

---

---

# A BILL FOR AN ACT

RELATING TO CARBON PRICING.

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

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

7           The Hawaii climate change mitigation and adaptation  
8 commission has stated that the most effective single means of  
9 reducing greenhouse gas emissions is to "put a price on carbon."  
10 Without carbon emissions pricing, fossil fuel prices do not  
11 reflect the health and climate costs of burning these fuels, nor  
12 do they provide incentives to shift Hawaii towards a clean  
13 energy economy. The concept of "carbon pricing" is supported by  
14 various local and state entities and, as of the end of 2018,  
15 fifty-one carbon pricing initiatives have been implemented or  
16 scheduled for implementation worldwide. Numerous respected  
17 economists have emphasized the importance of assuring that the



1 social costs of the adverse impacts of carbon dioxide emissions  
2 will be included in future market pricing involving fossil  
3 fuels.

4 The legislature further finds that the coronavirus disease  
5 2019 (COVID-19) pandemic has resulted in a significant economic  
6 downturn in Hawaii, resulting in one of the highest unemployment  
7 rates in the nation and straining residents who already endure a  
8 high cost of living. Other jurisdictions have successfully  
9 implemented effective carbon taxes with direct rebates to  
10 residents. Putting a price on pollution, while giving revenues  
11 back to low- and moderate-income residents, will accelerate  
12 Hawaii's transition to a clean energy and transportation future  
13 without placing a burden on Hawaii's working families.  
14 Furthermore, an acceleration to a clean economy will foster  
15 innovation and create new job opportunities.

16 The best means of carbon pricing for the State is a use-  
17 based tax on all carbon dioxide-emitting fuels, such as oil,  
18 gas, and coal. The department of taxation already implements  
19 various fuel-based taxes, including the environmental response,  
20 energy, and food security tax, which imposes a tax on barrels of  
21 petroleum products. A separate tax is also imposed on fossil



1 fuels other than petroleum, applied to each million British  
2 thermal units (BTUs) of heat value of a fuel. The legislature  
3 concludes that the environmental response, energy, and food  
4 security tax provisions could be amended to implement a state  
5 carbon emissions tax. The current tax rates per barrel and per  
6 million BTUs of fossil fuels should be replaced with a tax table  
7 that reflects the quantity of carbon dioxide emissions produced  
8 per barrel or per million BTUs of various fuels.

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

18 Accordingly, the purpose of this Act is to:

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



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

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 taxpayers. (a) There shall be allowed to each  
9 qualified taxpayer subject to the tax imposed under this  
10 chapter, an income tax credit that shall be deductible from the  
11 taxpayer's net income tax liability, if any, imposed by this  
12 chapter for the taxable year in which the credit is properly  
13 claimed.

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

- 16           (1) The following amounts per taxpayer:  
17                   (A) \$150 for taxpayers filing as single or married  
18                           filing separately;  
19                   (B) \$225 for taxpayers filing as a head of household;  
20                           or



1           (C) \$300 for taxpayers filing a joint return or as a  
2                           surviving spouse; and

3           (2) \$50 per qualifying child.

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

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

18           (d) The director of taxation:

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



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

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

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

9       (f) As used in this section:

10       "Qualified taxpayer" means a resident taxpayer who meets  
11       the following criteria:

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

17       (2) The taxpayer has a gross annual household income  
18       within the following ranges:

19       (A) For a taxpayer filing a single return or a  
20       married person filing separately, up to \$75,000;



1           (B) For a taxpayer filing as a head of household, up  
2           to \$112,500; and

3           (C) For a taxpayer filing a joint return or as a  
4           surviving spouse, up to \$150,000.

5           "Qualifying child" means a minor who:

6           (1) Resides with the taxpayer; and

7           (2) Is claimed as a dependent by the taxpayer."

8           SECTION 3. Section 128D-2, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10           "(a) There is created within the state treasury an  
11 environmental response revolving fund, which shall consist of  
12 moneys appropriated to the fund by the legislature, moneys paid  
13 to the fund as a result of departmental compliance proceedings,  
14 moneys paid to the fund pursuant to court-ordered awards or  
15 judgments, moneys paid to the fund in court-approved or out-of-  
16 court settlements, all interest attributable to investment of  
17 money deposited in the fund, moneys deposited in the fund from  
18 the environmental response, energy, carbon emissions, and food  
19 security tax pursuant to section 243-3.5, and moneys allotted to  
20 the fund from other sources."



1 SECTION 4. Section 141-10, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The following moneys shall be deposited into the  
4 special fund:

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

8 (2) Any appropriation by the legislature into the special  
9 fund;

10 (3) Any grant or donation made to the special fund; and

11 (4) Any interest earned on the balance of the special  
12 fund."

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

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

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

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





- 1 (3) All interest attributable to investment of money
- 2 deposited in the fund; and
- 3 (4) Moneys allotted to the fund from other sources,
- 4 including under section 196-6.5."

