
A BILL FOR AN ACT

RELATING TO STATE FINANCES.

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

1 PART I

2 SECTION 1. Section 237-13, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§237-13 Imposition of tax. There is hereby levied and
5 shall be assessed and collected annually privilege taxes against
6 persons on account of their business and other activities in the
7 State measured by the application of rates against values of
8 products, gross proceeds of sales, or gross income, whichever is
9 specified, as follows:

10 (1) Tax on manufacturers.

11 (A) Upon every person engaging or continuing within
12 the State in the business of manufacturing,
13 including compounding, canning, preserving,
14 packing, printing, publishing, milling,
15 processing, refining, or preparing for sale,
16 profit, or commercial use, either directly or
17 through the activity of others, in whole or in



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1 part, any article or articles, substance or
2 substances, commodity or commodities, the amount
3 of the tax to be equal to the value of the
4 articles, substances, or commodities,
5 manufactured, compounded, canned, preserved,
6 packed, printed, milled, processed, refined, or
7 prepared for sale, as shown by the gross proceeds
8 derived from the sale thereof by the manufacturer
9 or person compounding, preparing, or printing
10 them, multiplied by one-half of one per cent.

11 (B) The measure of the tax on manufacturers is the
12 value of the entire product for sale, regardless
13 of the place of sale or the fact that deliveries
14 may be made to points outside the State.

15 (C) If any person liable for the tax on manufacturers
16 ships or transports the person's product, or any
17 part thereof, out of the State, whether in a
18 finished or unfinished condition, or sells the
19 same for delivery to points outside the State
20 (for example, consigned to a mainland purchaser
21 via common carrier f.o.b. Honolulu), the value of



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1 the products in the condition or form in which
2 they exist immediately before entering interstate
3 or foreign commerce, determined as hereinafter
4 provided, shall be the basis for the assessment
5 of the tax imposed by this paragraph. This tax
6 shall be due and payable as of the date of entry
7 of the products into interstate or foreign
8 commerce, whether the products are then sold or
9 not. The department shall determine the basis
10 for assessment, as provided by this paragraph, as
11 follows:

12 (i) If the products at the time of their entry
13 into interstate or foreign commerce already
14 have been sold, the gross proceeds of sale,
15 less the transportation expenses, if any,
16 incurred in realizing the gross proceeds for
17 transportation from the time of entry of the
18 products into interstate or foreign
19 commerce, including insurance and storage in
20 transit, shall be the measure of the value
21 of the products;



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1 (ii) If the products have not been sold at the
2 time of their entry into interstate or
3 foreign commerce, and in cases governed by
4 clause (i) in which the products are sold
5 under circumstances such that the gross
6 proceeds of sale are not indicative of the
7 true value of the products, the value of the
8 products constituting the basis for
9 assessment shall correspond as nearly as
10 possible to the gross proceeds of sales for
11 delivery outside the State, adjusted as
12 provided in clause (i), or if sufficient
13 data are not available, sales in the State,
14 of similar products of like quality and
15 character and in similar quantities, made by
16 the taxpayer (unless not indicative of the
17 true value) or by others. Sales outside the
18 State, adjusted as provided in clause (i),
19 may be considered when they constitute the
20 best available data. The department shall



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prescribe uniform and equitable rules for
ascertaining the values;

(iii) At the election of the taxpayer and with the
approval of the department, the taxpayer may
make the taxpayer's returns under clause (i)
even though the products have not been sold
at the time of their entry into interstate
or foreign commerce; and

(iv) In all cases in which products leave the
State in an unfinished condition, the basis
for assessment shall be adjusted so as to
deduct the portion of the value as is
attributable to the finishing of the goods
outside the State.

(2) Tax on business of selling tangible personal property;
producing.

(A) Upon every person engaging or continuing in the
business of selling any tangible personal
property whatsoever (not including, however,
bonds or other evidence of indebtedness, or
stocks), there is likewise hereby levied, and



1 shall be assessed and collected, a tax equivalent
2 to [~~four~~] five per cent of the gross proceeds of
3 sales of the business; provided that, in the case
4 of a wholesaler, the tax shall be equal to one-
5 half of one per cent of the gross proceeds of
6 sales of the business; and provided further that
7 insofar as the sale of tangible personal property
8 is a wholesale sale under section 237-4(a)(8),
9 the sale shall be subject to section 237-13.3.

