

JAN 23 2020

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 pressing issue of our time. There are many
3 contributors to climate change, a significant one being
4 transportation-generated greenhouse gas emissions. The Hawaii
5 climate change mitigation and adaptation commission has stated
6 that the most effective single means of reducing greenhouse gas
7 emissions is to "put a price on carbon". The concept of "carbon
8 pricing" is supported by various local and state entities and,
9 as of the end of 2018, fifty-one carbon pricing initiatives have
10 been implemented or scheduled for implementation worldwide.

11 Numerous respected economists have emphasized the
12 importance of ensuring that the social costs of the adverse
13 impacts of carbon dioxide emissions will be included in future
14 market pricing involving fossil fuels. Examples include: Report
15 of the High-Level Commission on Carbon Prices, prepared by a
16 group of economists overseen by Commission Chairs, Joseph E.
17 Siglitz and Lord Nicolas Stern, World Bank Publications 2017;



1 and The Economics of Climate Change - The Stern Review,
2 Cambridge University Press 2007, prepared by a team of
3 economists at Great Britain's Exchequer chaired by Nicholas
4 Stern, chair of the Grantham Research Institute on Climate
5 Change and the Environment, the London School of Economics.

6 The legislature further finds that the best means of carbon
7 pricing for the State is a use-based tax on all carbon dioxide-
8 emitting fuels, such as oil, gas, and coal. The department of
9 taxation already implements various fuel-based taxes, and a
10 state carbon emissions tax can be implemented by amending the
11 environmental response, energy, and food security tax and
12 repealing the state fuel tax. A carbon emissions tax can be
13 assessed and collected for each fuel based on the carbon
14 dioxide-emitting content of that fuel.

15 According to the department of taxation, the total tax
16 collected from fuel-based taxes in fiscal year 2017-2018 was
17 \$201.8 million. Of this, \$86.9 million was distributed to the
18 counties' highway funds. Of the remaining \$114.8 million, \$83.5
19 million was distributed to the state highway fund, \$11.6 million
20 to the environmental response funds, \$1.7 million to the state
21 boating fund, and \$2.6 million to the airport fund. A remaining



1 \$15.3 million was distributed to the general fund. On the
2 consumption side, the largest amount of taxable fuel consumed
3 was gasoline, at 466 million gallons, and the next largest
4 amount was aviation fuel, at 263.2 million gallons, which
5 together accounted for 79.2 per cent of the total amount of
6 taxable fuel consumed in the 2017-2018 fiscal year.

7 A carbon emissions tax is typically calculated as a value
8 per metric ton of carbon dioxide equivalent emissions. In
9 Hawaii, a tax of \$18 per metric ton of carbon dioxide equivalent
10 emissions would maintain the current state tax of 16 cents per
11 gallon of gasoline. The carbon tax on other fuels would be
12 calculated at the same rate of \$18 per metric ton of emissions.
13 The county fuel taxes, which are used by the counties for their
14 respective highway needs, would remain unaffected. The
15 legislature also finds that it is necessary to include a
16 mechanism for performing periodic reviews of the amount of the
17 carbon tax set in this Act to assess whether adjustments are
18 needed to ensure that the State will meet the goals set by the
19 Paris Agreement. It is anticipated that the currently pending
20 carbon pricing study requested by the legislature during the
21 2019 session will assist in this continuing reassessment.



1 The legislature also finds that an effective carbon tax
2 would increase the prices of various products and services based
3 on the amount of carbon dioxide emissions associated with their
4 production. Publications issued by the Congressional Budget
5 Office, as well as other studies, have shown that such a tax
6 will likely be regressive, imposing a larger burden, relative to
7 income, on low-income households than on high-income households.
8 As the Hawaii climate change mitigation and adaptation
9 commission noted, a carbon tax should be equitable and minimize
10 regressivity. The legislature believes that a refundable income
11 tax credit for individuals earning moderate to low household
12 incomes could alleviate some of the increased costs incurred by
13 those households that would result from imposition of a carbon
14 emissions tax.

15 The purpose of this Act is to:

- 16 (1) Replace the environmental response, energy, and food
17 security tax (commonly called the "barrel tax") with a
18 carbon emission tax on the sale of all fuels having
19 carbon content;
- 20 (2) Repeal the state fuel tax; and



1 (3) Establish a refundable tax credit for individuals
 2 earning sixty per cent or less of the area median
 3 income.

