
A BILL FOR AN ACT

RELATING TO RENEWABLE FUEL.

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

1 SECTION 1. The legislature finds that Hawaii is at a
2 critical crossroad in the State's ongoing quest to reduce
3 greenhouse gas emissions. In 2021, Hawaii became the first
4 state in the nation to declare a climate emergency and is now
5 poised to lead by example in mitigating the impacts of climate
6 change through adaptive and preemptive actions to transition
7 toward a multi-sector decarbonized economy. This is aligned
8 with the ambitious Hawaii clean energy initiative, which seeks
9 to achieve the nation's first-ever one hundred per cent
10 renewable portfolio standards by the year 2045. The legislature
11 acknowledged the necessity to analyze pathways and develop
12 recommendations to achieve economy-wide decarbonization goals by
13 adopting Act 238, Sessions Laws of Hawaii 2022.

14 The legislature additionally finds that the State has made
15 progress in reducing greenhouse gas pathways by adopting
16 alternatives to fossil fuel for electrical power generation and
17 encouraging alternatives for ground transportation, including



1 the use of electric vehicles. Additionally, sustainable
2 aviation fuel for air transportation is another pathway that
3 deserves more robust exploration. Hawaii has the opportunity to
4 accelerate its progress toward achieving net-zero or net-
5 negative targets as quickly as practicable, but no later than
6 2045. As an island state heavily reliant on air transportation,
7 it is important to provide incentives within the airline
8 industry to encourage practices that lower carbon footprints.

9 The legislature acknowledges that total jet fuel
10 consumption in Hawaii is seventeen million barrels (seven
11 hundred fourteen million gallons) per year between civilian and
12 military consumption. To provide greater energy security for
13 the State, the legislature finds that instead of investing in
14 imported crude oil or refined petroleum products and
15 perpetuating the State's dependence on fossil fuels, local
16 sustainable fuel production will allow investment in the local
17 economy and support job creation.

18 The legislature further acknowledges that while sustainable
19 aviation fuel offers multiple benefits, the cost of its
20 production is several times that of conventional fuels. Thus,
21 creating a regulatory framework to support local sustainable



1 aviation fuel production is critical. As with other states,
2 Hawaii must look at policies that will work in tandem with
3 federal policies to make sustainable aviation fuel production
4 sustainable within the State.

5 Accordingly, the purpose of this Act is to advance Hawaii's
6 commitment to reducing greenhouse gas emissions by:

- 7 (1) Establishing a temporary sustainable aviation fuel
8 import income tax credit; and
- 9 (2) Amending the renewable fuels production tax credit by:
- 10 (A) Increasing the tax credit rate;
- 11 (B) Repealing the cap on claimable credits per
12 taxpayer per taxable year and increasing the cap
13 on total claimable credits for all eligible
14 taxpayers per calendar year;
- 15 (C) Specifying that the credit may be claimed for
16 fuels with lifecycle greenhouse gas emissions and
17 product transportation emissions below certain
18 thresholds;
- 19 (D) Adding credit values for low lifecycle emissions
20 renewable fuels and sustainable aviation fuels
21 produced;



- 1 (E) Allowing a taxpayer who previously claimed a
- 2 credit to claim another one for taxable years
- 3 beginning after December 31, 2024;
- 4 (F) Amending the credit period to be for a maximum
- 5 period of ten consecutive years, beginning from
- 6 the effective date of this Act; and
- 7 (G) Amending the required information in the
- 8 certified statement for the credit.

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

12 **"§235- Sustainable aviation fuel import tax credit.**

13 (a) There shall be allowed to each taxpayer subject to the
14 taxes imposed by this chapter a sustainable aviation fuel import
15 income tax credit that shall be deducted from the taxpayer's net
16 income tax liability, if any, imposed by this chapter for the
17 taxable year in which the credit is properly claimed.

18 For each taxpayer importing sustainable aviation fuel into
19 the State, the amount of the credit shall be \$1 per gallon of
20 sustainable aviation fuel sold for distribution in the State;
21 provided that the tax credit shall only be claimed for



1 sustainable aviation fuel that meets the lifecycle greenhouse
2 gas emissions reduction threshold.

