# A BILL FOR AN ACT

RELATING TO RENEWABLE FUELS TAX CREDIT.

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

1	SECTION	11. The legislature finds that section 235-110.31,
2	Hawaii Revis	ed Statutes, enacted by Act 202, Session Laws of
3	Hawaii 2016,	establishes a renewable fuels production tax credit
4	with the int	ent to create a stronger market for renewable fuels
5	and promote	the production of locally grown feedstock. Under
6	this process	, the department of business, economic development,
7	and tourism'	s requirements are as follows:
8	(1) Ce	ertify the amount and type of renewable fuels
9	pr	coduced and sold, including the purpose for which the
10	fu	el was produced;
11	(2) Is	sue a certificate to the taxpayer verifying the
12	an	ount of renewable fuels produced and sold, the
13	cr	redit amount certified for each taxable year, and the
14	cu	mulative amount of the tax credit during the credit
15	pe	eriod;

(3) Administer the \$3,000,000 a year aggregate cap;



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# H.B. NO. <sup>1044</sup> H.D. 1 S.D. 2 C.D. 1

1	(4)	Develop forms that renewable fuels taxpayers must
2		submit to both the department of taxation and the
3		department of business, economic development, and
4		tourism prior to the production of any renewable fuels
5		submitted for consideration under this bill and tax
6		credit;
7	(5)	Collect data annually from the taxpayer of renewable
8		fuels producers, including the number of British
9		thermal units produced and sold; types of fuels;
10		feedstock used for renewable fuels production; number
11		of facility employees and each employee's state of
12		residency; and projections for next year's British
13		thermal units production; and
14	(6)	Submit written reports to the governor and state
15		legislature inclusive of:
16		(A) The number, location, and production of renewable
17		fuels production facilities in the State and
18		outside the State that have claimed a credit
19		under Act 202;

1 The total number of British thermal units of (B) · 2 renewable fuels, broken down by type of fuel, 3 produced and sold during the previous year; and 4 (C) The projected number of British thermal units of 5 renewable fuels production for the succeeding 6 year. 7 However, the department of business, economic development, 8 and tourism lacks expertise in tax accounting, specific 9 knowledge of fuels production industries sufficient to verify 10 the actual renewable fuels production, and the required 11 resources, including management database and budget and human 12 resource allocation, to administer the requirements. Such

13 resources or expertise would be required to effectively conduct 14 the department of business, economic development, and tourism's 15 certification and administration requirements per Act 202, 16 Session Laws of Hawaii 2016.

In order to address this discrepancy, this Act seeks to replace the department of business, economic development, and tourism's requirements associated with the certification, administration, and verification of the renewable fuels production tax credit with a survey of the renewable fuels



Page 4



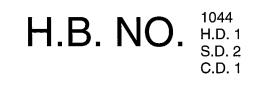
1	production tax credit. The survey would still allow the
2	department of business, economic development, and tourism to
3	assess the effectiveness of the tax credit and report its
4	findings to the governor and legislature.
5	SECTION 2. Section 235-110.31, Hawaii Revised Statutes, is
6	amended to read as follows:
7	"[ $+$ ]§235-110.31[ $+$ ] Renewable fuels production tax credit.
8	(a) As used in this section:
9	"Credit period" means a maximum period of five consecutive
10	years, beginning from the first taxable year in which a taxpayer
11	begins renewable fuels production at a level of at least fifteen
12	billion British thermal units of renewable fuels per calendar
13	year.
14	"Net income tax liability" means income tax liability
15	reduced by all other credits allowed under this chapter.
16	"Renewable feedstocks" means:
17	(1) Biomass crops;
18	(2) Agricultural residues;
19	(3) Oil crops, including but not limited to algae, canola,
20	jatropha, palm, soybean, and sunflower;



# H.B. NO. <sup>1044</sup> H.D. 1 S.D. 2 C.D. 1

1	(4)	Sugar and starch crops, including but not limited to	
2		sugar cane and cassava;	
3	(5)	Other agricultural crops;	
4	(6)	Grease and waste cooking oil;	
5	(7)	Food wastes;	
6	(8)	Municipal solid wastes and industrial wastes;	
7	(9)	Water; and	
8	(10)	Animal residues and wastes,	
9	that can	be used to generate energy.	
10	"Renewable fuels" means fuels produced from renewable		
11	feedstock	s[+], provided that[+] the fuel:	
12	(1)	[ <del>The fuels shall be</del> ] <u>Is</u> sold as a fuel[ <del>;</del> ] <u>in Hawaii;</u>	
13		and	
14	(2)	[The fuels meet] Meets the relevant ASTM International	
15		specifications [ <del>for the particular fuel</del> ] or other	
16		industry specifications for [liquid or gaseous fuels,]	
17		the particular fuel, including but not limited to:	
18		(A) Methanol, ethanol, or other alcohols;	
19		(B) Hydrogen;	
20		(C) Biodiesel or renewable diesel;	
21		(D) Biogas;	