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

7 "§235- Tax credit to mitigate the effect of a carbon
 8 emissions tax on lower income taxpayers. (a) There shall be
 9 allowed to each qualified taxpayer subject to the tax imposed
 10 under this chapter, an income tax credit that shall be
 11 deductible from the taxpayer's net income tax liability, if any,
 12 imposed by this chapter for the taxable year in which the credit
 13 is properly claimed.

14 (b) The amount of the tax credit shall be determined as
 15 follows:

16 (1) For taxpayers filing as single, the applicable tax
 17 credit is determined by which bracket in the following
 18 table a taxpayer's gross annual household income falls
 19 within:

20
 21 Gross Annual Household Income Credit Amount



1	<u>\$60,000 or less but</u>	
2	<u>more than \$50,000</u>	<u>\$ 25</u>
3		
4	<u>\$50,000 or less but</u>	
5	<u>more than \$40,000</u>	<u>\$ 50</u>
6		
7	<u>\$40,000 or less but</u>	
8	<u>more than \$30,000</u>	<u>\$ 75</u>
9		
10	<u>\$30,000 or less but</u>	
11	<u>more than \$20,000</u>	<u>\$100</u>
12		
13	<u>\$20,000 or less</u>	<u>\$125.</u>
14		
15	<u>(2) For taxpayers filing as head of household, married but</u>	
16	<u>filing separately, or married filing jointly, the</u>	
17	<u>applicable tax credit is determined by which bracket</u>	
18	<u>in the following table a taxpayer's gross annual</u>	
19	<u>household income falls within:</u>	
20		
21	<u>Gross Annual Household Income</u>	<u>Credit Amount</u>



1	<u>\$75,000 or less, but</u>	
2	<u>more than \$60,000</u>	<u>\$ 50</u>
3		
4	<u>\$60,000 or less, but</u>	
5	<u>more than \$40,000</u>	<u>\$100</u>
6		
7	<u>\$40,000 or less, but</u>	
8	<u>more than \$30,000</u>	<u>\$150</u>
9		
10	<u>\$30,000 or less, but</u>	
11	<u>more than \$20,000</u>	<u>\$200</u>
12		
13	<u>\$20,000 or less</u>	<u>\$250.</u>

14 (c) If the tax credit claimed by the taxpayer under this
15 section exceeds the amount of the income tax payments due from
16 the taxpayer, the excess of credit over payments due shall be
17 refunded to the taxpayer; provided that the tax credit properly
18 claimed by a taxpayer who has no income tax liability shall be
19 paid to the taxpayer; provided further that no refunds or
20 payments on account of the tax credit allowed by this section
21 shall be made for amounts less than \$1.



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

7 (d) The director of taxation:

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

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

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

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

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

20 (1) The taxpayer files an individual income tax return,
21 whether as a single taxpayer, a head of household, a



1 married individual filing a separate return, a married
2 couple filing a joint return, or a surviving spouse;
3 and
4 (2) The taxpayer has a gross annual household income
5 within the ranges listed in subsection (b)(1) or (2),
6 as applicable."

7 SECTION 3. Section 23-94, Hawaii Revised Statutes, is
8 amended by amending subsection (c) to read as follows:

9 "(c) This section shall apply to the following:

- 10 (1) Section 235-4.5(a)--Exclusion of intangible income
11 earned by a trust sited in this State;
- 12 (2) Section 235-4.5(b)--Exclusion of intangible income of
13 a foreign corporation owned by a trust sited in this
14 State;
- 15 (3) Section 235-4.5(c)--Credit to a resident beneficiary
16 of a trust for income taxes paid by the trust to
17 another state;
- 18 (4) Sections 235-55 and 235-129--Credit for income taxes
19 paid by a resident taxpayer to another jurisdiction;



1 (5) Section 235-71(c)--Credit for a regulated investment
2 company shareholder for the capital gains tax paid by
3 the company;

4 [~~6~~] ~~Section 235-110.6--Credit for fuel taxes paid by a~~
5 ~~commercial fisher;~~

6 ~~7~~] (6) Section 235-110.93--Credit for important
7 agricultural land qualified agricultural cost;

8 [~~8~~] (7) Section 235-110.94--Credit for organically
9 produced agricultural products;

10 [~~9~~] (8) Section 235-129(b)--Credit to a shareholder of an
11 S corporation for the shareholder's pro rata share of
12 the tax credit earned by the S corporation in this
13 State; and

14 [~~10~~] (9) Section 209E-10--Credit for a qualified business
15 in an enterprise zone; provided that the review of
16 this credit pursuant to this part shall be limited in
17 scope to income tax credits."