10 Upon every person engaging or continuing within
11 this State in the business of a producer, the tax
12 shall be equal to one-half of one per cent of the
13 gross proceeds of sales of the business, or the
14 value of the products, for sale, if sold for
15 delivery outside the State or shipped or
16 transported out of the State, and the value of
17 the products shall be determined in the same
18 manner as the value of manufactured products
19 covered in the cases under paragraph (1)(C).

20 (B) Gross proceeds of sales of tangible property in
21 interstate and foreign commerce shall constitute



1 a part of the measure of the tax imposed on
2 persons in the business of selling tangible
3 personal property, to the extent, under the
4 conditions, and in accordance with the provisions
5 of the Constitution of the United States and the
6 Acts of the Congress of the United States which
7 may be now in force or may be hereafter adopted,
8 and whenever there occurs in the State an
9 activity to which, under the Constitution and
10 Acts of Congress, there may be attributed gross
11 proceeds of sales, the gross proceeds shall be so
12 attributed.

13 (C) No manufacturer or producer, engaged in such
14 business in the State and selling the
15 manufacturer's or producer's products for
16 delivery outside of the State (for example,
17 consigned to a mainland purchaser via common
18 carrier f.o.b. Honolulu), shall be required to
19 pay the tax imposed in this chapter for the
20 privilege of so selling the products, and the
21 value or gross proceeds of sales of the products



1 shall be included only in determining the measure
2 of the tax imposed upon the manufacturer or
3 producer.

4 (D) When a manufacturer or producer, engaged in such
5 business in the State, also is engaged in selling
6 the manufacturer's or producer's products in the
7 State at wholesale, retail, or in any other
8 manner, the tax for the privilege of engaging in
9 the business of selling the products in the State
10 shall apply to the manufacturer or producer as
11 well as the tax for the privilege of
12 manufacturing or producing in the State, and the
13 manufacturer or producer shall make the returns
14 of the gross proceeds of the wholesale, retail,
15 or other sales required for the privilege of
16 selling in the State, as well as making the
17 returns of the value or gross proceeds of sales
18 of the products required for the privilege of
19 manufacturing or producing in the State. The
20 manufacturer or producer shall pay the tax
21 imposed in this chapter for the privilege of



1 selling its products in the State, and the value
2 or gross proceeds of sales of the products, thus
3 subjected to tax, may be deducted insofar as
4 duplicated as to the same products by the measure
5 of the tax upon the manufacturer or producer for
6 the privilege of manufacturing or producing in
7 the State; provided that no producer of
8 agricultural products who sells the products to a
9 purchaser who will process the products outside
10 the State shall be required to pay the tax
11 imposed in this chapter for the privilege of
12 producing or selling those products.

13 (E) A taxpayer selling to a federal cost-plus
14 contractor may make the election provided for by
15 paragraph (3) (C), and in that case the tax shall
16 be computed pursuant to the election,
17 notwithstanding this paragraph or paragraph (1)
18 to the contrary.

19 (F) The department, by rule, may require that a
20 seller take from the purchaser of tangible
21 personal property a certificate, in a form



1 prescribed by the department, certifying that the
2 sale is a sale at wholesale; provided that:

- 3 (i) Any purchaser who furnishes a certificate
4 shall be obligated to pay to the seller,
5 upon demand, the amount of the additional
6 tax that is imposed upon the seller whenever
7 the sale in fact is not at wholesale; and
8 (ii) The absence of a certificate in itself shall
9 give rise to the presumption that the sale
10 is not at wholesale unless the sales of the
11 business are exclusively at wholesale.

12 (3) Tax upon contractors.

13 (A) Upon every person engaging or continuing within
14 the State in the business of contracting, the tax
15 shall be equal to [~~four~~] five per cent of the
16 gross income of the business.