3 (b) In the case of a partnership, S corporation, estate,
4 or trust, distribution and share of the renewable fuels
5 production tax credit shall be determined pursuant to section
6 704(b) (with respect to a partner's distributive share) of the
7 Internal Revenue Code of 1986, as amended. For a fiscal year
8 taxpayer, the taxpayer shall report the credit in the taxable
9 year in which the calendar year end is included.

10 (c) No later than thirty days following the close of the
11 calendar year, every taxpayer claiming a credit under this
12 section shall complete and file an independent, third-party
13 certified statement, at the taxpayer's sole expense, with and in
14 the form prescribed by the Hawaii state energy office, providing
15 the following information:

- 16 (1) The type and quantity of sustainable aviation fuel
17 imported and sold during the previous calendar year;
18 (2) The feedstock used to produce the imported sustainable
19 aviation fuel;
20 (3) The proposed total amount of credit to which the
21 taxpayer is entitled for each calendar year and the



- 1 cumulative amount of the tax credit the taxpayer
2 received the previous calendar year;
- 3 (4) The number and location of all renewable fuel
4 facilities within and outside the State;
- 5 (5) The number of full-time and part-time employees of
6 each renewable fuel facility within and outside the
7 State and those employees' states of residency,
8 totaled per state;
- 9 (6) The lifecycle greenhouse gas emissions in kilograms of
10 carbon dioxide equivalent per million British thermal
11 units for each type of qualified fuel imported; and
- 12 (7) The lifecycle greenhouse gas emissions reported to the
13 United States Department of the Treasury if different
14 than the emissions reported under paragraph (6).
- 15 (d) Within thirty calendar days after the due date of the
16 statement required under subsection (c), the Hawaii state energy
17 office shall:
- 18 (1) Acknowledge, in writing, receipt of the statement; and
19 (2) Issue a certificate to the taxpayer reporting the:
- 20 (A) Amount of sustainable aviation fuel imported and
21 sold;



1 (B) Amount of credit that the taxpayer is entitled to
2 claim for the previous calendar year, inclusive
3 of any carryover amount;

4 (C) Amount of credit that the taxpayer is entitled to
5 claim for any subsequent calendar year; and

6 (D) Cumulative amount of the tax credit during the
7 previous calendar year.

8 (e) The taxpayer shall file the certificate issued under
9 subsection (d) (2) with the taxpayer's tax return with the
10 department of taxation. The director of taxation may audit and
11 adjust the certification to conform to the facts.

12 (f) The total amount of tax credits allowed under this
13 section for all eligible taxpayers shall not exceed:

14 (1) \$ _____ for calendar year 2025;

15 (2) \$ _____ for calendar year 2026;

16 (3) \$ _____ for calendar year 2027;

17 (4) \$ _____ for calendar year 2028; and

18 (5) \$ _____ for calendar years 2029 to 2036.

19 In the event that the credits claimed under this section exceed
20 the total credits allowed for all eligible taxpayers in any
21 given calendar year, the total credits allowed shall be



1 allocated to each eligible taxpayer in proportion to the amount
2 of each taxpayer's credits under this section for the calendar
3 year.

4 To the extent that the limitations of this subsection
5 reduce the amount of a taxpayer's credit, the amount of the
6 reduction shall be available to the taxpayer to be used as a
7 credit in the next subsequent calendar year but shall not be
8 carried over for any calendar year thereafter; provided that the
9 carryover credit shall be subject to the limitations of this
10 subsection.

11 (g) Notwithstanding any other law to the contrary, the
12 information collected and compiled by the Hawaii state energy
13 office under subsections (c) and (d) shall be available for
14 public inspection and dissemination pursuant to chapter 92F.

15 (h) If the credit under this section exceeds the
16 taxpayer's net income tax liability, the excess of the credit
17 over liability may be used as a credit against the taxpayer's
18 net income tax liability in subsequent years until exhausted,
19 unless otherwise elected by the taxpayer pursuant to subsection
20 (i) or (j). All claims for a credit under this section shall be
21 properly filed on or before the end of the twelfth month



1 following the close of the taxable year for which the credit may
2 be claimed. Failure to comply with the foregoing provision or
3 to provide the certified statement required under subsection (c)
4 shall constitute a waiver of the right to claim the credit.

5 (i) A taxpayer may elect to reduce the eligible credit
6 amount by thirty per cent and if this reduced amount exceeds the
7 amount of income tax payment due from the taxpayer, the excess
8 of the credit amount over payments due shall be refunded to the
9 taxpayer; provided that tax credit amounts properly claimed by a
10 taxpayer who has no income tax liability shall be paid to the
11 taxpayer; provided further that no refund on account of the tax
12 credit allowed by this section shall be made for amounts less
13 than \$1.