18 SECTION 4. Chapter 243, Hawaii Revised Statutes, is
19 amended by amending its title to read as follows:

20 "CHAPTER 243

21 CARBON EMISSIONS AND FUEL TAX LAW"



1 SECTION 5. Section 243-3.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§243-3.5 [Environmental response, energy, and food~~
4 ~~security tax, uses.] Carbon emissions tax.~~ (a) In addition to
5 any other taxes provided by law, [~~subject to the exemptions set~~
6 ~~forth in section 243-7,~~] there is hereby imposed a state
7 [~~environmental response, energy, and food security tax on each~~
8 ~~barrel or fractional part of a barrel of petroleum product sold~~
9 ~~by a distributor to any retail dealer or end user of petroleum~~
10 ~~product, other than a refiner. The tax shall be \$1.05 on each~~
11 ~~barrel or fractional part of a barrel of petroleum product that~~
12 ~~is not aviation fuel; provided that of the] carbon emissions tax
13 of \$18 per metric ton of carbon dioxide equivalent emissions on
14 all fossil fuels sold by a distributor to any retail dealer or
15 end user of the fuel, other than a refiner. The tax shall be
16 paid by the distributor of the fuel. The tax, applied as an
17 amount per unit of mass or volume of fuel, shall be as follows:~~

- 18 (1) Propane: \$0.1037 per gallon;
- 19 (2) Butane: \$0.1208 per gallon;
- 20 (3) Butane/propane mix: \$0.1119 per gallon;



- 1 (4) Home heating and diesel fuel (distillate): \$0.1829
- 2 per gallon;
- 3 (5) Kerosene: \$0.1755 per gallon;
- 4 (6) Coal (all types): \$37.8147 per short ton;
- 5 (7) Natural gas: \$0.9561 per thousand cubic feet;
- 6 (8) Gasoline: \$0.1600 per gallon;
- 7 (9) Residual heating fuel (businesses only): \$0.2123 per
- 8 gallon;
- 9 (10) Jet fuel: \$0.1723 per gallon;
- 10 (11) Aviation gas: \$0.1502 per gallon;
- 11 (12) Flared natural gas: \$0.9855 per thousand cubic feet;
- 12 (13) Petroleum coke: \$0.2645 per gallon;
- 13 (14) Other petroleum and miscellaneous fuels: \$0.1804 per
- 14 gallon;
- 15 (15) Asphalt and road oil: \$0.2150 per gallon;
- 16 (16) Lubricants: \$0.1929 per gallon;
- 17 (17) Petrochemical feedstocks: \$0.2020 per gallon;
- 18 (18) Special naphthas (solvents): \$0.1637 per gallon;
- 19 (19) Waxes: \$0.1723 per gallon;
- 20 (20) Anthracite: \$46.4162 per short ton;
- 21 (21) Bituminous: \$40.2624 per short ton;



- 1 (22) Subbituminous: \$30.3391 per short ton;
2 (23) Lignite: \$22.7925 per short ton;
3 (24) Coke: \$50.9449 per short ton;
4 (25) Municipal solid waste: \$47.1183 per short ton;
5 (26) Tire-derived fuel: \$50.2944 per short ton;
6 (27) Waste oil: \$7.5442 per barrel; and
7 (28) All other fuels: \$18.00 per metric ton of carbon
8 dioxide equivalent emissions;

9 provided that the department of business, economic development,
10 and tourism shall recommend updates to the tax per fuel
11 annually, based on the United States Energy Information
12 Administration's determination of carbon dioxide emissions per
13 energy source and the department's analysis of the annual price
14 increase per carbon dioxide equivalent that is necessary for the
15 State to meet its goal of net zero emissions, and submit
16 proposed legislation to the legislature no later than forty-five
17 days prior to the convening of each regular session of the
18 legislature with updates to the tax rates.

19 (b) The tax collected in any fiscal year pursuant to this
20 [subsection+] section shall be distributed as follows, with the
21 excess revenues to be deposited into the general fund:



- 1 (1) ~~[5 cents of the tax on each barrel]~~ \$1,291,000 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]~~ \$3,872,000 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]~~ \$2,582,000 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]~~ \$3,872,000 shall
12 be deposited into the agricultural development and
13 food security special fund established under section
14 141-10[-]; and
- 15 (5) \$83,500,000 shall be deposited into the state highway
16 fund established under section 248-8; provided that
17 this amount shall not include taxes collected on
18 gasoline or other aviation fuel sold for use in or
19 used for airplanes or liquid fuel sold for use in or
20 used for small boats.



