

JAN 19 2024

A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 SECTION 1. The goal of this Act is to reduce Hawaii's
2 greenhouse gas emissions in furtherance of the State's zero
3 emissions clean economy target established in Act 15, Session
4 Laws of Hawaii 2018, and to provide financial relief in a
5 progressive manner to the residents of the State. To achieve
6 this goal, this Act establishes a carbon cashback program that
7 utilizes:

8 (1) The environmental response, energy, and food security
9 tax to reduce greenhouse gas emissions; and

10 (2) Refundable tax credits to distribute the proceeds of
11 the tax in equal shares to residents of the State, who
12 will bear the brunt of the expected increase in costs
13 of fossil fuel products.

14 One of the tools available for reducing greenhouse gas
15 emissions is to tax fossil fuels. When the tax is sufficient,
16 it has been proven to be effective in substantially reducing
17 consumption. Hawaii has a thirty-year history of placing a tax



1 on fossil fuel that is assessed on fossil fuel distributors.
2 However, the existing tax rate is not designed to reduce
3 consumption, but rather to generate funding to mitigate some of
4 the risks and adverse impacts of fossil fuel use and climate
5 change. This Act raises the tax in increments, gradually
6 increasing its effect in reducing the consumption of fossil
7 fuels.

8 The environmental response tax was established by Act 300,
9 Session Laws of Hawaii 1993. Initially, the tax rate for
10 petroleum products was five cents per barrel. The tax revenue
11 was used to:

- 12 (1) Prevent, remove, and remediate oil spills;
- 13 (2) Support oil recycling programs; and
- 14 (3) Address concerns related to underground storage tanks.

15 Later, Act 73, Session Laws of Hawaii 2010, increased the tax to
16 \$1.05 per barrel and renamed the tax the environmental response,
17 energy, and food security tax. Act 73 also expanded the purpose
18 of the tax by funding activities that mitigate the adverse
19 impacts of climate change.

20 The legislature finds that a policy that taxes fossil fuels
21 based on their emissions, often called a carbon tax, and returns



1 to people the revenues, commonly known as dividends, has
2 received broad support from economists. More than three
3 thousand six hundred economists have signed a statement
4 endorsing the carbon tax and dividend concept, including
5 twenty-eight Nobel Laureate economists, four former Chairs of
6 the Federal Reserve, and fifteen former Chairs of the Council of
7 Economic Advisors.

8 The statement reads, in part, "[a] carbon tax offers the
9 most cost-effective lever to reduce carbon emissions at the
10 scale and speed that is necessary." The statement goes on to
11 say that the carbon tax should be increased until emission
12 reduction goals are met. It continues by stating, "[t]o
13 maximize the fairness and political viability of a rising carbon
14 tax, all the revenue should be returned directly to U.S.
15 citizens through equal lump-sum rebates. The majority of
16 American families, including the most vulnerable, will benefit
17 financially by receiving more in 'carbon dividends' than they
18 pay in increased energy prices."

19 In accordance with Act 122, Session Laws of Hawaii 2019,
20 the state energy office commissioned "a study of carbon pricing,
21 including whether and how a carbon pricing policy shall be



1 implemented in Hawaii". In April 2021, the University of Hawaii
2 Economic Research Organization (UHERO) completed the study in
3 April 2021, entitled, "Carbon Pricing Assessment for Hawaii:
4 Economic and Greenhouse Gas Impacts". The study concluded that
5 a carbon tax and dividend policy would substantially reduce the
6 consumption of fossil fuels, and most of Hawaii's households
7 would receive a net financial benefit, with lower-income
8 households gaining the most.

9 This Act expands the purpose of the environmental response,
10 energy, and food security tax in order to effectively reduce
11 greenhouse gas emissions, and renames the tax as the
12 environmental response, energy, carbon emissions, and food
13 security tax. The increase in the tax under this Act is
14 informally referred herein as the "carbon emissions tax" for
15 descriptive purposes and to distinguish it from the existing tax
16 rate. The carbon emissions tax rates are derived from the
17 low-tax scenario considered in the UHERO study, updated for
18 inflation. The tax rates in the UHERO study, which are
19 expressed in dollars per metric ton of carbon dioxide
20 equivalent, are converted to the units used in the environmental
21 response, energy, carbon emissions, and food security tax, which



1 are dollars per barrel for petroleum products and dollars per
2 million British thermal units for other types of fossil fuels,
3 such as natural gas. The carbon dioxide equivalent factors for
4 petroleum and non-petroleum fossil fuels include the emissions
5 of carbon dioxide, methane, and nitrous oxide. These emission
6 factors are taken from the United States Environmental
7 Protection Agency's Emission Factors for Greenhouse Gas
8 Inventories (modified April 1, 2021).