14 (j) Before the importation of any sustainable aviation
15 fuel for the calendar year, the taxpayer shall provide written
16 notice of the taxpayer's intention to begin importation of
17 sustainable aviation fuel to the department of taxation and the
18 Hawaii state energy office. The written notice shall include
19 information on the taxpayer, facility location, facility
20 capacity, anticipated importation start date, and the taxpayer's
21 contact information. Notwithstanding any other law to the



1 contrary, the written notice under this subsection, including
2 taxpayer and facility information, shall be made available for
3 public inspection and dissemination pursuant to chapter 92F.

4 (k) The taxpayer shall provide written notice to the
5 director of taxation and the chief energy officer of the Hawaii
6 state energy office within thirty days following the start of
7 importation. The notice shall include the importation start
8 date and expected amount of sustainable aviation fuel to be
9 imported for the next twelve months. Notwithstanding any other
10 law to the contrary, the written notice described in this
11 subsection shall be made available for public inspection and
12 dissemination pursuant to chapter 92F.

13 (l) Following each calendar year in which a credit under
14 this section has been claimed, the chief energy officer of the
15 Hawaii state energy office shall submit a written report to the
16 governor and legislature regarding the importation and sale of
17 sustainable aviation fuel. The report shall include:

18 (1) The number and location of sustainable fuel facilities
19 in the State and outside the State that have claimed a
20 credit under this section;



1 (2) The total number of gallons of sustainable aviation
2 fuel imported and sold during the previous calendar
3 year; and

4 (3) The projected number of gallons of sustainable
5 aviation fuel that will be imported for the succeeding
6 year.

7 (m) The director of taxation:

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

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

13 (3) May adopt rules pursuant to chapter 91 necessary to
14 effectuate the purposes of this section.

15 (n) As used in this section:

16 "Lifecycle greenhouse gas emissions" has the same meaning
17 as in section 235-110.32.

18 "Sustainable aviation fuel" has the same meaning as in
19 section 235-110.32."

20 SECTION 3. Section 235-110.32, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (a) to read:

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

8 For each taxpayer producing renewable fuels, the annual
9 dollar amount of the renewable fuels production tax credit
10 during the ten-year credit period shall be equal to ~~[20]~~ 35
11 cents per seventy-six thousand British thermal units of
12 renewable fuels using the lower heating value sold for
13 distribution in the State; provided that ~~[the]~~:

14 (1) The taxpayer's production of renewable fuels is not
15 less than two billion five hundred million British
16 thermal units of renewable fuels per calendar year;
17 provided ~~[further that the amount of the tax credit~~
18 ~~claimed under this section by a taxpayer shall not~~
19 ~~exceed \$3,500,000 per taxable year; provided further~~
20 ~~that the tax credit shall only be claimed for fuels~~
21 ~~with lifecycle emissions below that of fossil fuels.~~



1 ~~No~~] that no other tax credit may be claimed under this
2 chapter for the costs incurred to produce the
3 renewable fuels that are used to properly claim a tax
4 credit under this section for the taxable year~~[-]~~;

5 (2) The tax credit shall only be claimed for fuels that
6 meet the lifecycle greenhouse gas emissions reduction
7 threshold and product transportation emissions
8 threshold;

9 (3) There shall be an additional credit value of \$1 per
10 diesel gallon equivalent for low lifecycle emissions
11 renewable fuels; and

12 (4) There shall be an additional credit value equal to \$1
13 per gallon if the renewable fuel is sustainable
14 aviation fuel.

15 Each taxpayer, together with all of its related entities as
16 determined under section 267(b) of the Internal Revenue Code and
17 all business entities under common control, as determined under
18 sections 414(b), 414(c), and 1563(a) of the Internal Revenue
19 Code, shall not be eligible for more than a single ~~[ten-year]~~
20 credit period~~[-]~~; provided that taxpayers who previously claimed
21 a tax credit under this section before the effective date of



1 this Act may claim another tax credit for taxable years
2 beginning after December 31, 2024."

