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;
(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; and
(4) Establish a refundable tax credit for individuals
earning sixty per cent or less of the area median
income.
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. Chapter 235, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

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

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

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

<table>
<thead>
<tr>
<th>Gross Annual Household Income</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$60,000 or less but more than $50,000</td>
<td>$50</td>
</tr>
<tr>
<td>$50,000 or less but more than $40,000</td>
<td>$100</td>
</tr>
<tr>
<td>$40,000 or less but more than $30,000</td>
<td>$150</td>
</tr>
<tr>
<td>$30,000 or less but more than $20,000</td>
<td>$200</td>
</tr>
<tr>
<td>$20,000 or less</td>
<td>$250</td>
</tr>
</tbody>
</table>

(2) For taxpayers filing as head of household, married but filing separately, or married filing jointly, the applicable tax credit is determined by which bracket
in the following table a taxpayer's gross annual household income falls within:

<table>
<thead>
<tr>
<th>Gross Annual Household Income</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>$75,000 or less, but more than $60,000</td>
<td>$100</td>
</tr>
<tr>
<td>$60,000 or less, but more than $40,000</td>
<td>$200</td>
</tr>
<tr>
<td>$40,000 or less, but more than $30,000</td>
<td>$300</td>
</tr>
<tr>
<td>$30,000 or less, but more than $20,000</td>
<td>$400</td>
</tr>
<tr>
<td>$20,000 or less</td>
<td>$500.</td>
</tr>
</tbody>
</table>

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

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

(d) The director of taxation:

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

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

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

(e) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(c)(1) shall apply to the tax credit under this section.
(f) As used in this section, "qualified taxpayer" means a resident taxpayer who meets the following criteria:

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

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

SECTION 3. 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>
<tr>
<td>Kerosene</td>
<td>$16.38</td>
<td>$21.84</td>
<td>$27.30</td>
<td>$32.76</td>
</tr>
<tr>
<td>Aviation gas</td>
<td>$14.03</td>
<td>$18.71</td>
<td>$23.39</td>
<td>$28.07</td>
</tr>
<tr>
<td>Jet fuel</td>
<td>$16.07</td>
<td>$21.43</td>
<td>$26.79</td>
<td>$32.15</td>
</tr>
<tr>
<td>No.6 Fuel oil</td>
<td>$19.81</td>
<td>$26.41</td>
<td>$33.01</td>
<td>$39.62</td>
</tr>
<tr>
<td>Other</td>
<td>$16.00</td>
<td>$21.33</td>
<td>$26.66</td>
<td>$32.00</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 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.

(b) (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 of 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} (e) The tax imposed under subsection {b} (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} (c) on to an electric utility. In [which] any
case 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.

{d} (f) A gas utility shall be allowed to recover the
cost of the tax imposed under subsection {b} (c) 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 (c), 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.

(h) 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), as the case may be.

(i) 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.

[4(h)] (j) 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, such as coal, natural gas, or liquefied natural gas, derived from a hydrocarbon deposit resulting from the accumulated remains of ancient plants or animals; provided that the term specifically does not include petroleum product."

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

SECTION 5. This Act shall take effect on January 1, 2022; provided that section 2 shall apply to taxable years beginning 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 $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. Establishes a refundable tax credit for individuals earning sixty per cent or less of the area median income. Takes effect 1/1/2022. (SD1)

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