17 (B) In computing the tax levied under this paragraph,
18 there shall be deducted from the gross income of
19 the taxpayer so much thereof as has been included
20 in the measure of the tax levied under
21 subparagraph (A), on:



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1 (i) Another taxpayer who is a contractor, as
2 defined in section 237-6;

3 (ii) A specialty contractor, duly licensed by the
4 department of commerce and consumer affairs
5 pursuant to section 444-9, in respect of the
6 specialty contractor's business; or

7 (iii) A specialty contractor who is not licensed
8 by the department of commerce and consumer
9 affairs pursuant to section 444-9, but who
10 performs contracting activities on federal
11 military installations and nowhere else in
12 this State;

13 provided that any person claiming a deduction
14 under this paragraph shall be required to show in
15 the person's return the name and general excise
16 number of the person paying the tax on the amount
17 deducted by the person.

18 (C) In computing the tax levied under this paragraph
19 against any federal cost-plus contractor, there
20 shall be excluded from the gross income of the



1 contractor so much thereof as fulfills the
2 following requirements:

3 (i) The gross income exempted shall constitute
4 reimbursement of costs incurred for
5 materials, plant, or equipment purchased
6 from a taxpayer licensed under this chapter,
7 not exceeding the gross proceeds of sale of
8 the taxpayer on account of the transaction;
9 and

10 (ii) The taxpayer making the sale shall have
11 certified to the department that the
12 taxpayer is taxable with respect to the
13 gross proceeds of the sale, and that the
14 taxpayer elects to have the tax on gross
15 income computed the same as upon a sale to
16 the state government.

17 (D) A person who, as a business or as a part of a
18 business in which the person is engaged, erects,
19 constructs, or improves any building or
20 structure, of any kind or description, or makes,
21 constructs, or improves any road, street,



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1 sidewalk, sewer, or water system, or other
2 improvements on land held by the person (whether
3 held as a leasehold, fee simple, or otherwise),
4 upon the sale or other disposition of the land or
5 improvements, even if the work was not done
6 pursuant to a contract, shall be liable to the
7 same tax as if engaged in the business of
8 contracting, unless the person shows that at the
9 time the person was engaged in making the
10 improvements the person intended, and for the
11 period of at least one year after completion of
12 the building, structure, or other improvements
13 the person continued to intend to hold and not
14 sell or otherwise dispose of the land or
15 improvements. The tax in respect of the
16 improvements shall be measured by the amount of
17 the proceeds of the sale or other disposition
18 that is attributable to the erection,
19 construction, or improvement of such building or
20 structure, or the making, constructing, or
21 improving of the road, street, sidewalk, sewer,



1 or water system, or other improvements. The
2 measure of tax in respect of the improvements
3 shall not exceed the amount which would have been
4 taxable had the work been performed by another,
5 subject as in other cases to the deductions
6 allowed by subparagraph (B). Upon the election
7 of the taxpayer, this paragraph may be applied
8 notwithstanding that the improvements were not
9 made by the taxpayer, or were not made as a
10 business or as a part of a business, or were made
11 with the intention of holding the same. However,
12 this paragraph shall not apply in respect of any
13 proceeds that constitute or are in the nature of
14 rent; all such gross income shall be taxable
15 under paragraph (9); provided that insofar as the
16 business of renting or leasing real property
17 under a lease is taxed under section 237-16.5,
18 the tax shall be levied by section 237-16.5.

19 (4) Tax upon theaters, amusements, radio broadcasting
20 stations, etc.



1 (A) Upon every person engaging or continuing within
2 the State in the business of operating a theater,
3 opera house, moving picture show, vaudeville,
4 amusement park, dance hall, skating rink, radio
5 broadcasting station, or any other place at which
6 amusements are offered to the public, the tax
7 shall be equal to [~~four~~] five per cent of the
8 gross income of the business, and in the case of
9 a sale of an amusement at wholesale under section
10 237-4(a)(13), the tax shall be subject to section
11 237-13.3.

