THE SENATE
THIRTY-THIRD LEGISLATURE, 2025
STATE OF HAWAII

S.B. NO. 995

JAN 17 2025

A BILL FOR AN ACT

RELATING TO RENEWABLE FUEL.

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

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

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

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

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

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

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

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

(1) Establishing the sustainable aviation fuel import tax credit;

(2) Increasing the renewable fuels production tax credit amount;

(3) Repealing the:

(A) Cap amount of claimable renewable fuels production tax credit;

(B) Requirement that the tax credit be claimed for fuels with lifecycle emissions below fossil fuels; and

(C) Prohibition on claiming other tax credits for the cost incurred to produce renewable fuels;

(4) Specifying that the renewable fuels production tax credit can only be claimed for fuels that meet the certain thresholds;

(5) Adding an additional renewable fuels production tax credit value;

(6) Clarifying that a taxpayer who previously claimed a renewable fuels production tax credit may claim another one for taxable years beginning after December 31, 2024;

(7) Clarifying and expanding required information in the certified statement for the renewable fuels production tax credit; and

(8) Repealing the requirement that the Hawaii state energy office provide the taxpayer with a determination of whether the lifecycle greenhouse gas emissions for each type of qualified fuel produced is lower than that of fossil fuels.

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- Sustainable aviation fuel import tax credit.** (a) There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a sustainable aviation fuel income tax credit that shall be deducted from the taxpayer's net income

tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

For each taxpayer importing sustainable aviation fuel into the State, the amount of the credit shall be $1 per gallon of sustainable aviation fuel sold for distribution in the State; provided that the tax credit shall only be claimed for sustainable aviation fuel that meets the lifecycle greenhouse gas emissions reduction threshold.

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

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

(1) The type and quantity of sustainable aviation fuel imported and sold during the previous calendar year;

(2) The feedstock used to produce the imported sustainable aviation fuel;

(3) The proposed total amount of credit to which the taxpayer is entitled for each calendar year and the cumulative amount of the tax credit the taxpayer received the previous calendar year;

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

(5) The number and location of all renewable fuel facilities within and outside the State;

(6) The lifecycle greenhouse gas emissions in kilograms of carbon dioxide equivalent per million British thermal units for each type of qualified fuel imported; and

(7) The lifecycle greenhouse gas emissions reported to the United States Department of the Treasury if different than the emissions reported under paragraph (6).

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

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

(2) Issue a certificate to the taxpayer reporting the:

(A) Amount of sustainable aviation fuel imported and sold;

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

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

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

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

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

(1) $5,000,000 for calendar year 2025;

(2) $10,000,000 for calendar year 2026;

(3) $20,000,000 for calendar year 2027;

(4) $30,000,000 for calendar year 2028; and

(5) $50,000,000 for calendar years 2029 to 2036.

In the event that the credit claims under this section exceed the total credits allowed for all eligible taxpayers in any given calendar year, the total credits allowed shall be allocated proportionally to each eligible taxpayer in proportion to the amount of such taxpayer's credits under this section for the calendar year.

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

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

(h) If the credit under this section exceeds the taxpayer's net income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted, unless otherwise elected by the taxpayer pursuant to subsection (i) or (j). All claims for a credit under this section shall be properly filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision or to provide the certified statement required under subsection (c) shall constitute a waiver of the right to claim the credit.

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

(j) Notwithstanding subsection (i), an individual taxpayer may elect to have any excess of the credit over payments due refunded to the taxpayer, if:

(1) All of the taxpayer's income is exempt from taxation under section 235-7(a)(2) or (3); or

(2) The taxpayer's adjusted gross income is $20,000 or less or, if filing a tax return as married filing jointly, $40,000 or less;

provided that tax credits properly claimed by a taxpayer who has no income tax liability shall be paid to the taxpayer; provided further that no refund on account of the tax credit allowed by this section shall be made for amounts less than $1.

A married couple who does not file a joint tax return shall only be entitled to make this election to the extent that they would have been entitled to make the election had they filed a joint tax return.

