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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. The legislature finds that climate change is  
2 the most critical issue confronting the State of Hawaii. The  
3 overwhelming consensus of climate scientists who have studied  
4 the issue is that climate change is occurring primarily as a  
5 result of the combustion of fossil fuels. The legislature  
6 concurs with this conclusion.

7           The Hawaii climate change mitigation and adaptation  
8 commission has stated that the most effective single means of  
9 reducing greenhouse gas emissions is to "put a price on carbon".  
10 The concept of "carbon pricing" is supported by various local  
11 and state entities and, as of the end of 2018, fifty-one carbon  
12 pricing initiatives have been implemented or scheduled for  
13 implementation worldwide. Numerous respected economists have  
14 emphasized the importance of assuring that the social costs of  
15 the adverse impacts of carbon dioxide emissions will be included  
16 in future market pricing involving fossil fuels.



1           The legislature further finds that the best means of carbon  
2 pricing for the State is a use-based tax on all carbon dioxide-  
3 emitting fuels, such as oil, gas, and coal. The department of  
4 taxation already implements various fuel-based taxes, including  
5 the environmental response, energy, and food security tax, which  
6 imposes a tax on barrels of petroleum products. A separate tax  
7 is also imposed on fossil fuels other than petroleum, applied to  
8 each million British thermal units (BTUs) of heat value of a  
9 fuel. The legislature concludes that the environmental  
10 response, energy, and food security tax provisions could be  
11 amended to implement a state carbon emissions tax. However, the  
12 current tax rates per barrel and per million BTUs of fossil  
13 fuels should be replaced with a tax table that reflects the  
14 quantity of carbon dioxide emissions produced per barrel or per  
15 million BTUs of various fuels.

16           A carbon emissions tax is typically calculated as a value  
17 per metric ton of carbon dioxide equivalent emissions. Many  
18 climate change experts have concluded that, to be effective in  
19 achieving reductions in combustion of fossil fuels to the extent  
20 needed to meet the goals set under the Paris Agreement, the  
21 price of carbon emissions should be set in the range of \$40 per



1 metric ton of carbon dioxide emissions in 2020, and increase to  
2 a price of \$80 by 2030. The legislature finds that the need to  
3 establish effective carbon prices is compelling.

4 Accordingly, the purpose of this Act is to:

5 (1) Amend the environmental response, energy, and food  
6 security tax to address carbon emissions;

7 (2) Increase the tax rate to effectively set a price of  
8 \$ per metric ton of carbon dioxide emissions  
9 in ;

10 (3) Incrementally increase the tax rate over time so that,  
11 in 2030, the tax rate shall be equivalent to a carbon  
12 price of \$ per metric ton of carbon  
13 emissions; and

14 (4) Establish a refundable tax credit for lower-income  
15 individuals to mitigate the effect of the tax on  
16 carbon emissions.

17 The legislature notes that, since the initial increase in tax  
18 rates is not scheduled to take effect until , the  
19 legislature will have the opportunity to consider any revisions  
20 to the tax rates set by this Act that may be warranted by the  
21 results of the carbon pricing study currently underway pursuant



1 to Act 122, Session Laws of Hawaii 2019. In amending the  
2 environmental response, energy, and food security tax, the  
3 legislature has taken into account the license taxes currently  
4 imposed on gasoline and diesel fuel. The legislature believes  
5 that the combined impact of the amendments made by this Act and  
6 the existing license taxes will achieve the carbon price  
7 targets.

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

11 "§235- Tax credit to mitigate the effect of a carbon  
12 emissions tax on lower income taxpayers. (a) There shall be  
13 allowed to each qualified taxpayer subject to the tax imposed  
14 under this chapter, an income tax credit that shall be  
15 deductible from the taxpayer's net income tax liability, if any,  
16 imposed by this chapter for the taxable year in which the credit  
17 is properly claimed.

18 (b) The amount of the tax credit shall be determined as  
19 follows:

20 (1) For a taxpayer filing a single return or a married  
21 person filing separately, the applicable tax credit is



1 determined by which bracket in the following table the  
2 taxpayer's gross annual household income falls within:

4	<u>Gross Annual Household Income</u>	<u>Credit Amount</u>
5	\$ _____ or less but	
6	more than \$ _____	\$ _____
7		
8	\$ _____ or less but	
9	more than \$ _____	\$ _____
10		
11	\$ _____ or less but	
12	more than \$ _____	\$ _____
13		
14	\$ _____ or less but	
15	more than \$ _____	\$ _____
16		
17	\$ _____ or less	\$ _____.

18

19 (2) For a taxpayer filing as a head of household, the  
20 applicable tax credit is determined by which bracket



1           in the following table the taxpayer's gross annual  
2           household income falls within:

<u>Gross Annual Household Income</u>	<u>Credit Amount</u>
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less	\$ _____.

