
A BILL FOR AN ACT

RELATING TO THE FUNDING OF GOVERNMENT PROGRAMS.

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

1 SECTION 1. The legislature finds that achieving the
2 important goal of energy and food security established by Act
3 73, Session Laws of Hawaii 2010, requires a long-term commitment
4 and investment of financial resources. To that end, the
5 legislature increased the per-barrel tax on petroleum products
6 under the environmental response, energy, and food security tax,
7 which was formerly known as the environmental response tax.

8 The environmental response tax had been five cents per
9 barrel since its inception in 1993 until it was increased to
10 \$1.05, effective July 1, 2010. The \$1 increase has helped
11 sustain Hawaii's clean energy progress and has brought attention
12 to the energy nexus between food security, economic development,
13 and climate change. While, in theory, the tax serves to
14 discourage reliance on fossil fuels, its major impact has been
15 to provide funding for energy and food security initiatives.



1 The purpose of this Act is to apply a fair and equitable
2 taxation policy to all fossil fuels to advance Hawaii's clean
3 energy, food security, and climate change policies.

4 SECTION 2. Section 243-3.5, Hawaii Revised Statutes, is
5 amended to read as follows:

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

16 (1) 5 cents of the tax on each barrel shall be deposited
17 into the environmental response revolving fund
18 established 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-2169.1]; 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 141-10.

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

9 (b) In addition to subsection (a), the tax shall also be
10 imposed on each one million British thermal units of fossil
11 fuel, other than petroleum product, sold by a distributor to any
12 retail dealer or end user, other than a refiner, of fossil fuel.
13 The tax shall be \$0.19 on each one million British thermal units
14 of fossil fuel; provided that of the tax collected pursuant to
15 this subsection:

16 (1) _____ per cent of the tax on each one million British
17 thermal units shall be deposited into the energy
18 security special fund established under section 201-
19 12.8;

20 (2) _____ per cent of the tax on each one million British
21 thermal units shall be deposited into the energy



1 systems development special fund established under
2 section 304A-2169.1; and
3 (3) per cent of the tax on each one million British
4 thermal units shall be deposited into the agricultural
5 development and food security special fund established
6 under section 141-10.

7 The tax imposed by this subsection shall be paid by the
8 distributor of the fossil fuel.

9 (c) The tax imposed under subsection (b) shall not apply
10 to coal used to fulfill a signed power purchase agreement
11 between an independent power producer and an electric utility
12 that is in effect as of June 30, 2015. An independent power
13 producer shall be permitted to pass the tax imposed under
14 subsection (b) on to an electric utility. In which case, the
15 electric utility may recover the cost of the tax through an
16 appropriate surcharge to the end user that is approved by the
17 public utilities commission.

18 (d) A gas utility shall be allowed to recover the cost of
19 the tax imposed under subsection (b) as part of its fuel cost in
20 its fuel adjustment charge without further approval by the
21 public utilities commission.



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

9 [~~(e)~~] (f) Notwithstanding section 248-8 to the contrary,
10 the environmental response, energy, and food security tax
11 collected under this section shall be paid over to the director
12 of finance for deposit as provided in subsection (a) [~~(a)~~] or (b),
13 as the case may be.

14 [~~(d)~~] (g) Every distributor shall keep in the State and
15 preserve for five years a record in [~~such~~] a form as the
16 department of taxation shall prescribe showing the total number
17 of barrels, and the fractional part of barrels, of petroleum
18 product or the total number of one million British thermal units
19 of fossil fuel, as the case may be, sold by the distributor
20 during any calendar month. The record shall show [~~such~~] any



1 other data and figures relevant to the enforcement and
2 administration of this chapter as the department may require.

3 (h) For the purposes of this section:

4 "Barrel" may be converted to million British thermal units,
5 using the United States Department of Energy, Energy Information
6 Administration annual energy review or annual energy outlook.

7 "Fossil fuel" means a hydrocarbon deposit, such as coal,
8 natural gas, or liquefied natural gas, derived from the
9 accumulated remains of ancient plants or animals and used for
10 fuel; provided that the term specifically does not include
11 petroleum product."

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2015;
15 provided that the amendments to section 243-3.5, Hawaii Revised
16 Statutes, that are made in section 2 of this Act shall not be
17 repealed when section 243-3.5, Hawaii Revised Statutes, is
18 reenacted on June 30, 2030, pursuant to section 14 of Act 73,
19 Session Laws of Hawaii 2010, as amended by section 3(2) of Act
20 107, Session Laws of Hawaii 2014.



Report Title:

Environmental Response, Energy, and Food Security Tax

Description:

Applies the state environmental response tax to fossil fuel other than petroleum product and bases the tax on one million British thermal units (MBTU). Defines "fossil fuel" to exclude petroleum product. Excludes coal from the fossil fuel tax under certain conditions. Authorizes independent power producers to pass the fossil fuel tax on to the electric utilities. Authorizes the electric utilities to recover the cost of the fossil fuel tax through a surcharge. (HB1471 HD2)

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