The election required by this subsection shall be made in a manner prescribed by the director of taxation on the taxpayer's return for the taxable year in which the credit is claimed. An election once made is irrevocable.

No more than one taxpayer shall be allowed to claim a tax credit for the same purchase of eligible sustainable aviation fuel.

(k) Before the importation of any sustainable aviation fuel for the calendar year, the taxpayer shall provide written notice of the taxpayer's intention to begin importation of sustainable aviation fuel to the department of taxation and the Hawaii state energy office. The written notice shall include information on the taxpayer, facility location, facility capacity, anticipated importation start date, and the taxpayer's contact information. Notwithstanding any other law to the contrary, the written notice under this subsection, including taxpayer and facility information, shall be made available for public inspection and dissemination pursuant to chapter 92F.

(l) The taxpayer shall provide written notice to the director of taxation and the chief energy officer of the Hawaii state energy office within thirty days following the start of importation. The notice shall include the importation start date and expected sustainable aviation fuel importation for the next twelve months. Notwithstanding any other law to the contrary, the written notice described in this subsection shall

be made available for public inspection and dissemination pursuant to chapter 92F.

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

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

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

(3) The projected number of gallons of sustainable aviation fuel imported for the succeeding year.

(n) The director of taxation:

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

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

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

(o) As used in this section:

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

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

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

1. By amending subsection (a) to read:

"(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.

For each taxpayer producing renewable fuels, the annual dollar amount of the renewable fuels production tax credit during the ten-year credit period shall be equal to [~~20~~] 35 cents per seventy-six thousand British thermal units of

renewable fuels using the lower heating value sold for distribution in the State; provided that [~~the~~]:

(1) The taxpayer's production of renewable fuels is not less than two billion five hundred million British thermal units of renewable fuels per calendar year; [~~provided further that the amount of the tax credit claimed under this section by a taxpayer shall not exceed $3,500,000 per taxable year; provided further that the tax credit shall only be claimed for fuels with lifecycle emissions below that of fossil fuels. No other tax credit may be claimed under this chapter for the costs incurred to produce the renewable fuels that are used to properly claim a tax credit under this section for the taxable year.~~]

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

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

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

Each taxpayer, together with all of its related entities as determined under section 267(b) of the Internal Revenue Code and all business entities under common control, as determined under sections 414(b), 414(c), and 1563(a) of the Internal Revenue Code, shall not be eligible for more than a single [~~ten-year~~] credit period[~~.~~]; provided that taxpayers who previously claimed a tax credit under this section before the effective date of this Act may claim another tax credit for taxable years beginning after December 31, 2024."

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

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

(1) The type, quantity, and British thermal unit value, using the lower heating value, of each qualified fuel,

broken down by the type of fuel, produced and sold during the previous calendar year;

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

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

(4) The number of full-time and [~~number of~~] part-time employees of the facility and those employees' states of residency, totaled per state;

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

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

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

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

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

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

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

3. By amending subsection (f) to read:

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

(1) $40,000,000 for calendar year 2025;

(2) $50,000,000 for calendar year 2026;

(3) $60,000,000 for calendar year 2027;

(4) $70,000,000 for calendar year 2028; and

(5) $80,000,000 for calendar year 2029 and thereafter.

In the event that the credit claims under this section exceed [~~$20,000,000~~] the total amount allowed for all eligible taxpayers in any given calendar year, the [~~$20,000,000~~] total amount allowed shall be [~~divided between all~~] allocated proportionally to eligible taxpayers [~~for that year~~] in proportion to the total amount of renewable fuels [~~produced by all eligible taxpayers. Upon reaching $20,000,000 in the aggregate, the Hawaii state energy office shall immediately discontinue issuing certificates and notify the department of taxation. In no instance shall the total dollar amount of certificates issued exceed $20,000,000 per calendar year.~~] production tax credits under this section for the calendar year. No taxpayer shall be eligible for more than seventy-five per cent of the total amount allowed in any year. To the extent that the limitations of this subsection reduce the amount of a taxpayer's credit, the amount of the reduction shall be available to the taxpayer to be used as a credit in the subsequent calendar year; provided that the credit shall not be

carried over for any calendar year thereafter; provided further that the carryover credit shall be subject to the limitations of this subsection."