19           (3) For a taxpayer filing a joint return or as a surviving  
20           spouse, the applicable tax credit is determined by



1           which bracket in the following table the taxpayer's  
2           gross annual household income falls within:

<u>Gross Annual Household Income</u>	<u>Credit Amount</u>
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less but	
more than \$ _____	\$ _____
\$ _____ or less	\$ _____.

18           (c) If the tax credit claimed by the taxpayer under this  
19           section exceeds the amount of the income tax payments due from  
20           the taxpayer, the excess of credit over payments due shall be  
21           refunded to the taxpayer; provided that the tax credit properly



1 claimed by a taxpayer who has no income tax liability shall be  
2 paid to the taxpayer; provided further that no refunds or  
3 payments on account of the tax credit allowed by this section  
4 shall be made for amounts less than \$1.

5 All claims for the tax credit under this section, including  
6 amended claims, shall be filed on or before the end of the  
7 twelfth month following the close of the taxable year for which  
8 the credit may be claimed. Failure to comply with the foregoing  
9 provision shall constitute a waiver of the right to claim the  
10 credit.

11 (d) The director of taxation:

12 (1) Shall prepare any forms that may be necessary to claim  
13 a tax credit under this section;

14 (2) May require the taxpayer to furnish reasonable  
15 information to ascertain the validity of the claim for  
16 the tax credit made under this section; and

17 (3) May adopt rules under chapter 91 necessary to  
18 effectuate the purposes of this section.

19 (e) All of the provisions relating to assessments and  
20 refunds under this chapter and under section 231-23(c)(1) shall  
21 apply to the tax credit under this section.





1        (f) As used in this section, "qualified taxpayer" means a  
2 resident taxpayer who meets the following criteria:

3        (1) The taxpayer files an individual income tax return,  
4 whether as a single taxpayer, a head of household, a  
5 married individual filing a separate return, a married  
6 couple filing a joint return, or a surviving spouse;  
7 and

8        (2) The taxpayer has a gross annual household income  
9 within the ranges listed in subsection (b)(1), (2), or  
10 (3), as applicable."

11        SECTION 3. Section 243-3.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13        "**§243-3.5 Environmental response, energy, carbon**  
14 **emissions, and food security tax; uses.** (a) In addition to any  
15 other taxes provided by law, subject to the exemptions set forth  
16 in section 243-7, there is hereby imposed a state environmental  
17 response, energy, carbon emissions, and food security tax on  
18 each barrel or fractional part of a barrel of petroleum product  
19 sold by a distributor to any retail dealer or end user of  
20 petroleum product, other than a refiner. The tax [~~shall be~~  
21 ~~\$1.05~~] on each barrel or fractional part of a barrel of



1 petroleum product [~~that is not aviation fuel; provided that of~~  
2 ~~the tax~~] shall be in the amounts provided in the following  
3 table:

4	<u>Product</u>	<u>2021</u>	<u>2024</u>	<u>2027</u>	<u>2030</u>
5	<u>Propane; Butane</u>	\$ _____	\$ _____	\$ _____	\$ _____
6	<u>Gasoline</u>	\$ _____	\$ _____	\$ _____	\$ _____
7	<u>Diesel</u>	\$ _____	\$ _____	\$ _____	\$ _____
8	<u>Kerosene</u>	\$ _____	\$ _____	\$ _____	\$ _____
9	<u>Aviation gas</u>	\$ _____	\$ _____	\$ _____	\$ _____
10	<u>Jet fuel</u>	\$ _____	\$ _____	\$ _____	\$ _____
11	<u>No.6 Fuel oil</u>	\$ _____	\$ _____	\$ _____	\$ _____
12	<u>Other</u>	\$ _____	\$ _____	\$ _____	\$ _____

13 The tax for each year referenced above shall take effect on  
14 July 1 of that year and continue to be applicable until the  
15 effective date of the next increment.

16 The tax imposed by this subsection shall be paid by the  
17 distributor of the petroleum product.

18 (b) Tax revenues collected pursuant to [this]  
19 subsection[+] (a) shall be distributed in the following  
20 priority, with the excess revenues to be deposited into the  
21 general fund:



- 1           (1) ~~[5 cents of the tax on each barrel]~~ \$ \_\_\_\_\_ shall  
2                           be deposited into the environmental response revolving  
3                           fund established under section 128D-2;
- 4           (2) ~~[5 cents of the tax on each barrel]~~ \$ \_\_\_\_\_ shall  
5                           be deposited into the energy security special fund  
6                           established under section 201-12.8;
- 7           (3) ~~[10 cents of the tax on each barrel]~~ \$ \_\_\_\_\_ shall  
8                           be deposited into the energy systems development  
9                           special fund established under section 304A-2169.1;  
10                          ~~[and]~~
- 11          (4) ~~[15 cents of the tax on each barrel]~~ \$ \_\_\_\_\_ shall  
12                           be deposited into the agricultural development and  
13                           food security special fund established under section  
14                           141-10[-];
- 15          (5) All taxes paid on gasoline or other aviation fuel sold  
16                           for use in or used for airplanes shall be deposited in  
17                           the airport revenue fund created by section 248-8; and
- 18          (6) All taxes paid on gasoline, diesel, or other fuel sold  
19                           for use in or used for small boats shall be deposited  
20                           in the boating special fund created by section 248-8.



