

JAN 23 2020

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# 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 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 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.



1           The legislature further finds that the best means of carbon  
2 pricing for the State is a use-based tax on all carbon dioxide-  
3 emitting fuels, such as oil, gas, and coal. The department of  
4 taxation already implements various fuel-based taxes, including  
5 the environmental response, energy, and food security tax, which  
6 imposes a tax on barrels of petroleum products. A separate tax  
7 is also imposed on fossil fuels other than petroleum, applied to  
8 each million British thermal units (BTUs) of heat value of a  
9 fuel. The legislature concludes that the environmental  
10 response, energy, and food security tax provisions could be  
11 amended to implement a state carbon emissions tax. However, the  
12 current tax rates per barrel and per million BTUs of fossil  
13 fuels should be replaced with a tax table that reflects the  
14 quantity of carbon dioxide emissions produced per barrel or per  
15 million BTUs of various fuels.

16           A carbon emissions tax is typically calculated as a value  
17 per metric ton of carbon dioxide equivalent emissions. Many  
18 climate change experts have concluded that, to be effective in  
19 achieving reductions in combustion of fossil fuels to the extent  
20 needed to meet the goals set under the Paris Agreement, the  
21 price of carbon emissions should be set in the range of \$40 per



1 metric ton of carbon dioxide emissions in 2020, and increase to  
2 a price of \$80 by 2030. The legislature finds that the need to  
3 establish effective carbon prices is compelling.

4 Accordingly, the purpose of this Act is to:

- 5 (1) Amend the environmental response, energy, and food  
6 security tax to address carbon emissions;
- 7 (2) Increase the tax rate to effectively set a price of  
8 \$40 per metric ton of carbon dioxide emissions in  
9 2021; and
- 10 (3) Incrementally increase the tax rate over time so that,  
11 in 2030, the tax rate shall be equivalent to a carbon  
12 price of \$80 per metric ton of carbon emissions.

13 The legislature notes that, since the initial increase in tax  
14 rates is not scheduled to take effect until 2021, the  
15 legislature will have the opportunity to consider any revisions  
16 to the tax rates set by this Act that may be warranted by the  
17 results of the carbon pricing study currently underway pursuant  
18 to Act 122, Session Laws of Hawaii 2019. In amending the  
19 environmental response, energy, and food security tax, the  
20 legislature has taken into account the license taxes currently  
21 imposed on gasoline and diesel fuel. The legislature believes



1 that the combined impact of the amendments made by this Act and  
2 the existing license taxes will achieve the carbon price  
3 targets.

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

6 "**§243-3.5 Environmental response, energy, carbon**  
7 **emissions, and food security tax; uses.** (a) In addition to any  
8 other taxes provided by law, subject to the exemptions set forth  
9 in section 243-7, there is hereby imposed a state environmental  
10 response, energy, carbon emissions, and food security tax on  
11 each barrel or fractional part of a barrel of petroleum product  
12 sold by a distributor to any retail dealer or end user of  
13 petroleum product, other than a refiner. The tax [~~shall be~~  
14 ~~\$1.05~~] on each barrel or fractional part of a barrel of  
15 petroleum product [~~that is not aviation fuel; provided that of~~  
16 ~~the tax~~] shall be in the amounts provided in the following  
17 table:

18	<u>Product</u>	<u>2021</u>	<u>2024</u>	<u>2027</u>	<u>2030</u>
19	<u>Propane; Butane</u>	<u>\$10.47</u>	<u>\$13.96</u>	<u>\$17.45</u>	<u>\$20.94</u>
20	<u>Gasoline</u>	<u>\$ 8.22</u>	<u>\$13.20</u>	<u>\$18.18</u>	<u>\$23.16</u>
21	<u>Diesel</u>	<u>\$10.35</u>	<u>\$15.08</u>	<u>\$21.01</u>	<u>\$26.34</u>



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

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

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

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

- 15 (1) [5 cents of the tax on each barrel] \$1,291,000 shall  
16 be deposited into the environmental response revolving  
17 fund established under section 128D-2;
- 18 (2) [5 cents of the tax on each barrel] \$3,872,000 shall  
19 be deposited into the energy security special fund  
20 established under section 201-12.8;