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

3 ~~(b) In addition to subsection (a), the tax shall also be~~
4 ~~imposed on each one million British thermal units of fossil fuel~~
5 ~~sold by a distributor to any retail dealer or end user, other~~
6 ~~than a refiner, of fossil fuel. The tax shall be 19 cents on~~
7 ~~each one million British thermal units of fossil fuel; provided~~
8 ~~that of the tax collected pursuant to this subsection:~~

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

13 ~~(2) 14.3 per cent of the tax on each one million British~~
14 ~~thermal units shall be deposited into the energy~~
15 ~~security special fund established under section 201-~~
16 ~~12.8;~~

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



1 ~~(4) 14.3 per cent of the tax on each one million British~~
 2 ~~thermal units shall be deposited into the agricultural~~
 3 ~~development and food security special fund established~~
 4 ~~under section 141-10.~~

5 ~~The tax imposed by this subsection shall be paid by the~~
 6 ~~distributor of the fossil fuel.] In the event that the total~~
 7 ~~tax collected in a fiscal year pursuant to this section,~~
 8 ~~excluding taxes collected on gasoline or other aviation fuel~~
 9 ~~sold for use in or used for airplanes or liquid fuel sold for~~
 10 ~~use in or used for small boats, is less than \$95,117,000, then~~
 11 ~~the distributions for that fiscal year to each of the funds~~
 12 ~~listed in paragraphs (1) to (5) shall be proportionally reduced~~
 13 ~~by multiplying the specific monetary amounts stated in~~
 14 ~~paragraphs (1) to (5) by a fraction whose numerator is the total~~
 15 ~~tax collected in the fiscal year (subject to the exclusion~~
 16 ~~described above) and whose denominator is \$95,117,000.~~

17 (c) The tax imposed on various forms of coal under
 18 ~~[subsection (b)]~~ this section shall not apply to coal used to
 19 fulfill ~~[a signed]~~ an existing power purchase agreement between
 20 an independent power producer and an electric utility that ~~[is]~~
 21 was in effect as of June 30, 2015~~[-]~~; provided, however, that



1 this exemption from taxation shall not apply to any extension of
2 an existing power purchase agreement or to any subsequent power
3 purchase agreement. An independent power producer shall be
4 permitted to pass the tax imposed under [~~subsection (b)~~] this
5 section on to an electric utility. In [~~which case,~~] cases in
6 which the tax is passed on to an electric utility, the electric
7 utility may recover the cost of the tax through an appropriate
8 surcharge to the end user that is approved by the public
9 utilities commission.

10 (d) A gas utility shall be allowed to recover the cost of
11 the tax imposed under [~~subsection (b)~~] this section as part of
12 its fuel cost in its fuel adjustment charge without further
13 approval by the public utilities commission.

14 (e) Each distributor subject to the tax imposed by
15 [~~subsection (a) or (b),~~] this section, on or before the last day
16 of each calendar month, shall file with the director, on forms
17 prescribed, prepared, and furnished by the director, a return
18 statement of the tax under this section for which the
19 distributor is liable for the preceding month. The form and
20 payment of the tax shall be transmitted to the department of
21 taxation in the appropriate district.



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

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

16 (h) No tax shall be collected in respect to any liquid
17 fuel, including diesel oil and liquefied petroleum gas, shown to
18 the satisfaction of the department to have been sold for use in
19 and actually delivered to, or sold in, the county of Kalawao.

20 [~~(h)~~] (i) For the purposes of this section:



1 ~~["Barrel" may be converted to million British thermal~~
2 ~~units, using the United States Department of Energy, Energy~~
3 ~~Information Administration annual energy review or annual energy~~
4 ~~outlook.]~~

5 "Carbon dioxide equivalent" means, for a greenhouse gas
6 other than carbon dioxide, the number of metric tons of carbon
7 dioxide emissions having the same global warming potential as
8 one metric ton of that greenhouse gas.

