A BILL FOR AN ACT

RELATING TO TAXATION.

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

SECTION 1. The legislature finds that climate change is the most critical issue confronting the State of Hawaii. The overwhelming consensus of climate scientists who have studied the issue is that climate change is occurring primarily as a result of the combustion of fossil fuels. The legislature concurs with this conclusion.

The Hawaii climate change mitigation and adaptation commission has stated that the most effective single means of reducing greenhouse gas emissions is to "put a price on carbon". The concept of "carbon pricing" is supported by various local and state entities and, as of the end of 2018, fifty-one carbon pricing initiatives have been implemented or scheduled for implementation worldwide. Numerous respected economists have emphasized the importance of assuring that the social costs of the adverse impacts of carbon dioxide emissions will be included in future market pricing involving fossil fuels.
The legislature further finds that the best means of carbon pricing for the State is a use-based tax on all carbon dioxide-emitting fuels, such as oil, gas, and coal. The department of taxation already implements various fuel-based taxes, including the environmental response, energy, and food security tax, which imposes a tax on barrels of petroleum products. A separate tax is also imposed on fossil fuels other than petroleum, applied to each million British thermal units (BTUs) of heat value of a fuel. The legislature concludes that the environmental response, energy, and food security tax provisions could be amended to implement a state carbon emissions tax. However, the current tax rates per barrel and per million BTUs of fossil fuels should be replaced with a tax table that reflects the quantity of carbon dioxide emissions produced per barrel or per million BTUs of various fuels.

A carbon emissions tax is typically calculated as a value per metric ton of carbon dioxide equivalent emissions. Many climate change experts have concluded that, to be effective in achieving reductions in combustion of fossil fuels to the extent needed to meet the goals set under the Paris Agreement, the price of carbon emissions should be set in the range of $40 per
metric ton of carbon dioxide emissions in 2020, and increase to a price of $80 by 2030. The legislature finds that the need to establish effective carbon prices is compelling.

Accordingly, the purpose of this Act is to:

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

(2) Increase the tax rate to effectively set a price of $40 per metric ton of carbon dioxide emissions in 2021; and

(3) Incrementally increase the tax rate over time so that, in 2030, the tax rate shall be equivalent to a carbon price of $80 per metric ton of carbon emissions.

The legislature notes that, since the initial increase in tax rates is not scheduled to take effect until 2021, the legislature will have the opportunity to consider any revisions to the tax rates set by this Act that may be warranted by the results of the carbon pricing study currently underway pursuant to Act 122, Session Laws of Hawaii 2019. In amending the environmental response, energy, and food security tax, the legislature has taken into account the license taxes currently imposed on gasoline and diesel fuel. The legislature believes
that the combined impact of the amendments made by this Act and
the existing license taxes will achieve the carbon price
targets.

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

"§243-3.5 Environmental response, energy, carbon
emissions, and food security tax; uses. (a) In addition to any
other taxes provided by law, subject to the exemptions set forth
in section 243-7, there is hereby imposed a state environmental
response, energy, carbon emissions, and food security tax on
each barrel or fractional part of a barrel of petroleum product
sold by a distributor to any retail dealer or end user of
petroleum product, other than a refiner. The tax [shall be
$1.05] on each barrel or fractional part of a barrel of
petroleum product [that is not aviation fuel; provided that of
the tax] shall be in the amounts provided in the following
table:

<table>
<thead>
<tr>
<th>Product</th>
<th>2021</th>
<th>2024</th>
<th>2027</th>
<th>2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Propane; Butane</td>
<td>$10.47</td>
<td>$13.96</td>
<td>$17.45</td>
<td>$20.94</td>
</tr>
<tr>
<td>Gasoline</td>
<td>$8.22</td>
<td>$13.20</td>
<td>$18.18</td>
<td>$23.16</td>
</tr>
<tr>
<td>Diesel</td>
<td>$10.35</td>
<td>$15.08</td>
<td>$21.01</td>
<td>$26.34</td>
</tr>
</tbody>
</table>
Kerosene $16.38 $21.84 $27.30 $32.76
Aviation gas $14.03 $18.71 $23.39 $28.07
Jet fuel $16.07 $21.43 $26.79 $32.15
No.6 Fuel oil $19.81 $26.41 $33.01 $39.62
Other $16.00 $21.33 $26.66 $32.00

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

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

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

1. [5 cents of the tax on each barrel] $1,291,000 shall be deposited into the environmental response revolving fund established under section 128D-2;
2. [5 cents of the tax on each barrel] $3,872,000 shall be deposited into the energy security special fund established under section 201-12.8;
(3) [10 cents of the tax on each barrel] $2,582,000 shall be deposited into the energy systems development special fund established under section 304A-2169.1; [and]

(4) [15 cents of the tax on each barrel] $3,872,000 shall be deposited into the agricultural development and food security special fund established under section 141-10[-]

(5) All taxes paid on gasoline or other aviation fuel sold for use in or used for airplanes shall be deposited in the airport revenue fund created by section 248-8; and

(6) All taxes paid on gasoline, diesel, or other fuel sold for use in or used for small boats shall be deposited in the boating special fund created by section 248-8.

(The tax imposed by this subsection shall be paid by the distributor of the petroleum product.)

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

<table>
<thead>
<tr>
<th>Fuel</th>
<th>2021</th>
<th>2024</th>
<th>2027</th>
<th>2030</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coal (all forms)</td>
<td>$3.92</td>
<td>$5.22</td>
<td>$6.53</td>
<td>$7.84</td>
</tr>
<tr>
<td>Natural gas (including liquefied natural gas)</td>
<td>$2.12</td>
<td>$2.82</td>
<td>$3.53</td>
<td>$4.24</td>
</tr>
</tbody>
</table>

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

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

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

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

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

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

(4) 14.3 per cent of the tax on each one million British
thermal units shall be deposited into the agricultural
development and food security special fund established
under section 141-10.

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

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

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

(g) Each distributor subject to the tax imposed by subsection (a) or [-(-b)-], on or before the last day of each calendar month, shall file with the director, on forms prescribed, prepared, and furnished by the director, a return statement of the tax under this section for which the distributor is liable for the preceding month. The form and payment of the tax shall be transmitted to the department of taxation in the appropriate district.
Notwithstanding section 248-8 to the contrary, the environmental response, energy, and food security tax collected under this section shall be paid over to the director of finance for deposit as provided in subsection [(a) or (b),] (b) or (d), as the case may be.

Every distributor shall keep in the State and preserve for five years a record in a form as the department of taxation shall prescribe showing the total number of barrels, and the fractional part of barrels, of petroleum product or the total number of one million British thermal units of fossil fuel, as the case may be, sold by the distributor during any calendar month. The record shall show any other data and figures relevant to the enforcement and administration of this chapter as the department may require.

For the purposes of this section:

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

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

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

SECTION 4. This Act shall take effect on January 1, 2021.

INTRODUCED BY:                JAN 23  2020
Report Title:
Environmental Response, Energy, and Food Security Tax; Carbon Emissions

Description:
Amends the environmental response, energy, and food security tax to address carbon emissions. Increases the tax rate to effectively set a price of $40 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 $80 per metric ton of carbon emissions.

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