned on the balance of the special
5 fund.
- 6 (c) Subject to legislative appropriation, moneys in the
7 special fund may be expended for the following:
- 8 (1) The awarding of grants to farmers for agricultural
9 production or processing activity;
- 10 (2) The acquisition of real property for agricultural
11 production or processing activity;
- 12 (3) The improvement of real property, irrigation systems,
13 and transportation networks necessary to promote
14 agricultural production or processing activity;
- 15 (4) The purchase of equipment necessary for agricultural
16 production or processing activity;
- 17 (5) The conduct of research on and testing of agricultural
18 products and markets;
- 19 (6) The promotion and marketing of agricultural products
20 grown or raised in the state; and
- 21 (7) Any other activity intended to increase agricultural
22 production or processing that may lead to reduced



1 importation of food, fodder, or feed from outside the
2 state."

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

5 "**§128D-2 Environmental response revolving fund; uses.** (a)

6 There is created within the state treasury an environmental
7 response revolving fund, which shall consist of moneys
8 appropriated to the fund by the legislature, moneys paid to the
9 fund as a result of departmental compliance proceedings, moneys
10 paid to the fund pursuant to court-ordered awards or judgments,
11 moneys paid to the fund in court-approved or out-of-court
12 settlements, all interest attributable to investment of money
13 deposited in the fund, moneys ~~[generated by]~~ deposited in the
14 fund from the environmental response, energy, and food security
15 tax ~~[established in]~~ pursuant to section 243-3.5, and moneys
16 allotted to the fund from other sources ~~[, provided that when the~~
17 ~~total balance of the fund exceeds \$20,000,000, the department of~~
18 ~~health shall notify the department of taxation of this fact in~~
19 ~~writing within ten days. The department of taxation then shall~~
20 ~~notify all distributors liable for collecting the tax imposed by~~
21 ~~section 243-3.5 of this fact in writing, and the imposition of~~
22 ~~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 alternative
7 energy development, and to address concerns related to
8 air quality, global warming, clean water, polluted
9 runoff, solid and hazardous waste, drinking water, and
10 underground storage tanks, including support for the
11 underground storage tank program of the department and
12 funding for the acquisition by the State of a soil
13 remediation site and facility."

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

16 1. By amending its title and subsection (a) to read:

17 "§243-3.5 Environmental response, energy, and food
18 security tax; uses. (a) In addition to any other taxes
19 provided by law, subject to the exemptions set forth in section
20 243-7, there is hereby imposed ~~[at times provided in section~~
21 ~~128D-2]~~ a state environmental response, energy, and food
22 security tax of ~~[5-cents]~~ \$ ___ on each barrel or fractional part



1 of a barrel of petroleum product sold by a distributor to any
2 retail dealer or end user, other than a refiner, of petroleum
3 product; provided that:

4 (1) _____ cents of the tax on each barrel shall be [used
5 ~~pursuant to section 128D-2 to address concerns~~
6 ~~relating to drinking water.] deposited into the
7 environmental response revolving fund established
8 under section 128D-2;~~

9 (2) _____ cents of the tax on each barrel shall be deposited
10 into the energy security special fund established
11 under section 201-12.8;

12 (3) _____ cents of the tax on each barrel shall be deposited
13 into the energy systems development special fund
14 established under section 304A-2169;

15 (4) _____ cents of the tax on each barrel shall be deposited
16 into the food security special fund established under
17 section 141- ; and

18 (5) _____ cents of the tax on each barrel shall be deposited
19 into the general fund.

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

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



- 1 and resources to address energy and food security
2 issues;
- 3 (2) Identify all federal and private funds available to
4 the State and counties to address energy and food
5 security issues;
- 6 (3) Identify effective measures for interagency
7 cooperation, coordinate efforts with the counties, and
8 bolster public and private sector partnerships to
9 achieve the objective of energy and food security;
- 10 (4) Identify existing programs and agreements addressing
11 energy and food security that may be enhanced through
12 legislation;
- 13 (5) Investigate alternative institutional mechanisms to
14 promote the efficient execution and implementation of
15 a multi-year strategy to achieve energy and food
16 security;
- 17 (6) Investigate the streamlining of administrative
18 processes to accelerate and achieve energy and food
19 security;
- 20 (7) Provide an appropriate forum for all affected or
21 interested parties to address energy and food security
22 issues;