9 "Fossil fuel" means ~~[a hydrocarbon deposit, such as]~~ coal,
10 coal products, petroleum, petroleum products, natural gas, or
11 liquefied natural gas~~[, derived from the accumulated remains of~~
12 ~~ancient plants or animals and]~~ used for fuel~~[, provided that the~~
13 ~~term specifically does not include petroleum product].~~

14 "Greenhouse gas" means carbon dioxide (CO₂), methane (CH₄),
15 nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluoro-
16 carbons (HFCs), perfluorocarbons (PFCs), and other gases as may
17 be defined.

18 "Metric ton" means 1,000 kilograms.

19 "Unit" means the unit of measurement customarily used for
20 the specific fossil fuel, as listed in section 243-3.5(a)."



1 SECTION 6. Section 243-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§243-4 [License taxes.]~~ County fuel tax; payment by whom.

4 (a) Every distributor shall, in addition to any other taxes
5 provided by law, pay a [~~license~~] county fuel tax to the
6 department of taxation for each gallon of liquid fuel refined,
7 manufactured, produced, or compounded by the distributor and
8 sold or used by the distributor in the State or imported by the
9 distributor, or acquired by the distributor from persons who are
10 not licensed distributors, and sold or used by the distributor
11 in the State. Any person who sells or uses any liquid fuel,
12 knowing that the distributor from whom it was originally
13 purchased has not paid and is not paying the tax thereon, shall
14 pay [~~such~~] the tax as would have applied to [~~such~~] the sale or
15 use by the distributor. The rates of tax imposed are as
16 follows:

- 17 [~~(1) For each gallon of diesel oil, 1 cent;~~
- 18 [~~(2) For each gallon of gasoline or other aviation fuel~~
19 [~~sold for use in or used for airplanes, 1 cent;~~
- 20 [~~(3) For each gallon of naphtha sold for use in a power~~
21 [~~generating facility, 2 cents;~~



1 ~~(4)~~ (1) For each gallon of liquid fuel, [~~other than fuel~~
2 ~~mentioned in paragraphs (1), (2), and (3), and~~] other
3 than an alternative fuel, sold or used in the city and
4 county of Honolulu, or sold in any county for ultimate
5 use in the city and county of Honolulu, [~~16 cents~~
6 ~~state tax, and in addition thereto~~] an amount, to be
7 known as the "city and county of Honolulu fuel tax",
8 as shall be levied pursuant to section 243-5;

9 ~~(5)~~ (2) For each gallon of liquid fuel, [~~other than fuel~~
10 ~~mentioned in paragraphs (1), (2), and (3), and~~] other
11 than an alternative fuel, sold or used in the county
12 of Hawaii, or sold in any county for ultimate use in
13 the county of Hawaii, [~~16 cents state tax, and in~~
14 ~~addition thereto~~] an amount, to be known as the
15 "county of Hawaii fuel tax", as shall be levied
16 pursuant to section 243-5;

17 ~~(6)~~ (3) For each gallon of liquid fuel, [~~other than fuel~~
18 ~~mentioned in paragraphs (1), (2), and (3), and~~] other
19 than an alternative fuel, sold or used in the county
20 of Maui, or sold in any county for ultimate use in the
21 county of Maui, [~~16 cents state tax, and in addition~~



1 ~~thereto~~] an amount, to be known as the "county of Maui
 2 fuel tax", as shall be levied pursuant to section
 3 243-5; and

4 ~~[(7)]~~ (4) For each gallon of liquid fuel, ~~[other than fuel~~
 5 ~~mentioned in paragraphs (1), (2), and (3), and]~~ other
 6 than an alternative fuel, sold or used in the county
 7 of Kauai, or sold in any county for ultimate use in
 8 the county of Kauai, ~~[16 cents state tax, and in~~
 9 ~~addition thereto]~~ an amount, to be known as the
 10 "county of Kauai fuel tax", as shall be levied
 11 pursuant to section 243-5.

12 If it is shown to the satisfaction of the department, based
 13 upon proper records and from any other evidence as the
 14 department may require, that liquid fuel ~~[, other than fuel~~
 15 ~~mentioned in paragraphs (1), (2), and (3),]~~ is used for
 16 agricultural equipment that does not operate upon the public
 17 highways of the State, the user thereof may obtain a refund of
 18 all taxes thereon imposed by this section in excess of 1 cent
 19 per gallon. The department shall adopt rules to administer such
 20 refunds.



1 As used in this subsection, "liquid fuel" does not include
2 diesel oil, gasoline or other aviation fuel sold for use in or
3 used for airplanes, or naphtha sold for use in a power-
4 generating facility.