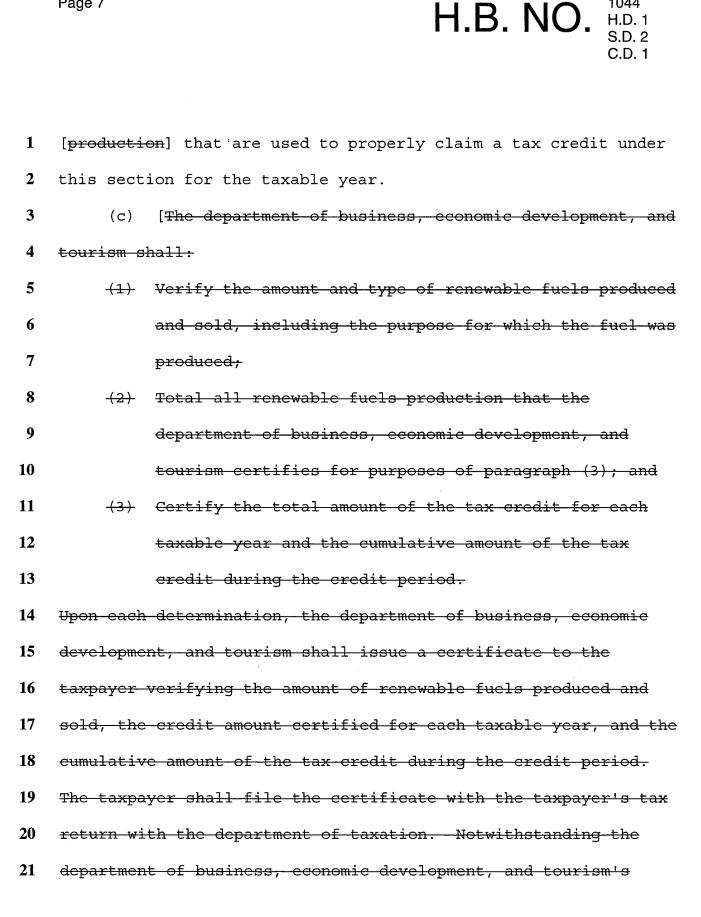


1	(E)	Other bio	fuels; or		
2	(F)	Renewable	jet fuel or	<sup>.</sup> renewable	gasoline.
3	(b) Eac	ch year duri	ng the credi	t period,	there shal
4	allowed to ea	ach taxpayer	subject to	the taxes	imposed by

3 year during the credit period, there shall be 4 taxpayer subject to the taxes imposed by this 5 chapter, a renewable fuels production tax credit that shall be 6 applied to the taxpayer's net income tax liability, if any, 7 imposed by this chapter for the taxable year in which the credit 8 is properly claimed.

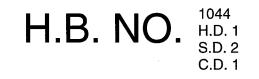
9 For each taxpayer producing renewable fuels, the annual 10 dollar amount of the renewable fuels production tax credit 11 during the five-year credit period shall be equal to 20 cents 12 per seventy-six thousand British thermal units of renewable 13 fuels using the lower heating value sold for distribution in 14 Hawaii; provided that the taxpayer's production of renewable 15 fuels is not less than fifteen billion British thermal units of 16 renewable fuels per calendar year; provided further that the 17 amount of the tax credit claimed under this section by a 18 taxpayer shall not exceed \$3,000,000 per taxable year. No other 19 tax credit may be claimed under this chapter for the costs 20 [related to] incurred in producing the renewable fuels







H.D. 1



1 certification authority under this section, the director of 2 taxation may audit and adjust the certification to conform to 3 the facts.

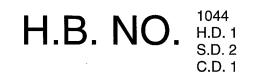
4	If in any year, the annual amount of certified credits
5	reaches \$3,000,000 in the aggregate, the department of business,
6	economic development, and tourism shall immediately discontinue
7	certifying credits and notify the department of taxation. In no
8	instance shall the total amount of certified credits exceed
9	\$3,000,000 per year. Notwithstanding any other law to the
10	contrary, the verification and certification information
11	compiled by the department of business, economic development,
12	and tourism shall be available for public inspection and
13	dissemination under chapter 92F.] Not later than thirty days
14	following the close of the calendar year, every taxpayer
15	claiming a credit under this section shall complete and file an
16	independent, third-party certified statement, at the taxpayer's
17	sole expense, with the department of business, economic
18	development, and tourism in the form prescribed by the
19	department of business, economic development, and tourism
20	providing the following information:



H.B. NO. <sup>1044</sup> H.D. 1 S.D. 2 C.D. 1

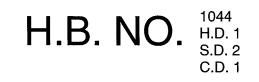
1	(1)	The type, quantity, and British thermal unit value,
2		using the lower heating value, of each qualified fuel,
3		broken down by the type of fuel, produced and sold
4		during the previous calendar year;
5	(2)	The feedstock used for each type of qualified fuel;
6	(3)	The proposed total amount of credit to which the
7		taxpayer is entitled for each calendar year and the
8		cumulative amount of the tax credit the taxpayer
9		received during the credit period;
10	(4)	The number of full-time and number of part-time
11		employees of the facility and those employees' states
12		of residency, totaled per state; and
13	(5)	The number and location of all renewable fuel
14		production facilities within and outside of the State.
15	(d)	[If the credit under this section exceeds the
16	<del>taxpayer'</del>	s net income tax-liability, the excess of the credit
17	<del>over-liab</del>	ility may be used as a credit against the taxpayer's
18	<del>net incom</del>	e tax liability in subsequent years until exhausted.
19	<del>All claim</del>	s for a credit under this section shall be properly
20	filed on	or before the end of the twelfth month following the
21	<del>close of</del>	the taxable year for which the credit may be claimed.





1	Failure-te	o comply with the foregoing provision shall constitute
2	<del>a waiver (</del>	of the right to claim the credit.] Within thirty
3	calendar o	days after the due date of the statement required under
4	subsection	n (c), the department of business, economic
5	developme	nt, and tourism shall:
6	(1)	Acknowledge receipt of the statement in writing; and
7	(2)	Issue a certificate to the taxpayer reporting the
8		amount of renewable fuels produced and sold, the
9		amount of credit that the taxpayer is entitled to
10		claim for the previous calendar year, and the
11		cumulative amount of the tax credit during the credit
12		period.
13	(e)	[Prior to production of any renewable fuels for the
14	<del>year, the</del>	taxpayer shall provide written notice of the
15	<del>taxpayer'</del>	s intention-to-begin production of renewable fuels.
16	The infor	mation shall-be-provided to the department of taxation
17	<del>and the d</del>	epartment of business, economic development, and
18	tourism o	n forms provided by the department of business,
19	economic	development, and tourism, and shall include information
20	on the ta	xpayer, facility location, facility production
21	<del>capacity,</del>	anticipated production start date, and taxpayer's



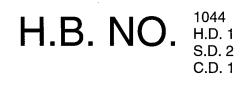


1	contact information. Notwithstanding any other law to the
2	contrary, this taxpayer and facility information shall be
3	available for public inspection and dissemination under chapter
4	92F.] The taxpayer shall file the certificate issued under
5	subsection (d) with the taxpayer's tax return with the
6	department of taxation. The director of taxation may audit and
7	adjust the certification to conform to the facts.
8	(f) [ <del>The taxpayer shall provide written notice to the</del>
9	director of taxation and the director of business, economic
10	development, and tourism within thirty days following the start
11	of production. The notice shall include the production start
12	date and expected renewable fuels production for the next twelve
13	months. Notwithstanding any other law to the contrary, this
14	production information shall be available for public inspection
15	and dissemination under chapter 92F.] The total amount of tax
16	credits allowed under this section shall not exceed \$3,000,000
17	for all eligible taxpayers in any calendar year. In the event
18	that the credit claims under this section exceed \$3,000,000 for
19	all eligible taxpayers in any given calendar year, the
20	\$3,000,000 shall be divided between all eligible taxpayers for
21	that year in proportion to the total amount of renewable fuels



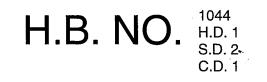
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1	produced	by all eligible taxpayers. Upon reaching \$3,000,000 in
2	the aggre	gate, the department of business, economic development,
3	and touri	sm shall immediately discontinue issuing certificates
4	and notif	y the department of taxation. In no instance shall the
5	total dol	lar amount of certificates issued exceed \$3,000,000 per
6	year.	
7	(g)	[Each calendar year during the credit period, the
8	<del>taxpayer</del>	shall provide information to the director of business,
9	economic-	development, and tourism on:
10	<del>(1)</del>	The number of British thermal units of renewable fuels
11		produced and sold during the previous calendar year;
12	<del>(2)</del>	The type of fuels;
13	<del>(3)</del>	Feedstocks used for renewable fuels production;
14	-(4)-	The number of employees of the facility and each
15		employee's state of residency; and
16	<del>(5)</del>	The projected number of British thermal units of
17		renewable fuels production for the succeeding year.]
18	Notwithst	anding any other law to the contrary, the information
19	collected	and compiled by the department of business, economic
20	developme	ent, and tourism under subsections (c) and (d) for the
21	purposes	of the renewable fuels production tax credit, shall be