1 (8) Recommend appropriate legislation resulting from its
2 findings to improve, accelerate, and achieve the
3 objective of energy and food security;

4 (9) Review whether:

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

9 (B) The apportionment should be changed; and

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

12 and

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

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

17 (1) The director of business, economic development, and
18 tourism or the director's designee;

19 (2) The chairperson of the board of agriculture or the
20 chairperson's designee;

21 (3) The director of the office of planning or the
22 director's designee;



- 1 (4) The chairperson of the board of land and natural
2 resources or the chairperson's designee;
- 3 (5) The dean of the University of Hawaii college of
4 tropical agriculture and human resources or the dean's
5 designee;
- 6 (6) The speaker of the house of representatives or the
7 speaker's designee;
- 8 (7) The president of the senate or the president's
9 designee; and
- 10 (8) A representative from each county economic development
11 board.
- 12 (c) The Hawaii economic development task force's members
13 shall serve without compensation but shall be reimbursed for
14 expenses, including travel expenses, necessary for the
15 performance of their duties.
- 16 (d) In the performance of its duties, the Hawaii economic
17 development task force shall consult with appropriate private,
18 nonprofit, community, and government stakeholders.
- 19 (e) The department of business, economic development, and
20 tourism may contract with the University of Hawaii for any
21 services to support the work of the Hawaii economic development
22 task force.



1 (f) The Hawaii economic development task force shall
2 submit a report of its findings and recommendations, including
3 any proposed legislation, to the legislature no later than
4 twenty days prior to the convening of the regular session of
5 2010.

6 The task force also shall submit a follow-up report to the
7 legislature no later than twenty days prior to the convening of
8 the regular session of 2011. The report shall include a
9 description of the activities funded by the environmental
10 response, energy, and food security tax, progress made toward
11 energy and food self-sufficiency, and additional action
12 necessary to achieve energy and food self-sufficiency.

13 (g) The Hawaii economic development task force shall cease
14 to exist on June 30, 2011.

15 SECTION 6. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2009-2010 and the
18 same sum or so much thereof as may be necessary for fiscal year
19 2010-2011 for the purpose of supporting the work of the Hawaii
20 economic development task force. The appropriation shall be
21 made from the portion of the environmental response, energy, and
22 food security tax that is deposited into the general fund.



1 Revised Statutes, shall continue to apply during the
2 suspension period;

3 (3) The penalties of section 486J-10(g), Hawaii Revised
4 Statutes, and sections 15-35-7(d) and 15-35-8(d),
5 Hawaii administrative rules, shall continue to apply,
6 as applicable, to a violation that occurred before
7 July 1, 2009, or the failure to file the monthly
8 certified statement for June 2009 or the quarter
9 ending June 30, 2009, as applicable; and

10 (4) Section 9 of this Act shall apply to this part.

11 (b) On July 1, 2012, section 486J-10, Hawaii Revised
12 Statutes, and title 15, chapter 35, Hawaii administrative rules,
13 shall again become operational and have the full force and
14 effect of law without necessity of re-enactment or re-adoption.

15 SECTION 8. (a) The governor shall submit a petition to
16 the United States Environmental Protection Agency seeking a
17 waiver from the ethanol blending obligations under the United
18 States Energy Security Act for the thirty-six-month suspension
19 period under section 7. Under the petition, the governor shall
20 demonstrate that compliance with the federal renewable fuels
21 standard would severely harm the economy of the State and that



1 there is an inadequate supply of renewable fuel produced in the
2 State.

3 (b) If the waiver is not granted by the United States
4 Environmental Protection Agency, the ethanol content suspension
5 of section 7 shall nevertheless apply. A refiner in the state
6 that is not exempt from the renewable fuel standards regulations
7 may fulfill its volumetric reporting requirement through
8 increased blending of renewable fuels in nationally-based
9 facilities or trading of credits.

10 PART V

11 SECTION 9. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun, before its effective date.

14 SECTION 10. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 11. This Act shall take effect on July 1, 2020.



Report Title:

Food and Energy Security Program Establishment; Ethanol Content Repeal

Description:

Establishes the Hawaii economic development task force to address Hawaii's energy and food security needs. Increases the tax collected on each barrel of petroleum product sold by a distributor. Allocates portions of the taxes collected to various funds, including the general fund. Suspends for 36 months the requirement that gasoline sold in the State for use in motor vehicles contain 10% ethanol by volume. (HB1271 HD3)