3 2. By amending subsections (c) and (d) to read:

4 "(c) No later than thirty days following the close of the
5 calendar year, every taxpayer claiming a credit under this
6 section shall complete and file an independent, third-party
7 certified statement, at the taxpayer's sole expense, with and in
8 the form prescribed by the Hawaii state energy office, providing
9 the following 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;



1 (5) The number and location of all renewable fuel
2 production facilities within and outside of the State;
3 [~~and~~]

4 (6) The lifecycle greenhouse gas emissions [~~per~~] in
5 kilograms of carbon dioxide equivalent per million
6 British thermal units for each type of qualified fuel
7 produced[~~-~~]; and

8 (7) The lifecycle greenhouse gas emissions reported to the
9 United States Department of the Treasury, if different
10 than the emissions reported pursuant to paragraph (6).

11 (d) Within thirty calendar days after the due date of the
12 statement required under subsection (c), the Hawaii state energy
13 office shall:

14 (1) Acknowledge, in writing, receipt of the statement; and

15 (2) Issue a certificate to the taxpayer reporting the
16 amount of renewable fuels produced and sold, the
17 amount of credit that the taxpayer is entitled to
18 claim for the previous calendar year, and the
19 cumulative amount of the tax credit during the credit
20 period[~~-~~and



1 ~~(3) Provide the taxpayer with a determination of whether~~
2 ~~the lifecycle greenhouse gas emissions for each type~~
3 ~~of qualified fuel produced is lower than that of~~
4 ~~fossil fuels]."~~

5 3. By amending subsection (f) to read:

6 "(f) The total amount of tax credits allowed under this
7 section for all eligible taxpayers in any calendar year shall
8 not exceed [~~\$20,000,000 for all eligible taxpayers in any~~
9 ~~calendar year.~~]:

10 (1) \$ _____ for calendar year 2025;

11 (2) \$ _____ for calendar year 2026;

12 (3) \$ _____ for calendar year 2027;

13 (4) \$ _____ for calendar year 2028; and

14 (5) \$ _____ for calendar year 2029 and thereafter.

15 In the event that the credit claims under this section exceed
16 [~~\$20,000,000~~] the total amount allowed for all eligible
17 taxpayers in any given calendar year, the [~~\$20,000,000~~] total
18 amount allowed shall be [~~divided between all~~] allocated to
19 eligible taxpayers [~~for that year~~] in proportion to the total
20 amount of renewable fuels [~~produced by all eligible taxpayers.~~
21 ~~Upon reaching \$20,000,000 in the aggregate, the Hawaii state~~



1 ~~energy office shall immediately discontinue issuing certificates~~
2 ~~and notify the department of taxation. In no instance shall the~~
3 ~~total dollar amount of certificates issued exceed \$20,000,000~~
4 ~~per calendar year.] production tax credits under this section~~
5 ~~for the calendar year. No taxpayer shall be eligible for more~~
6 ~~than seventy-five per cent of the total amount allowed in any~~
7 ~~year. The total aggregate amount of additional credit value for~~
8 ~~sustainable aviation fuel under subsection (a)(4) shall not~~
9 ~~exceed fifty per cent of the total aggregate amount of renewable~~
10 ~~fuels production tax credits allowed in any year. To the extent~~
11 ~~that the limitations of this subsection reduce the amount of a~~
12 ~~taxpayer's credit, the amount of the reduction shall be~~
13 ~~available to the taxpayer to be used as a credit in the~~
14 ~~subsequent calendar year; provided that the credit shall not be~~
15 ~~carried over for any calendar year thereafter; provided further~~
16 ~~that the carryover credit shall be subject to the limitations of~~
17 ~~this subsection."~~

18 4. By amending subsection (o) to read:

19 "(o) As used in this section:

20 "Credit period" means a maximum period of ten consecutive
21 years, beginning from ~~[the first taxable year in which a~~



1 ~~taxpayer begins renewable fuels production at a level of at~~
2 ~~least two billion five hundred million British thermal units of~~
3 ~~renewable fuels per calendar year.]~~ the effective date of this
4 Act.

5 "Feedstock transportation emissions threshold" means the
6 carbon intensity contribution associated with the oceangoing
7 transportation of the feedstock from the feedstock producer to
8 the renewable fuel producer is less than grams per
9 megajoule as determined by the lifecycle greenhouse gas
10 emissions analysis.