9 The progression of the increase in the carbon emissions tax
10 differs from that which is considered in the UHERO study by
11 starting lower in the initial year to avoid a sudden large
12 increase in prices, then increasing until the tenth year of
13 implementation, when it approximates the rate considered in the
14 UHERO study at that point. From that year forward, the annual
15 increase in the tax only accounts for expected inflation. Each
16 year, resident taxpayers of the State will receive, in the form
17 of refundable tax credits, a total amount equivalent to the
18 expected carbon emissions tax revenue from the previous year,
19 less an amount needed to administer the program, including a
20 public awareness campaign. Every individual resident taxpayer
21 will be eligible for the same refundable tax credit in any



1 particular year, and every dependent will be eligible for half
2 that amount.

3 The following illustrates how the carbon emissions tax and
4 refundable tax credits will progress. In the first year of
5 implementation, 2025, the carbon emissions tax is \$0.05 per
6 gallon for petroleum products, and the refundable tax credit is
7 \$36 per individual taxpayer and \$18 per dependent, available the
8 following year when the tax return is filed. In the fifth year,
9 2029, the carbon emissions tax is \$0.40 per gallon, and the
10 refundable tax credit is \$289 per individual taxpayer and \$145
11 per dependent. In 2040, when the refundable tax credit peaks,
12 the carbon emissions tax is \$1.08 per gallon, and the refundable
13 tax credit is \$646 per individual taxpayer and \$323 per
14 dependent.

15 The environmental response, energy, carbon emissions, and
16 food security tax applies to "distributors" of fossil fuels, as
17 defined in section 243-1, Hawaii Revised Statutes. Distributors
18 are expected to pass on at least part of the tax increase to
19 their customers, resulting in increased prices for those
20 products. The increased prices will be faced by: (1) residents
21 of the State, (2) visitors to the State, and (3) out-of-state



1 consumers of products exported from the State. Most of the
2 impact of the increased prices will be felt by the first group,
3 the residents of the State, who will face them as increases in
4 their day-to-day cost of living. Providing refundable tax
5 credits to resident taxpayers of the State will offset their
6 loss in spending power and, for most of them, particularly lower
7 income residents who consume less fossil fuels, it will actually
8 increase their net spending power and help stimulate the
9 economy. This will serve to achieve the purpose of reducing
10 greenhouse gas emissions with minimal adverse financial impacts
11 on the State, including its residents and economy. This Act
12 will cause no increases in the day-to-day costs of living for
13 either of the other two groups, who are nonresidents of the
14 State. Consequently, the legislature finds it necessary to
15 provide tax credits only to resident taxpayers of the State.

16 Accordingly, the purpose of this Act is to establish a
17 carbon cashback program by:

- 18 (1) Amending the environmental response, energy, and food
19 security tax to address carbon emissions; and



1 (2) Establishing a refundable tax credit to mitigate the
2 effect of the tax on carbon emissions for Hawaii's
3 residents.

4 SECTION 2. Chapter 231, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§231- Carbon emissions tax and dividend special fund.

8 (a) There is established the carbon emissions tax and dividend
9 special fund, into which shall be deposited the amount specified
10 by section 243-3.5.

11 (b) Moneys in the carbon emissions tax and dividend
12 special fund shall be administered by the department of taxation
13 and shall be used:

14 (1) To administer the environmental response, energy,
15 carbon emissions, and food security tax;

16 (2) To administer the refundable tax credits established
17 by section 235- ; and

18 (3) To increase public awareness and interest in the
19 refundable tax credits established by section
20 235- ."



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1 SECTION 3. 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 cashback tax credit. (a) There shall be
 5 allowed to each qualifying resident taxpayer subject to the tax
 6 imposed under this chapter, a carbon cashback tax credit that
 7 shall be applied against the taxpayer's net income tax
 8 liability, if any, imposed by this chapter for the taxable year
 9 in which the credit is properly claimed.