5 (b) Every distributor of diesel oil, in addition to the
6 tax required by subsection (a), shall pay a [~~license~~] county
7 fuel tax to the department for each gallon of diesel oil sold or
8 used by the distributor for operating a motor vehicle or motor
9 vehicles upon public highways of the State. The rates of the
10 additional tax imposed are as follows:

11 (1) For each gallon of diesel oil sold or used in the city
12 and county of Honolulu, or sold in any other county
13 for ultimate use in the city and county of Honolulu,
14 [~~15 cents state tax, and in addition thereto~~] an
15 amount, to be known as the "city and county of
16 Honolulu fuel tax", as shall be levied pursuant to
17 section 243-5;

18 (2) For each gallon of diesel oil sold or used in the
19 county of Hawaii, or sold in any other county for
20 ultimate use in the county of Hawaii, [~~15 cents state~~
21 ~~tax, and in addition thereto~~] an amount, to be known



1 as the "county of Hawaii fuel tax", as shall be levied
2 pursuant to section 243-5;

3 (3) For each gallon of diesel oil sold or used in the
4 county of Maui, or sold in any other county for
5 ultimate use in the county of Maui, [~~15 cents state~~
6 ~~tax, and in addition thereto~~] an amount, to be known
7 as the "county of Maui fuel tax", as shall be levied
8 pursuant to section 243-5; and

9 (4) For each gallon of diesel oil sold or used in the
10 county of Kauai, or sold in any other county for
11 ultimate use in the county of Kauai, [~~15 cents state~~
12 ~~tax, and in addition thereto~~] an amount, to be known
13 as the "county of Kauai fuel tax", as shall be levied
14 pursuant to section 243-5.

15 If any user of diesel oil furnishes a certificate, in a
16 form that the department shall prescribe, to the distributor or
17 if the distributor who uses diesel oil signs the certificate,
18 certifying that the diesel oil is for use in operating a motor
19 vehicle or motor vehicles in areas other than upon the public
20 highways of the State, the tax as provided in paragraphs (1) to
21 (4) shall not be applicable. If a certificate is not or cannot



1 be furnished and the diesel oil is in fact for use for operating
2 a motor vehicle or motor vehicles in areas other than upon
3 public highways of the State, the user thereof may obtain a
4 refund of all taxes thereon imposed by the foregoing paragraphs.
5 The department shall adopt rules to administer the refunding of
6 such taxes.

7 (c) The tax shall not be collected in respect to any
8 benzol, benzene, toluol, xylol, or alternative fuel sold for use
9 other than for operating internal combustion engines. [With
10 ~~respect to these products, other than alternative fuels, the~~
11 ~~department, by rule, shall provide for the reporting and payment~~
12 ~~of the tax and for the keeping of records in such a manner as to~~
13 ~~collect, for each gallon of each product sold for use in~~
14 ~~internal combustion engines for the generation of power, or so~~
15 ~~used, the same tax or taxes as apply to each gallon of diesel~~
16 ~~oil. With respect to alternative fuels, the only tax collected~~
17 ~~shall be that provided in paragraphs (1), (2), and (3) of this~~
18 ~~subsection. This subsection shall not apply to aviation fuel~~
19 ~~sold for use in or used for airplanes.~~

20 (1) ~~Every distributor of any alternative fuel for~~
21 ~~operation of an internal combustion engine shall pay a~~



1 ~~license tax to the department of one quarter of 1 cent~~
2 ~~for each gallon of alternative fuel sold or used by~~
3 ~~the distributor;~~
4 ~~(2) Every distributor, in addition to the tax required~~
5 ~~under paragraph (1) of this subsection, shall pay a~~
6 ~~license tax to the department for each gallon of~~
7 ~~alternative fuel sold or used by the distributor for~~
8 ~~operating a motor vehicle or motor vehicles upon the~~
9 ~~public highways of the State at a rate proportional to~~
10 ~~that of the rates applicable to diesel oil in~~
11 ~~subsection (b), rounded to the nearest one tenth of a~~
12 ~~cent, as follows:~~
13 ~~(A) Ethanol, 0.145 times the rate for diesel;~~
14 ~~(B) Methanol, 0.11 times the rate for diesel;~~
15 ~~(C) Biodiesel, 0.25 times the rate for diesel;~~
16 ~~(D) Liquefied petroleum gas, 0.33 times the rate for~~
17 ~~diesel; and~~
18 ~~(E) For other alternative fuels, the rate shall be~~
19 ~~based on the energy content of the fuels as~~
20 ~~compared to diesel fuel, using a lower heating~~
21 ~~value of one hundred thirty thousand British~~