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1	available for public inspection and dissemination subject to
2	chapter 92F.
3	(h) [ <del>In the case of a partnership, S corporation, estate,</del>
4	or trust, distribution and share of the renewable fuels
5	production tax credit shall be determined pursuant to section
6	<del>704(b) (with respect to partner's distributive share) of the</del>
7	Internal Revenue Code.] If the credit under this section exceeds
8	the taxpayer's net income tax liability, the excess of the
9	credit over liability may be used as a credit against the
10	taxpayer's net income tax liability in subsequent years until
11	exhausted. All claims for a credit under this section shall be
12	properly filed on or before the end of the twelfth month
13	following the close of the taxable year for which the credit may
14	be claimed. Failure to comply with the foregoing provision or
15	to provide the certified statement required under subsection (c)
16	shall constitute a waiver of the right to claim the credit.
17	(i) [Following each year in which a credit under this
18	section has been claimed, the director of business, economic
19	development, and tourism shall submit a written report to the
20	governor and legislature regarding the production and sale of
21	renewable fuels. The report shall include:



Page 14

1	<del>(1)</del>	The number, location, and production of renewable
2		fuels production facilities in the State and outside
3		the State that have claimed a credit under this
4		section;
5	<del>(2)</del>	The total number of British thermal units of renewable
6		fuels, broken down-by-type of fuel, produced and sold
7		during the previous year; and
8	<del>(3)</del>	The projected number of British thermal units of
9		renewable fuels production for the succeeding year.]
10	Prior to	production of any renewable fuels for the calendar
11	year, the	taxpayer shall provide written notice of the
12	taxpayer'	s intention to begin production of renewable fuels.
13	The writt	en notice shall be provided to the department of
14	taxation	and the department of business, economic development,
15	and touri	sm, and shall include information on the taxpayer,
16	facility	location, facility production capacity, anticipated
17	productio	on start date, and the taxpayer's contact information.
18	Notwithst	anding any other law to the contrary, the written
19	notice de	scribed in this subsection, including taxpayer and
20	facility	information, shall be available for public inspection
21	and disse	mination subject to chapter 92F.



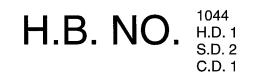


1	(j) [The director of taxation shall prepare forms that may
2	be necessary to claim a credit under this section. The director
3	of taxation may require the taxpayer to furnish information to
4	ascertain the validity of the claim for credit made under this
5	section and may adopt rules necessary to effectuate the purposes
6	of this section pursuant to chapter 91.] The taxpayer shall
7	provide written notice to the director of taxation and the
8	director of business, economic development, and tourism within
9	thirty days following the start of production. The notice shall
10	include the production start date and expected renewable fuels
11	production for the next twelve months. Notwithstanding any
12	other law to the contrary, the written notice described in this
13	subsection shall be available for public inspection and
14	dissemination subject to chapter 92F.
15	(k) In the case of a partnership, S corporation, estate,
16	or trust, distribution and share of the renewable fuels
17	production tax credit shall be determined pursuant to section
18	704(b) (with respect to a partner's distributive share) of the
19	Internal Revenue Code of 1986, as amended. For a fiscal year
20	taxpayer, the taxpayer shall report such credit in the taxable
21	year in which the calendar year end is included.



1	(1)	Following each calendar year in which a credit under	
2	this sect	ion has been claimed, the director of business,	
3	economic development, and tourism shall submit a written report		
4	to the go	vernor and legislature regarding the production and	
5	sale of r	enewable fuels. The report shall include:	
6	(1)	The number and location of renewable fuels production	
7		facilities in the State and outside the State that	
8		have claimed a credit under this section;	
9	(2)	The total number of British thermal units of renewable	
10		fuels, broken down by type of fuel produced and sold	
11		during the previous calendar year; and	
12	(3)	The projected number of British thermal units of	
13		renewable fuels production for the succeeding year.	
14	(m)	The director of taxation shall prepare forms that may	
15	be necess	ary to claim a credit under this section. The director	
16	of taxati	on may require the taxpayer to furnish information to	
17	ascertain the validity of the claim for credit made under this		
18	section a	nd may adopt rules necessary to effectuate the purposes	
19	of this s	ection pursuant to chapter 91."	
20	SECTION 3. Statutory material to be repealed is bracketed		
21	and stric	ken. New statutory material is underscored.	





SECTION 4. This Act, upon its approval shall apply to
taxable years beginning after December 31, 2017.





#### Report Title:

Tax Credit; Renewable Fuels Production.

#### Description:

Replaces the Department of Business, Economic Development, and Tourism requirements related to the certification, administration, and verification of the renewable fuels production tax credit with a process that requires the taxpayer to file a third-party certified statement with the Department. Applies to taxable years beginning after December 31, 2017. (HB1044 CD1)

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