10 (b) The amount of the tax credit shall be equal to the sum
 11 of the following:

12 (1) Amount based on taxpayer's filing status:

13 (A) For taxpayers filing as single or married filing
 14 separately:

15 \$36 for 2025

16 \$73 for 2026

17 \$146 for 2027

18 \$218 for 2028

19 \$289 for 2029

20 \$360 for 2030

21 \$425 for 2031



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1	<u>\$488 for 2032</u>
2	<u>\$548 for 2033</u>
3	<u>\$607 for 2034</u>
4	<u>\$616 for 2035</u>
5	<u>\$624 for 2036</u>
6	<u>\$630 for 2037</u>
7	<u>\$636 for 2038</u>
8	<u>\$641 for 2039</u>
9	<u>\$646 for 2040</u>
10	<u>\$633 for 2041</u>
11	<u>\$618 for 2042</u>
12	<u>\$602 for 2043</u>
13	<u>\$584 for 2044</u>
14	<u>\$565 for 2045</u>
15	<u>(B) For taxpayers filing as a head of household:</u>
16	<u>\$36 for 2025</u>
17	<u>\$73 for 2026</u>
18	<u>\$146 for 2027</u>
19	<u>\$218 for 2028</u>
20	<u>\$289 for 2029</u>
21	<u>\$360 for 2030</u>



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1	<u>\$425 for 2031</u>
2	<u>\$488 for 2032</u>
3	<u>\$548 for 2033</u>
4	<u>\$607 for 2034</u>
5	<u>\$616 for 2035</u>
6	<u>\$624 for 2036</u>
7	<u>\$630 for 2037</u>
8	<u>\$636 for 2038</u>
9	<u>\$641 for 2039</u>
10	<u>\$646 for 2040</u>
11	<u>\$633 for 2041</u>
12	<u>\$618 for 2042</u>
13	<u>\$602 for 2043</u>
14	<u>\$584 for 2044</u>
15	<u>\$565 for 2045</u>
16	<u>(C) For taxpayers filing a joint return or as a</u>
17	<u>surviving spouse:</u>
18	<u>\$72 for 2025</u>
19	<u>\$146 for 2026</u>
20	<u>\$292 for 2027</u>
21	<u>\$436 for 2028</u>



1 \$578 for 2029
2 \$720 for 2030
3 \$850 for 2031
4 \$976 for 2032
5 \$1,096 for 2033
6 \$1,214 for 2034
7 \$1,232 for 2035
8 \$1,248 for 2036
9 \$1,260 for 2037
10 \$1,272 for 2038
11 \$1,282 for 2039
12 \$1,292 for 2040
13 \$1,266 for 2041
14 \$1,236 for 2042
15 \$1,204 for 2043
16 \$1,168 for 2044
17 \$1,130 for 2045; and

18 (2) Amount per dependent claimed:

19 \$18 for 2025
20 \$37 for 2026
21 \$73 for 2027



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1 \$109 for 2028
2 \$145 for 2029
3 \$180 for 2030
4 \$213 for 2031
5 \$244 for 2032
6 \$274 for 2033
7 \$303 for 2034
8 \$308 for 2035
9 \$312 for 2036
10 \$315 for 2037
11 \$318 for 2038
12 \$321 for 2039
13 \$323 for 2040
14 \$316 for 2041
15 \$309 for 2042
16 \$301 for 2043
17 \$292 for 2044
18 \$283 for 2045.

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



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

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

12 (d) The director of taxation:

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

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

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



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

4 (f) As used in this section, "qualifying resident
5 taxpayer" means an individual taxpayer who has been a resident
6 of the State, as defined in section 235-1, Hawaii Revised
7 Statutes, for at least nine months of the taxable year,
8 regardless of whether the qualifying resident was physically in
9 the State for nine months. "Qualifying resident taxpayer" shall
10 not include any person who is claimed or is otherwise eligible
11 to be claimed as a dependent by another taxpayer for federal or
12 Hawaii state individual income tax purposes."

13 SECTION 4. Section 128D-2, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) There is created within the state treasury an
16 environmental response revolving fund, which shall consist of
17 moneys appropriated to the fund by the legislature, moneys paid
18 to the fund as a result of departmental compliance proceedings,
19 moneys paid to the fund pursuant to court-ordered awards or
20 judgments, moneys paid to the fund in court-approved or
21 out-of-court settlements, all interest attributable to



1 investment of money deposited in the fund, moneys deposited in
 2 the fund from the environmental response, energy, carbon
 3 emissions, and food security tax pursuant to section 243-3.5,
 4 and moneys allotted to the fund from other sources."

5 SECTION 5. Section 201-12.8, Hawaii Revised Statutes, is
 6 amended by amending subsection (a) to read as follows:

7 "(a) There is created within the state treasury an energy
 8 security special fund, which shall consist of:

9 (1) The portion of the environmental response, energy,
 10 carbon emissions, and food security tax specified
 11 under section 243-3.5;

12 (2) Moneys appropriated to the fund by the legislature;

13 (3) All interest attributable to investment of money
 14 deposited in the fund; and

15 (4) Moneys allotted to the fund from other sources,
 16 including under section 196-6.5."