1 ~~thermal units per gallon as a standard for~~
2 ~~diesel, so that the tax rate, on an energy~~
3 ~~content basis, is equal to one quarter the rate~~
4 ~~for diesel fuel.~~

5 ~~The taxes so paid shall be paid into the state~~
6 ~~treasury and deposited in special funds or paid over~~
7 ~~in the same manner as provided in subsection (b) in~~
8 ~~respect of the tax on diesel oil,~~

9 ~~(3) If any user of alternative fuel furnishes to the~~
10 ~~distributor a certificate, in a form that the~~
11 ~~department shall prescribe or if the distributor who~~
12 ~~uses alternative fuel signs the certificate,~~
13 ~~certifying that the alternative fuel is for use in~~
14 ~~operating a motor vehicle or motor vehicles in areas~~
15 ~~other than upon the public highways of the State, the~~
16 ~~tax as provided by paragraphs (1) and (2) of this~~
17 ~~subsection shall not be applicable; provided that no~~
18 ~~certificate shall be required if the alternative fuel~~
19 ~~is used for fuel and heating purposes in the home. If~~
20 ~~a certificate is not or cannot be furnished and the~~
21 ~~alternative fuel is in fact used for operating an~~



1 ~~internal combustion engine or operating a motor~~
2 ~~vehiele or motor vehicles in areas other than upon the~~
3 ~~public highways of the State, the user thereof may~~
4 ~~obtain a refund of all taxes thereon imposed by the~~
5 ~~foregoing paragraphs. The department shall adopt~~
6 ~~rules to administer the refunding of these taxes.]~~

7 (d) No tax shall be collected in respect to any liquid
8 fuel, including diesel oil and liquefied petroleum gas, shown to
9 the satisfaction of the department to have been sold for use in
10 and actually delivered to, or sold in, the county of Kalawao."

11 SECTION 7. Section 243-5, Hawaii Revised Statutes, is
12 amended by amending its title to read as follows:

13 "**§243-5 County fuel tax[+]; amount.**"

14 SECTION 8. Section 261-5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) Except for:

- 17 (1) All proceeds from the passenger facility charge and
- 18 deposited in the passenger facility charge special
- 19 fund; and



1 (2) All proceeds from the rental motor vehicle customer
2 facility charge and deposited in the rental motor
3 vehicle customer facility charge special fund,
4 all moneys received by the department from rents, fees, and
5 other charges collected pursuant to this chapter, as well as all
6 [~~aviation fuel~~] taxes on gasoline or other aviation fuel sold
7 for use in or used for airplanes paid pursuant to section [~~243-~~
8 ~~4(a)(2),~~] 243-3.5(a), shall be paid into the airport revenue
9 fund created by section 248-8.

10 All moneys paid into the airport revenue fund shall be
11 appropriated, applied, or expended by the department for any
12 purpose within the jurisdiction, powers, duties, and functions
13 of the department related to the statewide system of airports,
14 including, without limitation, the costs of operation,
15 maintenance, and repair of the statewide system of airports and
16 reserves therefor, and acquisitions (including real property and
17 interests therein), constructions, additions, expansions,
18 improvements, renewals, replacements, reconstruction,
19 engineering, investigation, and planning for the statewide
20 system of airports, all or any of which in the judgment of the
21 department are necessary to the performance of its duties or



1 functions. The department shall generate sufficient revenues
2 from its airport properties to meet all of the expenditures of
3 the statewide system of airports and to comply with section
4 39-61; provided that as long as sufficient revenues are
5 generated to meet [~~such~~] the expenditures, the director of
6 transportation [~~may~~], in the director's discretion, may grant a
7 rebate of the aviation fuel taxes paid into the airport revenue
8 fund during a fiscal year pursuant to sections [~~243-4(a)-(2)~~]
9 243-3.5(a) and 248-8 to any person who has paid airport use
10 charges or landing fees during [~~such~~] that fiscal year. [~~Such~~]
11 The rebate may be granted during the next succeeding fiscal year
12 but shall not exceed one-half cent per gallon per person, and
13 shall be computed on the total number of gallons for which the
14 tax was paid by [~~such~~] the person, for [~~such~~] the fiscal year."