12 (B) The department may require that the person
13 rendering an amusement at wholesale take from the
14 licensed seller a certificate, in a form
15 prescribed by the department, certifying that the
16 sale is a sale at wholesale; provided that:

17 (i) Any licensed seller who furnishes a
18 certificate shall be obligated to pay to the
19 person rendering the amusement, upon demand,
20 the amount of additional tax that is imposed



1 upon the seller whenever the sale is not at
2 wholesale; and

3 (ii) The absence of a certificate in itself shall
4 give rise to the presumption that the sale
5 is not at wholesale unless the person
6 rendering the sale is exclusively rendering
7 the amusement at wholesale.

8 (5) Tax upon sales representatives, etc. Upon every
9 person classified as a representative or purchasing
10 agent under section 237-1, engaging or continuing
11 within the State in the business of performing
12 services for another, other than as an employee, there
13 is likewise hereby levied and shall be assessed and
14 collected a tax equal to [~~four~~] five per cent of the
15 commissions and other compensation attributable to the
16 services so rendered by the person.

17 (6) Tax on service business.

18 (A) Upon every person engaging or continuing within
19 the State in any service business or calling
20 including professional services not otherwise
21 specifically taxed under this chapter, there is



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1 likewise hereby levied and shall be assessed and
2 collected a tax equal to [~~four~~] five per cent of
3 the gross income of the business, and in the case
4 of a wholesaler under section 237-4(a)(10), the
5 tax shall be equal to one-half of one per cent of
6 the gross income of the business.

7 Notwithstanding the foregoing, a wholesaler under
8 section 237-4(a)(10) shall be subject to section
9 237-13.3.

10 (B) The department may require that the person
11 rendering a service at wholesale take from the
12 licensed seller a certificate, in a form
13 prescribed by the department, certifying that the
14 sale is a sale at wholesale; provided that:

15 (i) Any licensed seller who furnishes a
16 certificate shall be obligated to pay to the
17 person rendering the service, upon demand,
18 the amount of additional tax that is imposed
19 upon the seller whenever the sale is not at
20 wholesale; and



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1 (ii) The absence of a certificate in itself shall
2 give rise to the presumption that the sale
3 is not at wholesale unless the person
4 rendering the sale is exclusively rendering
5 services at wholesale.

6 (C) Where any person is engaged in the business of
7 selling interstate or foreign common carrier
8 telecommunication services within and without the
9 State, other than as a home service provider, the
10 tax shall be imposed on that portion of gross
11 income received by a person from service which is
12 originated or terminated in this State and is
13 charged to a telephone number, customer, or
14 account in this State notwithstanding any other
15 state law (except for the exemption under section
16 237-23(a)(1)) to the contrary. If, under the
17 Constitution and laws of the United States, the
18 entire gross income as determined under this
19 paragraph of a business selling interstate or
20 foreign common carrier telecommunication services
21 cannot be included in the measure of the tax, the



1 gross income shall be apportioned as provided in
2 section 237-21; provided that the apportionment
3 factor and formula shall be the same for all
4 persons providing those services in the State.

5 (D) Where any person is engaged in the business of a
6 home service provider, the tax shall be imposed
7 on the gross income received or derived from
8 providing interstate or foreign mobile
9 telecommunications services to a customer with a
10 place of primary use in this State when such
11 services originate in one state and terminate in
12 another state, territory, or foreign country;
13 provided that all charges for mobile
14 telecommunications services which are billed by
15 or for the home service provider are deemed to be
16 provided by the home service provider at the
17 customer's place of primary use, regardless of
18 where the mobile telecommunications originate,
19 terminate, or pass through; provided further that
20 the income from charges specifically derived from
21 interstate or foreign mobile telecommunications



1 services, as determined by books and records that
2 are kept in the regular course of business by the
3 home service provider in accordance with section
4 239-24, shall be apportioned under any
5 apportionment factor or formula adopted under
6 subparagraph (C). Gross income shall not
7 include:

8 (i) Gross receipts from mobile
9 telecommunications services provided to a
10 customer with a place of primary use outside
11 this State;

12 (ii) Gross receipts from mobile
13 telecommunications services that are subject
14 to the tax imposed by chapter 239;

15 (iii) Gross receipts from mobile
16 telecommunications services taxed under
17 section 237-13.8; and

18 (iv) Gross receipts of a home service provider
19 acting as a serving carrier providing mobile
20 telecommunications services to another home
21 service provider's customer.