1           (3) ~~[10 cents of the tax on each barrel]~~ \$2,582,000 shall  
2           be deposited into the energy systems development  
3           special fund established under section 304A-2169.1;  
4           [and]

5           (4) ~~[15 cents of the tax on each barrel]~~ \$3,872,000 shall  
6           be deposited into the agricultural development and  
7           food security special fund established under section  
8           141-10[-];

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

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

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

17           ~~(b)]~~ (c) In addition to subsection (a), the environmental  
18           response, energy, carbon emissions, and food security tax shall  
19           also be imposed on each one million British thermal units of  
20           fossil fuel sold by a distributor to any retail dealer or end  
21           user, other than a refiner, of fossil fuel. The tax ~~[shall be~~



1 ~~19 cents]~~ on each one million British thermal units of fossil  
 2 fuel [~~;~~ ~~provided that of the tax]~~ is set forth in the following  
 3 table:

4	<u>Fuel</u>	<u>2021</u>	<u>2024</u>	<u>2027</u>	<u>2030</u>
5	<u>Coal (all</u>				
6	<u>forms)</u>	<u>\$ 3.92</u>	<u>\$ 5.22</u>	<u>\$ 6.53</u>	<u>\$ 7.84</u>
7	<u>Natural gas</u>				
8	<u>(including</u>				
9	<u>liquefied</u>				
10	<u>natural gas)</u>	<u>\$ 2.12</u>	<u>\$ 2.82</u>	<u>\$ 3.53</u>	<u>\$ 4.24</u>

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

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

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

20 (1) 4.8 per cent of the tax on each one million British  
 21 thermal units shall be deposited into the



1 environmental response revolving fund established  
2 under section 128D-2;

3 (2) 14.3 per cent of the tax on each one million British  
4 thermal units shall be deposited into the energy  
5 security special fund established under section  
6 201-12.8;

7 (3) 9.5 per cent of the tax on each one million British  
8 thermal units shall be deposited into the energy  
9 systems development special fund established under  
10 section 304A-2169.1; and

11 (4) 14.3 per cent of the tax on each one million British  
12 thermal units shall be deposited into the agricultural  
13 development and food security special fund established  
14 under section 141-10.

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

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





1 any extension of an existing power purchase agreement or to any  
2 subsequent power purchase agreement. An independent power  
3 producer shall be permitted to pass the tax imposed under  
4 subsection ~~[(b)]~~ (c) on to an electric utility. In ~~[which]~~ any  
5 case~~[7]~~ in which the tax is passed on, the electric utility may  
6 recover the cost of the tax through an appropriate surcharge to  
7 the end user that is approved by the public utilities  
8 commission.

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

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



1           ~~(f)~~ (h) Notwithstanding section 248-8 to the contrary,  
2 the environmental response, energy, and food security 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),]~~  
5 (b) or (d), as the case may be.

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

15           ~~(h)~~ (j) For the purposes of this section:

16           ~~["Barrel" may be converted to million British thermal~~  
17 ~~units, using the United States Department of Energy, Energy~~  
18 ~~Information Administration annual energy review or annual energy~~  
19 ~~outlook.]~~

20           "Fossil fuel" means a ~~[hydrocarbon deposit,]~~ fuel, such as  
21 coal, natural gas, or liquefied natural gas, derived from a a



1 hydrocarbon deposit resulting from the accumulated remains of  
 2 ancient plants or animals [~~and used for fuel~~]; provided that the  
 3 term specifically does not include petroleum product."

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

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

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INTRODUCED BY: Kal Raab

Paul E. Peden

[Signature]

[Signature]

[Signature]



# S.B. NO. 3150

**Report Title:**

Environmental Response, Energy, and Food Security Tax; Carbon Emissions

**Description:**

Amends the environmental response, energy, and food security tax to address carbon emissions. Increases the tax rate to effectively set a price of \$40 per metric ton of carbon dioxide emissions in 2021. Incrementally increases the tax rate over time so that, in 2030, the tax rate shall be equivalent to a carbon price of \$80 per metric ton of carbon emissions.

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