

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§235-       Carbon sequestration tax credit. (a) There  
5 shall be allowed to each taxpayer subject to the taxes imposed  
6 by this chapter, a carbon sequestration tax credit that shall be  
7 deductible from the taxpayer's net income tax liability, if any,  
8 imposed by this chapter for the taxable year in which the credit  
9 is properly claimed. The amount of the credit shall be equal to  
10 \$                   per metric ton of qualified carbon oxide that is:

- 11           (1) Captured by the taxpayer using carbon capture  
12               equipment placed in service at an industrial facility  
13               or direct air capture facility in the State; and  
14           (2) Disposed of by the taxpayer in secure geological  
15               storage and not used by the taxpayer as a tertiary  
16               injectant.



1        (b) In the case of a partnership, S corporation, estate,  
2 or trust, the tax credit allowable is for qualified carbon oxide  
3 captured and stored by the entity for the taxable year. The  
4 cost upon which the tax credit is computed shall be determined  
5 at the entity level. Distribution and share of credit shall be  
6 determined by rule.

7        (c) If the tax credit under this section exceeds the  
8 taxpayer's income tax liability in any taxable year that the  
9 credit is claimed, the excess of the tax credit over liability  
10 may be used as a credit against the taxpayer's net income tax  
11 liability in subsequent years until exhausted. All claims,  
12 including any amended claims, for tax credits under this section  
13 shall be properly filed on or before the end of the twelfth  
14 month following the close of the taxable year for which the  
15 credit may be claimed. Failure to comply with any of the  
16 foregoing provision shall constitute a waiver of the right to  
17 claim the credit.

18        (d) The department of health shall adopt rules pursuant to  
19 chapter 91 for the purposes of certifying the metric tons of  
20 qualified carbon oxide captured and disposed of by a taxpayer.



1       (e) Every taxpayer claiming a tax credit under this  
2 section for a qualified carbon oxide shall, no later than ninety  
3 days following the end of each taxable year in which the  
4 qualified carbon oxide was captured and disposed, submit  
5 information deemed necessary under the rules adopted pursuant to  
6 subsection (d) to the department of health.

7       (f) The department of health shall:

8       (1) Maintain records of the names of the taxpayers  
9       claiming the tax credit under subsection (a) and the  
10       respective amount of qualified carbon oxide captured  
11       and disposed;

12       (2) Verify the amount of qualified carbon oxide captured  
13       and disposed, and certify the amount of the tax credit  
14       for each taxpayer for the taxable year; and

15       (3) Issue a certificate to the taxpayer verifying the  
16       amount of the qualified carbon oxide captured and  
17       disposed and the tax credit amount certified for the  
18       taxable year; provided that the department of health  
19       shall issue the certificate to the taxpayer no later  
20       than seven months after the submission of the



1 information to the department pursuant to subsection  
2 (e).

3 (g) The taxpayer shall file the certificate issued under  
4 subsection (f) with the taxpayer's tax return with the  
5 department of taxation. The director of taxation may audit and  
6 adjust the certification to conform to the facts.

7 (h) The director of taxation:

8 (1) Shall prepare any forms as may be necessary to claim a  
9 credit under this section;

10 (2) May require the taxpayer to furnish information to  
11 ascertain the validity of the claim for credit made  
12 under this section; and

13 (3) May adopt rules pursuant to chapter 91 necessary to  
14 effectuate the purposes of this section.

15 (i) For purposes of this section:

16 "Carbon capture equipment" has the same meaning as in title  
17 26 Code of Federal Regulations section 1.45Q-2(c).

18 "Direct air capture facility" means any facility that uses  
19 carbon capture equipment to capture carbon dioxide directly from  
20 the ambient air. "Direct air capture facility" does not include  
21 any facility that captures carbon dioxide that is deliberately



1 released from naturally occurring subsurface springs or using  
2 photosynthesis.

3 "Industrial facility" has the same meaning as in title 26  
4 Code of Federal Regulations section 1.45Q-2(d).

5 "Net income tax liability" means income tax liability  
6 reduced by all other credits allowed under this chapter.

7 "Qualified carbon oxide" means:

8 (1) Any carbon dioxide or other carbon oxide that:

9 (A) Is captured from an industrial source by carbon  
10 capture equipment;

11 (B) Would otherwise be released into the atmosphere  
12 as industrial emission of greenhouse gas or lead  
13 to such release; and

14 (C) Is measured at the source of capture and verified  
15 at the point of disposal; or

16 (2) In the case of a direct air capture facility, any  
17 carbon dioxide that:

18 (A) Is captured directly from the ambient air; and

19 (B) Is measured at the source of capture and verified  
20 at the point of disposal.



1        "Secure geological storage" has the same meaning as used in  
2 title 26 Code of Federal Regulations section 1.45Q-3(b)(1)(i).

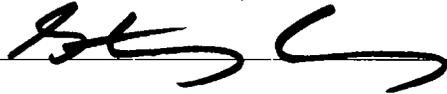
3        "Tertiary injectant" means qualified carbon oxide that is  
4 injected into and stored in a qualified enhanced oil or natural  
5 gas recovery project and contributes to the extraction of crude  
6 oil or natural gas. "Tertiary injectant" includes the same  
7 meaning as used in title 26 United States Code section  
8 193(b)(1)."

9        SECTION 2. New statutory material is underscored.

10       SECTION 3. This Act, upon its approval, shall apply to  
11 taxable years beginning after December 31, 2023.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be "B. S. L.", written over a horizontal line.

# S.B. NO. 361

**Report Title:**

Carbon Sequestration Tax Credit; Income Tax; DOTAX; DOH

**Description:**

Establishes a carbon sequestration income tax credit.  
Applicable to taxable years beginning after 12/31/2023.

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

2023-0656 SB HMSO