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

7 "**§243-3.5 Environmental response, energy, carbon**  
 8 **emissions, and food security tax; uses.** (a) In addition to any  
 9 other taxes provided by law, subject to the exemptions set forth  
 10 in section 243-7, there is hereby imposed a state environmental  
 11 response, energy, carbon emissions, and food security tax on  
 12 each barrel or fractional part of a barrel of petroleum product  
 13 sold by a distributor to any retail dealer or end user of  
 14 petroleum product, other than a refiner. The tax [~~shall be~~  
 15 ~~\$1.05~~] on each barrel or fractional part of a barrel of  
 16 petroleum product [~~that is not aviation fuel; provided that of~~  
 17 ~~the tax~~] shall be in the amounts provided in the following  
 18 table:

19	<u>Product</u>	<u>2022</u>	<u>2026</u>	<u>2029</u>	<u>2032</u>
20	<u>Propane; Butane</u>	<u>\$10.47</u>	<u>\$13.96</u>	<u>\$17.45</u>	<u>\$20.94</u>
21	<u>Gasoline</u>	<u>\$ 8.22</u>	<u>\$13.20</u>	<u>\$18.18</u>	<u>\$23.16</u>



1	<u>Diesel</u>	<u>\$10.35</u>	<u>\$15.08</u>	<u>\$21.01</u>	<u>\$26.34</u>
2	<u>Kerosene</u>	<u>\$16.38</u>	<u>\$21.84</u>	<u>\$27.30</u>	<u>\$32.76</u>
3	<u>Aviation gas</u>	<u>\$14.03</u>	<u>\$18.71</u>	<u>\$23.39</u>	<u>\$28.07</u>
4	<u>Jet fuel</u>	<u>\$16.07</u>	<u>\$21.43</u>	<u>\$26.79</u>	<u>\$32.15</u>
5	<u>No.6 Fuel oil</u>	<u>\$19.81</u>	<u>\$26.41</u>	<u>\$33.01</u>	<u>\$39.62</u>
6	<u>Other</u>	<u>\$16.00</u>	<u>\$21.33</u>	<u>\$26.66</u>	<u>\$32.00</u>

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

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

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

16 (1) [5] \_\_\_\_\_ cents of the tax on each barrel shall be  
17 deposited into the environmental response revolving  
18 fund established under section 128D-2;

19 (2) [5] \_\_\_\_\_ cents of the tax on each barrel shall be  
20 deposited into the energy security special fund  
21 established under section 201-12.8;



1 (3) ~~[10]~~ \_\_\_\_\_ cents of the tax on each barrel shall be  
2 deposited into the energy systems development special  
3 fund established under section 304A-2169.1; ~~[and]~~

4 (4) ~~[15]~~ \_\_\_\_\_ cents of the tax on each barrel shall be  
5 deposited into the agricultural development and food  
6 security special fund established under section  
7 141-10 ~~[7]~~ ;

8 (5) \_\_\_\_\_ cents of the tax on each barrel shall be  
9 deposited into the building energy efficiency  
10 revolving loan fund established under section 201-20;

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

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

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

19 ~~(b)]~~ (c) In addition to subsection (a), the environmental  
20 response, energy, carbon emissions, and food security tax shall  
21 also be imposed on each one million British thermal units of



1 fossil fuel sold by a distributor to any retail dealer or end  
 2 user, other than a refiner, of fossil fuel. The tax [~~shall be~~  
 3 ~~19 cents~~] on each one million British thermal units of fossil  
 4 fuel [~~, provided that of the tax~~] is set forth in the following  
 5 table:

6	<u>Fuel</u>	<u>2022</u>	<u>2026</u>	<u>2029</u>	<u>2032</u>
7	<u>Coal (all</u>				
8	<u>forms)</u>	<u>\$ 3.92</u>	<u>\$ 5.22</u>	<u>\$ 6.53</u>	<u>\$ 7.84</u>
9	<u>Natural gas</u>				
10	<u>(including</u>				
11	<u>liquefied</u>				
12	<u>natural gas)</u>	<u>\$ 2.12</u>	<u>\$ 2.82</u>	<u>\$ 3.53</u>	<u>\$ 4.24</u>

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

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

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



- 1           (1) 4.8 per cent of the tax on each one million British  
2           thermal units shall be deposited into the  
3           environmental response revolving fund established  
4           under section 128D-2;
- 5           (2) 14.3 per cent of the tax on each one million British  
6           thermal units shall be deposited into the energy  
7           security special fund established under section 201-  
8           12.8;
- 9           (3) 9.5 per cent of the tax on each one million British  
10          thermal units shall be deposited into the energy  
11          systems development special fund established under  
12          section 304A-2169.1; and
- 13          (4) 14.3 per cent of the tax on each one million British  
14          thermal units shall be deposited into the agricultural  
15          development and food security special fund established  
16          under section 141-10.

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

19          ~~(e)]~~ (e) The tax imposed under subsection ~~[(b)]~~ (c) shall  
20          not apply to coal used to fulfill ~~[a signed]~~ an existing power  
21          purchase agreement between an independent power producer and an



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

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

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



1 payment of the tax shall be transmitted to the department of  
2 taxation in the appropriate district.

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) or (b)~~], (b) or (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. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.





1 SECTION 9. This Act shall take effect on January 1, 2022;  
2 provided that section 2 shall apply to taxable years beginning  
3 after December 31, 2021.

4 INTRODUCED BY: Nicole E. Lowen

JAN 27 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 2022. Incrementally increases the tax rate over time so that, in 2032, the tax rate shall be equivalent to a carbon price of \$80 per metric ton of carbon emissions. Establishes a refundable tax credit to mitigate the effect of a carbon emissions tax on taxpayers. Takes effect 1/1/2022. Tax credit applies to taxable years beginning after 12/31/2021.

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

