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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. Hawaii is vulnerable to soaring prices or  
2       disruptions of its energy imports, which can hinder, cripple, or  
3       even devastate the State's economy and the well-being of its  
4       inhabitants. As the most isolated land mass on Earth, Hawaii  
5       imports nearly ninety per cent of its energy and almost one  
6       hundred per cent of its transportation resources. The  
7       legislature finds that it is critical for Hawaii to ensure  
8       greater energy security by becoming more self-sufficient in its  
9       energy and food supply.

10       The legislature also finds that Act 202, Session Laws of  
11       Hawaii 2016, established a renewable fuels production tax credit  
12       for the purpose of achieving greater energy security for Hawaii.  
13       However, the tax credit was repealed on December 31, 2021.

14       Accordingly, the purpose of this Act is to reinstate the  
15       renewable fuels production tax credit.



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

**"§235- Renewable fuels production tax credit. (a)**

Each year during the credit period, there shall be allowed to each taxpayer subject to the taxes imposed by this chapter a renewable fuels production tax credit that shall be applied to 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) For each taxpayer producing renewable fuels, the annual dollar amount of the renewable fuels production tax credit during the five-year credit period shall be equal to 20 cents per seventy-six thousand British thermal units of renewable fuels using the lower heating value sold for distribution in the State; provided that:

(1) The taxpayer's production of renewable fuels is no less than two billion five hundred million British thermal units of renewable fuels per calendar year;



1        (2) The amount of the tax credit claimed under this  
2        section by a taxpayer shall not exceed \$3,000,000 per  
3        taxable year; and

4        (3) Each taxpayer, together with all of its related  
5        entities, as determined under section 267(b) of the  
6        Internal Revenue Code of 1986, as amended, and all  
7        business entities under common control, as determined  
8        under sections 414(b), 414(c), and 1563(a) of the  
9        Internal Revenue Code of 1986, as amended, shall not  
10       be eligible for more than a single five-year credit  
11       period.

12       No other tax credit may be claimed under this chapter for  
13       the costs incurred in producing the renewable fuels that are  
14       used to properly claim a tax credit under this section for the  
15       taxable year.

16       (c) In the case of a partnership, S corporation, estate,  
17       or trust, distribution and share of the renewable fuels  
18       production tax credit shall be determined pursuant to section  
19       704(b) (with respect to a partner's distributive share) of the  
20       Internal Revenue Code of 1986, as amended. For a fiscal year



1 taxpayer, the taxpayer shall report the credit in the taxable  
2 year in which the calendar year end is included.

3 (d) No later than thirty days following the close of the  
4 calendar year, every taxpayer claiming a credit under this  
5 section shall complete and file an independent, third-party  
6 certified statement, at the taxpayer's sole expense, with and in  
7 the form prescribed by the department of business, economic  
8 development, and tourism, which provides the following  
9 information:

10 (1) The type, quantity, and British thermal unit value,  
11 using the lower heating value, of each qualified fuel,  
12 broken down by the type of fuel, produced and sold  
13 during the previous calendar year;

14 (2) The feedstock used for each type of qualified fuel;

15 (3) The proposed total amount of credit to which the  
16 taxpayer is entitled for each calendar year and the  
17 cumulative amount of the tax credit the taxpayer  
18 received during the credit period;

19 (4) The number of full-time and number of part-time  
20 employees of the facility and those employees' states  
21 of residency, totaled per state; and



1       (5) The number and location of all renewable fuel  
2               production facilities within and outside of the State.

3       (e) Within thirty calendar days after the due date of the  
4       statement required under subsection (d), the department of  
5       business, economic development, and tourism shall:

6       (1) Acknowledge, in writing, receipt of the statement; 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       (f) The taxpayer shall file the certificate issued under  
14       subsection (e) with the taxpayer's tax return with the  
15       department of taxation. The director of taxation may audit and  
16       adjust the certification to conform to the facts.

17       (g) The total amount of tax credits allowed under this  
18       section shall not exceed \$3,000,000 for all eligible taxpayers  
19       in any calendar year. In the event that the credit claims under  
20       this section exceed \$3,000,000 for all eligible taxpayers in any  
21       given calendar year, the \$3,000,000 shall be divided between all



1 eligible taxpayers for that year in proportion to the total  
2 amount of renewable fuels produced by all eligible taxpayers.  
3 Upon reaching \$3,000,000 in the aggregate, the department of  
4 business, economic development, and tourism shall immediately  
5 discontinue issuing certificates and notify the department of  
6 taxation. In no instance shall the total dollar amount of  
7 certificates issued exceed \$3,000,000 per year.

