

JAN 22 2021

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 critical issue confronting the State of Hawai'i. The
3 overwhelming consensus of climate scientists who have studied
4 the issue have concluded that climate change is occurring
5 primarily as a result of the combustion of fossil fuels. The
6 legislature concurs with this conclusion.

7 The Hawai'i 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 The concept of "carbon pricing" is supported by various local
11 and state entities and, as of the end of 2018, fifty-one carbon
12 pricing initiatives have been implemented or scheduled for
13 implementation worldwide. Numerous respected economists have
14 emphasized the importance of assuring that the social costs of
15 the adverse impacts of carbon dioxide emissions will be included
16 in future market pricing involving fossil fuels. Further, more
17 than three thousand five hundred U.S. economists, including



1 twenty-eight Nobel Laureate Economists and four former chairs of
2 the Federal Reserve, have signed a statement supporting a carbon
3 fee, with revenues returned to the people. According to the
4 Economists' Statement on Carbon Dividends, they assert that: "A
5 carbon tax offers the most cost-effective lever to reduce carbon
6 emissions at the scale and speed that is necessary", and "[t]o
7 maximize the fairness and political viability of a rising carbon
8 tax, all the revenue should be returned directly to U.S.
9 citizens through equal lump-sum rebates."

10 The legislature further finds that the best means of carbon
11 pricing for the State is a use-based tax on all carbon dioxide-
12 emitting fuels, such as oil, gas, and coal. The department of
13 taxation already implements various fuel-based taxes, including
14 the environmental response, energy, and food security tax, which
15 imposes a tax on barrels of petroleum products. A separate tax
16 is also imposed on fossil fuels other than petroleum, applied to
17 each million British thermal units (BTUs) of heat value of a
18 fuel. The legislature concludes that the environmental
19 response, energy, and food security tax provisions could be
20 amended to implement a state carbon emissions tax. However, the
21 current tax rates per barrel and per million BTUs of fossil



1 fuels should be replaced with a tax table that reflects the
2 quantity of carbon dioxide emissions produced per barrel or per
3 million BTUs of various fuels.

4 A carbon emissions tax is typically calculated as a value
5 per metric ton of carbon dioxide equivalent emissions. Many
6 climate change experts have concluded that, to be effective in
7 achieving reductions in combustion of fossil fuels to the extent
8 needed to meet the goals set under the Paris Agreement, the
9 price of carbon emissions should be set at an initial value in
10 the range of \$40 per metric ton of carbon dioxide emissions, and
11 increase over the next decade to a price in the range of \$80 per
12 metric ton. The legislature finds that the need to establish
13 effective carbon prices is compelling.

14 Accordingly, the purpose of this Act is to:

- 15 (1) Amend the environmental response, energy, and food
16 security tax to address carbon emissions;
- 17 (2) Increase the tax rate to effectively set a price of
18 \$40 per metric ton of carbon dioxide emissions in
19 2022;



1 (3) Incrementally increase the tax rate over time so that,
2 in 2032, the tax rate shall be equivalent to a carbon
3 price of \$80 per metric ton of carbon emissions; and

4 (4) Establish a refundable tax credit for lower-income
5 individuals to mitigate the effect of the tax on
6 carbon emissions.

7 The legislature will have the opportunity to consider any
8 revisions to the tax rates set by this Act that may be warranted
9 by the results of the carbon pricing study currently underway
10 pursuant to Act 122, Session Laws of Hawaii 2019. In amending
11 the environmental response, energy, and food security tax, the
12 legislature has taken into account the license taxes currently
13 imposed on gasoline and diesel fuel. The legislature believes
14 that the combined impact of the amendments made by this Act and
15 the existing license taxes will achieve the carbon price
16 targets.

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

20 "§235- Tax credit to mitigate the effect of a carbon
21 emissions tax on lower income taxpayers. (a) There shall be



1 allowed to each qualified taxpayer subject to the tax imposed
 2 under this chapter, an income tax credit that shall be
 3 deductible from the taxpayer's net income tax liability, if any,
 4 imposed by this chapter for the taxable year in which the credit
 5 is properly claimed.

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

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

<u>Gross Income</u>	<u>Credit Amount</u>
<u>\$60,000 or less but</u>	
<u>more than \$50,000</u>	<u>\$50</u>
<u>\$50,000 or less but</u>	
<u>more than \$40,000</u>	<u>\$100</u>
<u>\$40,000 or less but</u>	
<u>more than \$30,000</u>	<u>\$150</u>

21



1 \$30,000 or less but
2 more than \$20,000 \$200
3
4 \$20,000 or less \$250; and
5
6 (2) For taxpayers filing as head of household, married but
7 filing separately, or married filing jointly, the
8 applicable tax credit is determined by which bracket
9 in the following table a taxpayer's gross income falls
10 within:

	<u>Gross Income</u>	<u>Credit Amount</u>
13	<u>\$75,000 or less, but</u>	
14	<u>more than \$60,000</u>	<u>\$100</u>
15		
16	<u>\$60,000 or less, but</u>	
17	<u>more than \$40,000</u>	<u>\$200</u>
18		
19	<u>\$40,000 or less, but</u>	
20	<u>more than \$30,000</u>	<u>\$300</u>
21		



1 \$30,000 or less, but
2 more than \$20,000 \$400
3
4 \$20,000 or less \$500.

