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

4           "§235-       Renewable fuels production tax credit. (a) Each  
5 year during the credit period there shall be allowed to each  
6 taxpayer subject to the taxes imposed by this chapter a  
7 renewable fuels production tax credit that shall be applied to  
8 the taxpayer's net income tax liability, if any, imposed by this  
9 chapter for the taxable year in which the credit is properly  
10 claimed.

11           For each taxpayer producing renewable fuels, the annual  
12 dollar amount of the renewable fuels production tax credit  
13 during the ten-year credit period shall be equal to twenty cents  
14 per seventy-six thousand British thermal units of renewable  
15 fuels using the lower heating value produced for distribution in  
16 the State; provided that the taxpayer's production of renewable  
17 fuels is not less than fifteen billion British thermal units of



1 renewable fuels per year; provided further that the amount of  
2 the tax credit claimed under this section by a taxpayer shall  
3 not exceed \$3,000,000 per taxable year. No other tax credit may  
4 be claimed under this chapter for the costs related to renewable  
5 fuels production that are used to properly claim a tax credit  
6 under this section for the taxable year.

7 (b) The department of business, economic development, and  
8 tourism shall:

9 (1) Verify the amount and type of renewable fuels  
10 produced, including the purpose for which the fuel was  
11 produced;

12 (2) Total all renewable fuels production that the  
13 department of business, economic development, and  
14 tourism certifies for purposes of paragraph (3); and

15 (3) Certify the total amount of the tax credit for each  
16 taxable year and the cumulative amount of the tax  
17 credit during the credit period.

18 Upon each determination, the department of business,  
19 economic development, and tourism shall issue a certificate to  
20 the taxpayer verifying the amount of the renewable fuels  
21 produced, the credit amount certified for each taxable year, and



1 the cumulative amount of the tax credit during the credit  
2 period. The taxpayer shall file the certificate with the  
3 taxpayer's tax return with the department of taxation.  
4 Notwithstanding the department of business, economic  
5 development, and tourism's certification authority under this  
6 section, the director of taxation may audit and adjust the  
7 certification to conform to the facts.

8 If in any year, the annual amount of certified credits  
9 reaches \$6,000,000 in the aggregate, the department of business,  
10 economic development, and tourism shall immediately discontinue  
11 certifying credits and notify the department of taxation. In no  
12 instance shall the total amount of certified credits exceed  
13 \$6,000,000 per year. Notwithstanding any other law to the  
14 contrary, the verification and certification information  
15 compiled by the department of business, economic development,  
16 and tourism shall be available for public inspection and  
17 dissemination under chapter 92F.

18 (c) If the credit under this section exceeds the  
19 taxpayer's net income tax liability, the excess of the credit  
20 over liability may be used as a credit against the taxpayer's  
21 net income tax liability in subsequent years until exhausted.



1 All claims for a credit under this section shall be properly  
2 filed on or before the end of the twelfth month following the  
3 close of the taxable year for which the credit may be claimed.  
4 Failure to comply with the foregoing provision shall constitute  
5 a waiver of the right to claim the credit.

6 (d) Prior to production of any renewable fuels for the  
7 year, the taxpayer shall provide written notice of the  
8 taxpayer's intention to begin production of renewable fuels.  
9 The information shall be provided to the department of taxation  
10 and the department of business, economic development, and  
11 tourism on forms provided by the department of business,  
12 economic development, and tourism, and shall include information  
13 on the taxpayer, facility location, facility production  
14 capacity, anticipated production start day, and taxpayer's  
15 contact information. Notwithstanding any other law to the  
16 contrary, this taxpayer and facility information shall be  
17 available for public inspection and dissemination under chapter  
18 92F.

19 (e) The taxpayer shall provide written notice to the  
20 director of taxation and the director of business, economic  
21 development, and tourism within thirty days following the start



1 of production. The notice shall include the production start  
2 date and expected renewable fuels production for the next twelve  
3 months. Notwithstanding any other law to the contrary, this  
4 production information shall be available for public inspection  
5 and dissemination under chapter 92F.

6 (f) Each calendar year during the credit period, the  
7 taxpayer shall provide information to the director of business,  
8 economic development, and tourism on:

9 (1) The number of British thermal units of renewable fuels  
10 produced and sold during the previous calendar year;

11 (2) The type of fuels;

12 (3) Feedstocks used for renewable fuels production;

13 (4) The number of employees of the facility and each  
14 employee's state of residency; and

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

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



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

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

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

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

15       (i) The director of taxation shall prepare forms that may  
16 be necessary to claim a credit under this section. The director  
17 of taxation may require the taxpayer to furnish information to  
18 ascertain the validity of the claim for credit made under this  
19 section and may adopt rules necessary to effectuate the purposes  
20 of this section pursuant to chapter 91.

21       (j) As used in this section:



1       "Credit period" means a maximum period of ten consecutive  
2 years, beginning from the first taxable year in which a taxpayer  
3 begins renewable fuels production at a level of at least fifteen  
4 billion British thermal units of renewable fuels per year.

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

7       "Renewable feedstocks" means:

- 8       (1) Biomass crops;
- 9       (2) Agricultural residue;
- 10      (3) Oil crops, including but not limited to algae, canola,  
11       jatropha, palm, soybean, and sunflower;
- 12      (4) Sugar and starch crops, including but not limited to  
13       sugar cane and cassava;
- 14      (5) Other agricultural crops;
- 15      (6) Grease and waste cooking oil;
- 16      (7) Food wastes;
- 17      (8) Municipal solid wastes and industrial wastes;
- 18      (9) Water; and
- 19      (10) Animal residues and wastes that can be used to  
20       generate energy.







# H.B. NO. 1809

**Report Title:**

Renewable Fuels Production; Income Tax Credit

**Description:**

Establishes a renewable fuels production tax credit.

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