1 For the purposes of this paragraph, "charges for
2 mobile telecommunications services", "customer",
3 "home service provider", "mobile
4 telecommunications services", "place of primary
5 use", and "serving carrier" have the same meaning
6 as in section 239-22.

7 (7) Tax on insurance producers. Upon every person engaged
8 as a licensed producer pursuant to chapter 431, there
9 is hereby levied and shall be assessed and collected a
10 tax equal to 0.15 per cent of the commissions due to
11 that activity.

12 (8) Tax on receipts of sugar benefit payments. Upon the
13 amounts received from the United States government by
14 any producer of sugar (or the producer's legal
15 representative or heirs), as defined under and by
16 virtue of the Sugar Act of 1948, as amended, or other
17 Acts of the Congress of the United States relating
18 thereto, there is hereby levied a tax of one-half of
19 one per cent of the gross amount received; provided
20 that the tax levied hereunder on any amount so
21 received and actually disbursed to another by a



1 producer in the form of a benefit payment shall be
2 paid by the person or persons to whom the amount is
3 actually disbursed, and the producer actually making a
4 benefit payment to another shall be entitled to claim
5 on the producer's return a deduction from the gross
6 amount taxable hereunder in the sum of the amount so
7 disbursed. The amounts taxed under this paragraph
8 shall not be taxable under any other paragraph,
9 subsection, or section of this chapter.

10 (9) Tax on other business. Upon every person engaging or
11 continuing within the State in any business, trade,
12 activity, occupation, or calling not included in the
13 preceding paragraphs or any other provisions of this
14 chapter, there is likewise hereby levied and shall be
15 assessed and collected, a tax equal to [~~four~~] five per
16 cent of the gross income thereof. In addition, the
17 rate prescribed by this paragraph shall apply to a
18 business taxable under one or more of the preceding
19 paragraphs or other provisions of this chapter, as to
20 any gross income thereof not taxed thereunder as gross
21 income or gross proceeds of sales or by taxing an



1 equivalent value of products, unless specifically
2 exempted."

3 SECTION 2. Section 237-15, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§237-15 Technicians.** When technicians supply dentists or
6 physicians with dentures, orthodontic devices, braces, and
7 similar items [~~which~~] that have been prepared by the technician
8 in accordance with specifications furnished by the dentist or
9 physician, and [~~such~~] the items are to be used by the dentist or
10 physician in the dentist's or physician's professional practice
11 for a particular patient who is to pay the dentist or physician
12 for the same as a part of the dentist's or physician's
13 professional services, the technician shall be taxed as though
14 the technician were a manufacturer selling a product to a
15 licensed retailer, rather than at the rate of [~~four~~] five per
16 cent [~~which~~] that is generally applied to professions and
17 services."

18 SECTION 3. Section 237-16.5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) This section relates to the leasing of real property
21 by a lessor to a lessee. There is hereby levied, and shall be



1 assessed and collected annually, a privilege tax against persons
2 engaging or continuing within the State in the business of
3 leasing real property to another, equal to [~~four~~] five per cent
4 of the gross proceeds or gross income received or derived from
5 the leasing; provided that where real property is subleased by a
6 lessee to a sublessee, the lessee, as provided in this section,
7 shall be allowed a deduction from the amount of gross proceeds
8 or gross income received from its sublease of the real property.
9 The deduction shall be in the amount allowed under this section.

10 All deductions under this section and the name and general
11 excise tax number of the lessee's lessor shall be reported on
12 the general excise tax return. Any deduction allowed under this
13 section shall only be allowed with respect to leases and
14 subleases in writing and relating to the same real property."

15 SECTION 4. Section 237-18, Hawaii Revised Statutes, is
16 amended by amending subsection (f) to read as follows:

17 "(f) Where tourism related services are furnished through
18 arrangements made by a travel agency or tour packager and the
19 gross income is divided between the provider of the services and
20 the travel agency or tour packager, the tax imposed by this



1 chapter shall apply to each [~~such~~] person with respect to [~~such~~]
2 the person's respective portion of the proceeds, and no more.