1 ~~[The tax imposed by this subsection shall be paid by the~~  
2 ~~distributor of the petroleum product.~~

3 ~~(b)]~~ (c) In addition to subsection (a), the environmental  
4 response, energy, carbon emissions, and food security tax shall  
5 also be imposed on each one million British thermal units of  
6 fossil fuel sold by a distributor to any retail dealer or end  
7 user, other than a refiner, of fossil fuel. The tax ~~[shall be~~  
8 ~~19 cents]~~ on each one million British thermal units of fossil  
9 fuel~~[; provided that of the tax]~~ is set forth in the following  
10 table:

<u>Fuel</u>	<u>2021</u>	<u>2024</u>	<u>2027</u>	<u>2030</u>
<u>Coal (all</u>				
<u>forms)</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Natural gas</u>				
<u>(including</u>				
<u>liquefied</u>				
<u>natural gas)</u>	\$ _____	\$ _____	\$ _____	\$ _____

18 The tax for each year referenced above shall take effect on  
19 July 1 of that year and continue to be applicable until the  
20 effective date of the next increment.



1        The tax imposed by this subsection shall be paid by the  
2 distributor of the fossil fuel.

3        (d) Tax revenues collected pursuant to [~~this~~]  
4 subsection[+] (c) shall be distributed in the following priority  
5 each fiscal year, with the excess revenues to be deposited into  
6 the general fund:

7            (1) 4.8 per cent of the tax on each one million British  
8            thermal units shall be deposited into the  
9            environmental response revolving fund established  
10           under section 128D-2;

11           (2) 14.3 per cent of the tax on each one million British  
12           thermal units shall be deposited into the energy  
13           security special fund established under section  
14           201-12.8;

15           (3) 9.5 per cent of the tax on each one million British  
16           thermal units shall be deposited into the energy  
17           systems development special fund established under  
18           section 304A-2169.1; and

19           (4) 14.3 per cent of the tax on each one million British  
20           thermal units shall be deposited into the agricultural



1 development and food security special fund established  
2 under section 141-10.

3 ~~[The tax imposed by this subsection shall be paid by the~~  
4 ~~distributor of the fossil fuel.~~

5 ~~(e)]~~ (e) The tax imposed under subsection ~~[(b)]~~ (c) shall  
6 not apply to coal used to fulfill ~~[a signed]~~ an existing power  
7 purchase agreement between an independent power producer and an  
8 electric utility that is in effect as of June 30, 2015~~[-]~~;  
9 provided that this exemption from taxation shall not apply to  
10 any extension of an existing power purchase agreement or to any  
11 subsequent power purchase agreement. An independent power  
12 producer shall be permitted to pass the tax imposed under  
13 subsection ~~[(b)]~~ (c) on to an electric utility. In ~~[which]~~ any  
14 case~~[-]~~ in which the tax is passed on, the electric utility may  
15 recover the cost of the tax through an appropriate surcharge to  
16 the end user that is approved by the public utilities  
17 commission.

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



1           ~~[(e)]~~ (g) Each distributor subject to the tax imposed by  
2 subsection (a) or ~~[(b)],~~ (c), 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           ~~[(f)]~~ (h) Notwithstanding section 248-8 to the contrary,  
10 the environmental response, energy, carbon emissions, and food  
11 security tax collected under this section shall be paid over to  
12 the director of finance for deposit as provided in subsection  
13 ~~[(a) or (b)],~~ (b) or (d), as the case may be.

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



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

3 [~~(h)~~] (j) 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,~~] fuel, such as  
8 coal, natural gas, or liquefied natural gas, derived from a  
9 hydrocarbon deposit resulting from the accumulated remains of  
10 ancient plants or animals [~~and used for fuel~~]; provided that the  
11 term specifically does not include petroleum product."

12 SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 2050;  
15 provided that section 2 shall apply to taxable years beginning  
16 after December 31, 2021.





**Report Title:**

Environmental Response, Energy, and Food Security Tax; Carbon Emissions; Tax Credit

**Description:**

Amends the environmental response, energy, and food security tax to address carbon emissions. Increases the tax rate to effectively set a price of an unspecified amount per metric ton of carbon dioxide emissions in 2021. Incrementally increases the tax rate over time so that, in 2030, the tax rate shall be equivalent to a carbon price of an unspecified amount per metric ton of carbon emissions. Establishes a refundable tax credit for lower-income individuals. Effective 7/1/2050. Tax credit applies to taxable years beginning after 12/31/2021. (SD2)

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