17 SECTION 6. Section 243-3.5, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§243-3.5 Environmental response, energy, carbon**

20 **emissions, and food security tax; uses.** (a) In addition to any
 21 other taxes provided by law, subject to the exemptions set forth



1 in section 243-7, there is hereby imposed a state environmental
2 response, energy, carbon emissions, and food security tax on
3 each barrel or fractional part of a barrel of petroleum product
4 sold by a distributor to any retail dealer or end user of
5 petroleum product, other than a refiner. The tax [~~shall be~~
6 ~~\$1.05~~] on each barrel or fractional part of a barrel of
7 petroleum product [~~that is not aviation fuel; provided that of~~
8 ~~the tax collected pursuant to this subsection;~~] shall be in the
9 amounts provided for each year as follows:

10 2025: \$3.15;

11 2026: \$5.25;

12 2027: \$9.45;

13 2028: \$13.65;

14 2029: \$17.85;

15 2030: \$22.05;

16 2031: \$26.25;

17 2032: \$30.45;

18 2033: \$34.65;

19 2034: \$38.85;

20 2035: \$40.11; and

21 the tax shall be increased by \$1.26 each year thereafter.



1 The tax for each year referenced above shall take effect on
2 January 1 of that year and shall continue until the effective
3 date of the next increment.

4 The tax imposed by this subsection shall be paid by the
5 distributor of the petroleum product.

6 (b) Tax revenues collected pursuant to subsection (a)
7 shall be distributed in the following priority each fiscal year,
8 with the excess revenues to be deposited into the general fund:

9 (1) [~~5 cents of the tax on each barrel~~] \$1,116,000 shall
10 be deposited into the environmental response revolving
11 fund established under section 128D-2;

12 (2) [~~4 cents of the tax on each barrel~~] \$892,800 shall be
13 deposited into the energy security special fund
14 established under section 201-12.8;

15 (3) [~~5 cents of the tax on each barrel~~] \$1,116,000 shall
16 be deposited into the energy systems development
17 special fund established under section 304A-2169.1;

18 (4) [~~3 cents of the tax on each barrel~~] \$669,600 shall be
19 deposited into the electric vehicle charging system
20 subaccount established pursuant to section 269-33(e);

21 [and]



- 1 (5) ~~[3 cents of the tax on each barrel]~~ \$669,600 shall be
2 deposited into the hydrogen fueling system subaccount
3 established pursuant to section 269-33(f) ~~[.]~~;
- 4 (6) \$1,000,000 shall be deposited into the carbon
5 emissions tax and dividend special fund established
6 under section 231- ;
- 7 (7) All taxes paid on gasoline or other aviation fuel sold
8 for use in or used for airplanes shall be deposited in
9 the airport revenue fund established under section
10 248-8 to reduce carbon emissions; and
- 11 (8) All taxes paid on gasoline, diesel, or other fuel sold
12 for use in or used for small boats shall be deposited
13 in the boating special fund established under section
14 248-8.

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

17 ~~(b)]~~ (c) In addition to subsection (a), the environmental
18 response, energy, carbon emissions, and food security tax shall
19 also be imposed on each one million British thermal units of
20 fossil fuel sold by a distributor to any retail dealer or end
21 user, other than a refiner, of fossil fuel. The tax ~~[shall be~~



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1 ~~19 cents]~~ on each one million British thermal units of fossil
2 fuel [~~;~~ ~~provided that of the tax collected pursuant to this~~
3 ~~subsection:] shall be in the amounts provided for each year as~~
4 follows:

5 2025: \$0.49;

6 2026: \$0.79;

7 2027: \$1.39;

8 2028: \$1.99;

9 2029: \$2.59;

10 2030: \$3.19;

11 2031: \$3.79;

12 2032: \$4.39;

13 2033: \$4.99;

14 2034: \$5.59;

15 2035: \$5.77; and

16 the tax shall be increased by \$0.18 on each one million British
17 thermal units of fossil fuel each year thereafter.

18 The tax for each year referenced above shall take effect on
19 January 1 of that year and shall continue until the effective
20 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 subsection (c)
4 shall be distributed in the following priority each fiscal year,
5 with the excess revenues to be deposited into the general fund:

6 (1) [~~4.8 per cent of the tax on each one million British~~
7 ~~thermal units~~] \$49,000 shall be deposited into the
8 environmental response revolving fund established
9 under section 128D-2;

10 (2) [~~14.3 per cent of the tax on each one million British~~
11 ~~thermal units~~] \$147,000 shall be deposited into the
12 energy security special fund established under section
13 201-12.8; and

14 (3) [~~9.5 per cent of the tax on each one million British~~
15 ~~thermal units~~] \$98,000 shall be deposited into the
16 energy systems development special fund established
17 under section 304A-2169.1.