3 As used in this subsection, "tourism related services"
4 means catamaran cruises, canoe rides, dinner cruises, lei
5 greetings, transportation included in a tour package,
6 sightseeing tours not subject to chapter 239, admissions to
7 luaus, dinner shows, extravaganzas, cultural and educational
8 facilities, and other services rendered directly to the customer
9 or tourist, but only if the providers of the services other than
10 air transportation are subject to a [~~four~~] five per cent tax
11 under this chapter or chapter 239."

12 SECTION 5. Section 237-31, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§237-31 Remittances. (a) All remittances of taxes
15 imposed by this chapter shall be made by money, bank draft,
16 check, cashier's check, money order, or certificate of deposit
17 to the office of the department of taxation to which the return
18 was transmitted.

19 (b) The department shall issue its receipts therefor to
20 the taxpayer and shall pay the moneys into the state treasury as



1 a state realization, to be kept and accounted for as provided by
2 law; provided that:

3 (1) A sum, not to exceed \$5,000,000, from all general
4 excise tax revenues realized by the State shall be
5 deposited in the state treasury in each fiscal year to
6 the credit of the compound interest bond reserve fund;

7 (2) A sum from all general excise tax revenues realized by
8 the State that is equal to one-half of the total
9 amount of funds appropriated or transferred out of the
10 hurricane reserve trust fund under sections 4 and 5 of
11 Act 62, Session Laws of Hawaii 2011, shall be
12 deposited into the hurricane reserve trust fund in
13 fiscal year 2013-2014 and in fiscal year 2014-2015;
14 provided that the deposit required in each fiscal year
15 shall be made by October 1 of that fiscal year; and

16 ~~[+]~~ (3) ~~[+]~~ Commencing with fiscal year 2018-2019, a sum from all
17 general excise tax revenues realized by the State that
18 represents the difference between the state public
19 employer's annual required contribution for the
20 separate trust fund established under section 87A-42
21 and the amount of the state public employer's



1 contributions into that trust fund shall be deposited
2 to the credit of the State's annual required
3 contribution into that trust fund in each fiscal year,
4 as provided in section 87A-42.

5 (c) Notwithstanding subsection (b), beginning on July 1,
6 2015, the additional revenues generated and collected from the
7 increase in general excise tax rates imposed by sections 1, 2,
8 3, and 4 of Act , Session Laws of Hawaii 2015, shall be
9 deposited into the acquisition of agricultural lands trust fund
10 established under section 163D- ."

11 PART II

12 SECTION 6. Chapter 163D, Hawaii Revised Statutes, is
13 amended by adding a new section to part II to be appropriately
14 designated and to read as follows:

15 "§163D- Acquisition of agricultural lands trust fund.

16 (a) There is established a trust fund in the state treasury to
17 be known as the acquisition of agricultural lands trust fund,
18 into which shall be deposited general excise tax revenues as
19 provided by section 237-31(c).

20 (b) All moneys deposited into the trust fund shall be
21 expended by the corporation for the acquisition of agricultural



1 lands pursuant to section 163D-31, and shall not be transferred,
2 nor subject to transfer, to the general fund or any other fund
3 in the state treasury."

4 SECTION 7. Section 163D-32, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "(b) The corporation may make payments from moneys
7 [appropriated] :

8 (1) Appropriated by the legislature[-]; or

9 (2) From the acquisition of agricultural lands trust
10 fund."

11 PART III

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect on July 1, 2015;
15 provided that part I shall be repealed on June 30, 2017, and
16 sections 237-13, 237-15, 237-16.5(a), and 237-18(f), Hawaii
17 Revised Statutes, shall be reenacted in the form in which they
18 read on the day before the effective date of this Act.

19
INTRODUCED BY:



JAN 23 2015



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Report Title:

General Excise Tax; Increase; Agribusiness Development Corporation; Acquisition of Agricultural Lands

Description:

Increases the general excise tax by 1% for a 2-year period to provide a dedicated funding source for the acquisition of agricultural lands.

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