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

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

19 (d) The director of taxation:
20 (1) Shall prepare any forms that may be necessary to claim
21 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, "qualified taxpayer" means a
10 resident taxpayer who meets the following criteria:

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

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

17 SECTION 3. 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~~] shall be in the amounts provided in the following
 9 table:

10	<u>Product</u>	<u>2022</u>	<u>2026</u>	<u>2029</u>	<u>2032</u>
11	<u>Propane; Butane</u>	<u>\$10.47</u>	<u>\$13.96</u>	<u>\$17.45</u>	<u>\$20.94</u>
12	<u>Gasoline</u>	<u>\$ 8.22</u>	<u>\$13.20</u>	<u>\$18.18</u>	<u>\$23.16</u>
13	<u>Diesel</u>	<u>\$10.35</u>	<u>\$15.08</u>	<u>\$21.01</u>	<u>\$26.34</u>
14	<u>Kerosene</u>	<u>\$16.38</u>	<u>\$21.84</u>	<u>\$27.30</u>	<u>\$32.76</u>
15	<u>Aviation gas</u>	<u>\$14.03</u>	<u>\$18.71</u>	<u>\$23.39</u>	<u>\$28.07</u>
16	<u>Jet fuel</u>	<u>\$16.07</u>	<u>\$21.43</u>	<u>\$26.79</u>	<u>\$32.15</u>
17	<u>No.6 Fuel oil</u>	<u>\$19.81</u>	<u>\$26.41</u>	<u>\$33.01</u>	<u>\$39.62</u>
18	<u>Other</u>	<u>\$16.00</u>	<u>\$21.33</u>	<u>\$26.66</u>	<u>\$32.00</u>

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



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

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

7 (1) ~~[5 cents of the tax on each barrel]~~ \$1,291,000 shall
8 be deposited into the environmental response revolving
9 fund established under section 128D-2;

10 (2) ~~[5 cents of the tax on each barrel]~~ \$3,872,000 shall
11 be deposited into the energy security special fund
12 established under section 201-12.8;

13 (3) ~~[10 cents of the tax on each barrel]~~ \$2,582,000 shall
14 be deposited into the energy systems development
15 special fund established under section 304A-2169.1;
16 [and]

17 (4) ~~[15 cents of the tax on each barrel]~~ \$3,872,000 shall
18 be deposited into the agricultural development and
19 food security special fund established under section
20 141-10 [-];



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

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

7 ~~[The tax imposed by this subsection shall be paid by the~~
 8 ~~distributor of the petroleum product.]~~

9 ~~(b)]~~ (c) In addition to subsection (a), the environmental
 10 response, energy, carbon emissions, and food security tax shall
 11 also be imposed on each one million British thermal units of
 12 fossil fuel sold by a distributor to any retail dealer or end
 13 user, other than a refiner, of fossil fuel. The tax ~~[shall be~~
 14 ~~19 cents]~~ on each one million British thermal units of fossil
 15 fuel ~~[, provided that of the tax]~~ is set forth in the following
 16 table:

<u>Fuel</u>	<u>2022</u>	<u>2026</u>	<u>2029</u>	<u>2032</u>
<u>Coal (all</u>				
<u>forms)</u>	<u>\$ 3.92</u>	<u>\$ 5.22</u>	<u>\$ 6.53</u>	<u>\$ 7.84</u>
<u>Natural gas</u>				
<u>(including</u>				



1 liquefied
2 natural gas) \$ 2.12 \$ 2.82 \$ 3.53 \$ 4.24
3 The tax for each year referenced above shall take effect on
4 January 1 of that year and continue to be applicable until the
5 effective date of the next increment.

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

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

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

16 (2) 14.3 per cent of the tax on each one million British
17 thermal units shall be deposited into the energy
18 security special fund established under section 201-
19 12.8;

20 (3) 9.5 per cent of the tax on each one million British
21 thermal units shall be deposited into the energy



1 systems development special fund established under
2 section 304A-2169.1; and
3 (4) 14.3 per cent of the tax on each one million British
4 thermal units shall be deposited into the agricultural
5 development and food security special fund established
6 under section 141-10.

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

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



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

5 ~~[(e)]~~ (g) Each distributor subject to the tax imposed by
6 subsection (a) or ~~[(b)],~~ (c), on or before the last day of each
7 calendar month, shall file with the director, on forms
8 prescribed, prepared, and furnished by the director, a return
9 statement of the tax under this section for which the
10 distributor is liable for the preceding month. The form and
11 payment of the tax shall be transmitted to the department of
12 taxation in the appropriate district.

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

18 ~~[(g)]~~ (i) Every distributor shall keep in the State and
19 preserve for five years a record in a form as the department of
20 taxation shall prescribe showing the total number of barrels,
21 and the fractional part of barrels, of petroleum product or the



1 total number of one million British thermal units of fossil
 2 fuel, as the case may be, sold by the distributor during any
 3 calendar month. The record shall show any other data and
 4 figures relevant to the enforcement and administration of this
 5 chapter as the department may require.

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

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

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

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

17 SECTION 5. This Act shall take effect on January 1, 2022;
 18 provided that section 2 shall apply to taxable years beginning
 19 after December 31, 2021.

20



INTRODUCED BY: _____



S.B. NO. 546

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 for lower-income individuals. Tax credit applies to taxable years beginning after 12/31/2021. Takes effect 1/1/2022.

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