11 "Lifecycle greenhouse gas emissions" means the aggregate
12 attributitional core lifecycle greenhouse gas emissions values
13 utilizing one of the following:

14 (1) The most recent version of the United States
15 Department of Energy's Argonne National Laboratory's
16 greenhouse gases, regulated emissions, and energy use
17 in technologies model, including agricultural
18 practices and carbon capture and sequestration; or

19 (2) Another lifecycle methodology approved by the Hawaii
20 state energy office.



1 "Lifecycle greenhouse gas emissions reduction threshold"
2 means a reduction in lifecycle greenhouse gas emissions of fifty
3 per cent compared to the fossil fuel for which the renewable
4 fuel is most likely to replace.

5 "Low lifecycle emissions renewable fuels" means renewable
6 fuel that meets the lifecycle greenhouse gas emissions reduction
7 threshold, product transportation emissions threshold, and
8 feedstock transportation emissions threshold.

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

11 "Product transportation emissions threshold" means the
12 carbon intensity contribution associated with the oceangoing
13 transportation of the finished fuel from the renewable fuel
14 producer to the final distribution storage facility is less
15 than grams per megajoule as determined by the lifecycle
16 greenhouse gas emissions analysis.

17 "Renewable feedstocks" means:

- 18 (1) Biomass crops and other renewable organic material,
19 including but not limited to logs, wood chips, wood
20 pellets, and wood bark;
21 (2) Agricultural residue;



- 1 (3) Oil crops, including but not limited to algae,
2 camelina, canola, jatropha, palm, soybean, and
3 sunflower;
- 4 (4) Sugar and starch crops, including but not limited to
5 sugar cane and cassava;
- 6 (5) Other agricultural crops;
- 7 (6) Grease, fats, tallows, and waste cooking oil;
- 8 (7) Food wastes;
- 9 (8) Municipal solid wastes [~~and~~], industrial wastes[~~+~~],
10 and construction and demolition wastes;
- 11 (9) Water, including wastewater; [~~and~~]
- 12 (10) Bio-intermediate ethanol produced from renewable
13 feedstock; and
- 14 [~~(10)~~] (11) Animal residues and wastes,
15 that can be used to generate energy.

16 "Renewable fuels" means fuels produced from renewable
17 feedstocks; provided that the fuel:

- 18 (1) Is sold as a fuel in the State; and
19 (2) Meets the relevant ASTM International specifications
20 or other industry specifications for the particular
21 fuel, including but not limited to:



- 1 (A) Methanol, ethanol, or other alcohols;
- 2 (B) Hydrogen;
- 3 (C) Biodiesel or renewable diesel;
- 4 (D) Biogas;
- 5 (E) Other biofuels;
- 6 (F) Renewable [~~jet fuel or renewable~~] gasoline[+] or
- 7 renewable naphtha;
- 8 (G) Renewable propane or renewable liquid petroleum
- 9 gases;
- 10 (H) Sustainable aviation fuel; or
- 11 [~~G~~] (I) Logs, wood chips, wood pellets, or wood
- 12 bark.

13 "Sustainable aviation fuel" means liquid fuel that:

- 14 (1) Consists of synthesized hydrocarbons and meets the
- 15 requirements of the American Society for Testing and
- 16 Materials International Standard D7566 or D1655; and
- 17 (2) Is derived from biomass resources, waste streams,
- 18 renewable or zero carbon energy sources, or gaseous
- 19 carbon oxides."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on July 1, 3000, and
2 shall apply to taxable years beginning after December 31, 2024;
3 provided that section 2 shall be repealed on January 1, 2036.



Report Title:

Sustainable Aviation Fuel Import Tax Credit; Renewable Fuels
Production Tax Credit

Description:

Establishes a sustainable aviation fuel import income tax credit until 1/1/2036. Amends the renewable fuels production tax credit by: increasing the tax credit rate; repealing the cap on claimable credits per taxpayer per taxable year and increasing the cap on total claimable credits for all eligible taxpayers per calendar year; specifying that the credit may be claimed for fuels with lifecycle greenhouse gas emissions and product transportation emissions below certain thresholds; adding credit values for low lifecycle emissions renewable fuels and sustainable aviation fuels produced; allowing a taxpayer who previously claimed a credit to claim another one for taxable years beginning after 12/31/2024; amending the credit period to be for a maximum period of ten consecutive years beginning from the effective date of this Act; and amending the required information in the certified statement. Effective 7/1/3000.
(HD1)

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