15 SECTION 9. Sections 128D-2, 141-10, 201-12.8, and
16 304A-2169.1, Hawaii Revised Statutes, are amended by
17 substituting the term "carbon emissions tax", or similar term,
18 wherever the term "environmental response, energy, and food
19 security tax", or similar term, appears, as the context
20 requires.



1 SECTION 10. Sections 243-8, 243-12, 243-13, and 243-14,
2 Hawaii Revised Statutes, are amended by substituting the term
3 "county fuel tax", or similar term, wherever the term "license
4 tax", or similar term, appears, as the context requires.

5 SECTION 11. Section 235-110.6, Hawaii Revised Statutes, is
6 repealed.

7 [~~"§235-110.6 Fuel tax credit for commercial fishers. (a)~~
8 ~~Each principal operator of a commercial fishing vessel who files~~
9 ~~an individual or corporate net income tax return for a taxable~~
10 ~~year may claim an income tax credit under this section against~~
11 ~~the Hawaii state individual or corporate net income tax.~~

12 ~~(b) The tax credit shall be an amount equal to the fuel~~
13 ~~taxes imposed under section 243-4(a) and paid by the principal~~
14 ~~operator during the taxable year.~~

15 ~~(c) The tax credit claimed under this section by the~~
16 ~~principal operator shall be deductible from the principal~~
17 ~~operator's individual or corporate income tax liability, if any,~~
18 ~~for the tax year in which the credit is properly claimed,~~
19 ~~provided that a husband and wife filing separate returns for a~~
20 ~~taxable year for which a joint return could have been made by~~
21 ~~them shall claim only the tax credit to which they would have~~



1 ~~been entitled had a joint return been filed. If the tax credit~~
2 ~~claimed by the principal operator under this section exceeds the~~
3 ~~amount of the income tax payments due from the principal~~
4 ~~operator, the excess of credit over payments due shall be~~
5 ~~refunded to the principal operator from the state highway fund,~~
6 ~~provided that the tax credit properly claimed by a principal~~
7 ~~operator who has no income tax liability shall be paid to the~~
8 ~~principal operator from the state highway fund; and provided~~
9 ~~further no refunds or payments on account of the tax credit~~
10 ~~allowed by this section shall be made for amounts less than \$1.~~

11 ~~(d) The director of taxation shall prepare such forms as~~
12 ~~may be necessary to claim a credit under this section, may~~
13 ~~require proof of the claim for the tax credit, and may adopt~~
14 ~~rules pursuant to chapter 91.~~

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

18 ~~(f) Claims for the tax credit under this section,~~
19 ~~including any amended claims thereof, shall be filed on or~~
20 ~~before the end of the twelfth month following the taxable year~~
21 ~~for which the credit may be claimed.~~



S.B. NO. 3149

- 1 ~~(g) As used in this section:~~
- 2 ~~(1) "Commercial fishing vessel" means any water vessel~~
- 3 ~~which is used to catch or process fish or transport~~
- 4 ~~fish loaded on the high seas.~~
- 5 ~~(2) "Principal operator" means any individual or corporate~~
- 6 ~~resident taxpayer who derives at least fifty one per~~
- 7 ~~cent of the taxpayer's gross annual income from~~
- 8 ~~commercial fishing operations."]~~

9 SECTION 12. This Act does not affect rights and duties
 10 that matured, penalties that were incurred, and proceedings that
 11 were begun before its effective date.

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

14 SECTION 14. This Act shall take effect on January 1, 2021;
 15 provided that sections 2 and 11 shall apply to taxable years
 16 beginning after December 31, 2020.

17

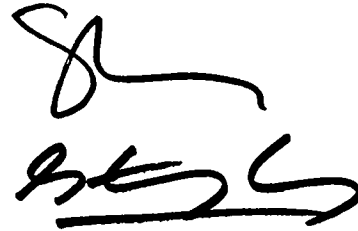
INTRODUCED BY: *Kel Rhoads*

AC Smith-Appra
Mike Lubbock
Randy H Baker

Ross E Bell
Harold
Mr. Morgan

4th: gsh

S.B. NO. 3149

A handwritten signature in black ink, consisting of a stylized first name and a last name with a horizontal underline.

S.B. NO. 3149

Report Title:

Taxation; Carbon Emissions Tax; License Tax; Report

Description:

Replaces the environmental response, energy, and food security tax with a carbon emissions tax. Repeals state fuel taxes under the fuel tax law. Takes effect 1/1/2021; provided that repeal of the fuel tax credit for commercial fishers takes effect beginning with taxable years after 12/31/2020.

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