4. By amending subsection (o) to read:

"(o) As used in this section:

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

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

"Lifecycle greenhouse gas emissions" means the aggregate attributional core lifecycle greenhouse gas emissions values utilizing one of the following:

(1) The most recent version of the United States Department of Energy's Argonne National Laboratory's

greenhouse gases, regulated emissions, and energy use in technologies model, including agricultural practices and carbon capture and sequestration.

(2) Carbon offsetting and reduction scheme for international aviation; or

(3) Another lifecycle methodology approved by the Hawaii state energy office.

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

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

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

"Product transportation emissions threshold" means the carbon intensity contribution associated with the oceangoing transportation of the finished fuel from the renewable fuel producer to the final distribution storage facility is less

than grams per megajoule as determined by the lifecycle greenhouse gas emissions analysis.

"Renewable feedstocks" means:

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

(2) Agricultural residue;

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

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

(5) Other agricultural crops;

(6) Grease, fats, tallows, and waste cooking oil;

(7) Food wastes;

(8) Municipal solid wastes [~~and~~], industrial wastes[~~,~~], and construction and demolition wastes;

(9) Water, including wastewater; [~~and~~]

(10) Bio-intermediate ethanol produced from renewable feedstock; and

[~~(10)~~] (11) Animal residues and wastes,

that can be used to generate energy.

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

(1) Is sold as a fuel in the State; and

(2) Meets the relevant ASTM International specifications or other industry specifications for the particular fuel, including but not limited to:

(A) Methanol, ethanol, or other alcohols;

(B) Hydrogen;

(C) Biodiesel or renewable diesel;

(D) Biogas;

(E) Other biofuels;

(F) Renewable [~~jet fuel or renewable~~] gasoline[~~,~~] or renewable naphtha;

(G) Renewable propane or renewable liquid petroleum gases;

(H) Sustainable aviation fuel; or

[~~(G)~~] (I) Logs, wood chips, wood pellets, or wood bark.

"Sustainable aviation fuel" means liquid fuel that:

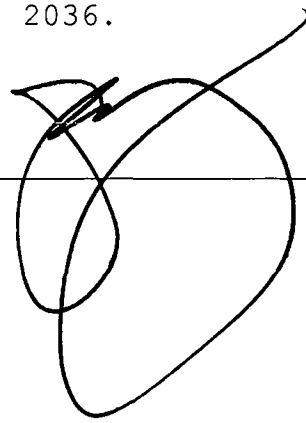
(1) Consists of synthesized hydrocarbons and meets the requirements of the American Society for Testing and Materials International Standard D7566 or D1655; and

(2) Is derived from biomass resources, waste streams, renewable or zero carbon energy sources, or gaseous carbon oxides."

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

SECTION 5. This Act, upon its approval, shall apply to taxable years beginning after December 31, 2024; provided that section 2 shall be repealed on January 1, 2036.

INTRODUCED BY: _____



S.B. NO. 995

Report Title:
Sustainable Aviation Fuel Import Tax Credit; Renewable Fuels Production Tax Credit

Description:
Establishes the sustainable aviation fuel import tax credit. Increases the renewable fuels production tax credit amount. Repeals the: (1) cap amount of claimable renewable fuels production tax credit; (2) requirement that the tax credit be claimed for fuels with lifecycle emissions below fossil fuels; and (3) prohibition on claiming other tax credits for the cost incurred to produce renewable fuels. Specifies that the renewable fuels production tax credit can only be claimed for fuels that meet the certain thresholds. Adds an additional tax credit value. Clarifies that a taxpayer who previously claimed a renewable fuels production tax credit may claim another one for taxable years beginning after 12/31/2024. Clarifies and expands required information in the certified statement for the tax credit. Repeals the requirement that the Hawaii State Energy Office provide the taxpayer with a determination of whether the lifecycle greenhouse gas emissions for each type of qualified fuel produced is lower than that of fossil fuels.

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