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

20 ~~(e)]~~ (e) The tax imposed under subsection [~~(b)]~~ (c) shall
21 not apply to coal used to fulfill [~~a signed~~] an existing power



1 purchase agreement between an independent power producer and an
2 electric utility that is in effect as of June 30, 2015~~(-)~~;
3 provided that this exemption from taxation shall not apply to
4 any extension of an existing power purchase agreement or to any
5 subsequent power purchase agreement. An independent power
6 producer shall be permitted to pass the tax imposed under
7 subsection ~~(b)~~ (c) on to an electric utility. In ~~which~~
8 ease, any case in which the tax is passed on, the electric
9 utility may recover the cost of the tax through an appropriate
10 surcharge to the end user that is approved by the public
11 utilities commission.

12 ~~(d)~~ (f) A gas utility shall be allowed to recover the
13 cost of the tax imposed under subsection ~~(b)~~ (c) as part of
14 its fuel cost in its fuel adjustment charge without further
15 approval by the public utilities commission.

16 ~~(e)~~ (g) Each distributor subject to the tax imposed by
17 subsection (a) or ~~(b),~~ (c), on or before the last day of each
18 calendar month, shall file, in the form and manner prescribed by
19 the department, a return statement of the tax under this section
20 for which the distributor is liable for the preceding month.



1 The form and payment of the tax shall be transmitted to the
2 department in the form and manner prescribed by the department.

3 ~~[(f)]~~ (h) Notwithstanding section 248-8 to the contrary,
4 the environmental response, energy, carbon emissions, and food
5 security tax collected under this section shall be paid over to
6 the director of finance for deposit as provided in subsection
7 ~~[(a)]~~ (b) or ~~[(b)]~~ (d), as the case may be.

8 ~~[(g)]~~ (i) Every distributor shall keep in the State and
9 preserve for five years a record in a form as the department of
10 taxation shall prescribe showing the total number of barrels,
11 and the fractional part of barrels, of petroleum product or the
12 total number of one million British thermal units of fossil
13 fuel, as the case may be, sold by the distributor during any
14 calendar month. The record shall show any other data and
15 figures relevant to the enforcement and administration of this
16 chapter as the department may require.

17 ~~[(h)]~~ (j) For the purposes of this section:

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



1 "Fossil fuel" means a [~~hydrocarbon deposit,~~] fuel, such as
2 coal, natural gas, or liquefied natural gas, derived from a
3 hydrocarbon deposit resulting from the accumulated remains of
4 ancient plants or animals [~~and used for fuel~~]; provided that the
5 term specifically does not include petroleum product."

6 SECTION 7. Section 304A-2169.1, Hawaii Revised Statutes,
7 is amended by amending subsection (b) to read as follows:

8 "(b) Deposits into the special fund may be from the
9 following:

- 10 (1) Appropriations from the legislature;
- 11 (2) A portion of the environmental response, energy,
12 carbon emissions, and food security tax pursuant to
13 section 243-3.5; and
- 14 (3) Investment earnings, gifts, donations, or other income
15 received by the Hawaii natural energy institute."

16 SECTION 8. The department of taxation shall submit a
17 report to the legislature annually no later than forty days
18 prior to the convening of each regular session from 2025 until
19 2034, inclusive, with information about the carbon cashback
20 program. The report shall include revenues from the
21 environmental response, energy, carbon emissions, and food



1 security tax and the amounts distributed through the refundable
2 tax credits under section 235- , Hawaii Revised Statutes. The
3 report shall include any information necessary for the
4 legislature to assess the need to adjust the amounts of the
5 refundable tax credits in future years.

6 SECTION 9. The office of planning and sustainable
7 development, in consultation with the department of taxation,
8 shall submit a report to the legislature no later than forty
9 days prior to the convening of the regular session of 2034. The
10 report shall include an evaluation of the carbon cashback
11 program and any recommended changes to the program, including
12 proposed legislation.

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

15 SECTION 11. This Act shall take effect upon its approval;
16 provided that sections 3 and 6 shall take effect on January 1,
17 2025, and apply to taxable years beginning after December 31,
18 2024.

19

INTRODUCED BY: _____



S.B. NO. 2525

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. Incrementally increases the tax rate over time. Establishes a refundable tax credit to mitigate the effect of a carbon emissions tax on taxpayers. Requires reports to the Legislature.

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