8 (h) Notwithstanding any other law to the contrary, the  
9 information collected and compiled by the department of  
10 business, economic development, and tourism under subsections  
11 (d) and (e) for the purposes of the renewable fuels production  
12 tax credit shall be available for public inspection and  
13 dissemination subject to chapter 92F.

14 (i) If the credit under this section exceeds the  
15 taxpayer's net income tax liability, the excess of the credit  
16 over liability may be used as a credit against the taxpayer's  
17 net income tax liability in subsequent years until exhausted.  
18 All claims for a credit under this section shall be properly  
19 filed on or before the end of the twelfth month following the  
20 close of the taxable year for which the credit may be claimed.  
21 Failure to comply with the foregoing provision or to provide the



1 certified statement required under subsection (d) shall  
2 constitute a waiver of the right to claim the credit.

3 (j) Prior to production of any renewable fuels for the  
4 calendar year, the taxpayer shall provide written notice of the  
5 taxpayer's intention to begin production of renewable fuels.

6 The written notice shall be provided to the department of  
7 taxation and department of business, economic development, and  
8 tourism and shall include information on the taxpayer, facility  
9 location, facility production capacity, anticipated production  
10 start date, and the taxpayer's contact information.

11 Notwithstanding any other law to the contrary, the written  
12 notice described in this subsection, including taxpayer and  
13 facility information, shall be available for public inspection  
14 and dissemination subject to chapter 92F.

15 (k) The taxpayer shall provide written notice to the  
16 director of taxation and director of business, economic  
17 development, and tourism within thirty days following the start  
18 of production. The notice shall include the production start  
19 date and expected renewable fuels production for the next twelve  
20 months. Notwithstanding any other law to the contrary, the



1 written notice described in this subsection shall be available  
2 for public inspection and dissemination subject to chapter 92F.

3 (1) Following each calendar year in which a credit under  
4 this section has been claimed, the director of business,  
5 economic development, and tourism shall submit a written report  
6 to the governor and legislature regarding the production and  
7 sale of renewable fuels. The report shall include:

8 (1) The number and location of renewable fuels production  
9 facilities within and outside the State that have  
10 claimed a credit under this section;

11 (2) The total number of British thermal units of renewable  
12 fuels, broken down by type of fuel produced and sold  
13 during the previous calendar year; and

14 (3) The projected number of British thermal units of  
15 renewable fuels production for the succeeding year.

16 (m) The director of taxation:

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

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





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

3       (n) As used in this section:

4       "Credit period" means a maximum period of five consecutive  
5       years, beginning from the first taxable year in which a taxpayer  
6       begins renewable fuels production at a level of at least two  
7       billion five hundred million British thermal units of renewable  
8       fuels per calendar year.

9       "Net income tax liability" means income tax liability  
10      reduced by all other credits allowed under this chapter.

11      "Renewable feedstocks" means:

12      (1) Biomass crops and other renewable organic material,  
13      including but not limited to logs, wood chips, wood  
14      pellets, and wood bark;

15      (2) Agricultural residues;

16      (3) Oil crops, including but not limited to algae, canola,  
17      jatropha, palm, soybean, and sunflower;

18      (4) Sugar and starch crops, including but not limited to  
19      sugar cane and cassava;

20      (5) Other agricultural crops;

21      (6) Grease and waste cooking oil;



- 1        (7) Food wastes;  
2        (8) Municipal solid wastes and industrial wastes;  
3        (9) Water, including wastewater; and  
4        (10) Animal residues and wastes,  
5 that can be used to generate energy.

6        "Renewable fuels" means fuels produced from renewable  
7 feedstocks, provided that the fuel:

- 8        (1) Is sold as a fuel in Hawaii; and  
9        (2) Meets the relevant ASTM International specifications  
10       or other industry specifications for the particular  
11       fuel, including but not limited to:  
12       (A) Methanol, ethanol, or other alcohols;  
13       (B) Hydrogen;  
14       (C) Biodiesel or renewable diesel;  
15       (D) Biogas;  
16       (E) Other biofuels;  
17       (F) Renewable jet fuel or renewable gasoline; or  
18       (G) Logs, wood chips, wood pellets, or wood bark."

19       SECTION 3. New statutory material is underscored.



1       SECTION 4. This Act, upon its approval, shall apply to  
2 taxable years beginning after December 31, 2021; provided that  
3 this Act shall be repealed on December 31, 2031.  
4



# H.B. NO. 2002 H.D. 1

**Report Title:**

Income Tax; Renewable Fuels Production Tax Credit

**Description:**

Reinstates the renewable fuels production tax credit. Repeals on 12/31/2031. (HD1)

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

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