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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1 PART I

2 SECTION 1. Hawaii is vulnerable to soaring prices or  
3 disruptions of its energy imports, which can hinder, cripple, or  
4 even devastate the State's economy and the well-being of its  
5 inhabitants. As the most isolated land mass on earth, Hawaii  
6 imports nearly ninety per cent of its energy and almost one  
7 hundred per cent of its transportation resources. The  
8 legislature finds that it is critical for Hawaii to ensure  
9 greater energy security by becoming more self-sufficient in its  
10 energy and food supply.

11 The legislature also finds that providing additional  
12 support to Hawaii's agriculture industry could help to reduce  
13 reliance on imports and to foster job growth in the State. The  
14 legislature believes that creating a stronger market for  
15 renewable fuels will promote the production of locally-grown  
16 feedstock. The legislature also believes that reducing the  
17 burden on the emerging number of small farmers seeking costly,



1 but necessary, certifications and inspections will help to  
2 promote the production of locally-grown food.

3 The purpose of this Act is to:

- 4 (1) Establish a renewable fuels production tax credit to
- 5 achieve greater energy security for Hawaii;
- 6 (2) Repeal the ethanol facility tax credit; and
- 7 (3) Establish a tax credit for farmers, ranchers, and
- 8 producers seeking to obtain organic certification.

9 PART II

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

13 "§235-A Renewable fuels production tax credit. (a) As  
14 used in this section:

15 "Credit period" means a maximum period of five consecutive  
16 years beginning from the first taxable year in which a taxpayer  
17 begins renewable fuels production at a level of at least fifteen  
18 billion British thermal units of renewable fuels per year.

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

21 "Renewable feedstocks" means:



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

14        "Renewable fuels" means fuels produced from renewable  
15 feedstocks; provided that:

- 16        (1) The fuels shall be sold as a fuel; and
- 17        (2) The fuels meet the relevant ASTM International
- 18                specifications for the particular fuel or other
- 19                industry specifications for liquid or gaseous fuels,
- 20                including but not limited to:
- 21                (A) Methanol, ethanol, or other alcohols;



- 1           (B) Hydrogen;  
2           (C) Biodiesel or renewable diesel;  
3           (D) Biogas;  
4           (E) Other biofuels; or  
5           (F) Renewable jet fuel or renewable gasoline.

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

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



1 be claimed under this chapter for the costs related to renewable  
2 fuels production that are used to properly claim a tax credit  
3 under this section for the taxable year.

4 (c) The department of business, economic development, and  
5 tourism shall:

6 (1) Verify the amount and type of renewable fuels produced  
7 and sold, including the purpose for which the fuel was  
8 produced;

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

12 (3) Certify the total amount of the tax credit for each  
13 taxable year and the cumulative amount of the tax  
14 credit during the credit period.

15 Upon each determination, the department of business, economic  
16 development, and tourism shall issue a certificate to the  
17 taxpayer verifying the amount of renewable fuels produced and  
18 sold, the credit amount certified for each taxable year, and the  
19 cumulative amount of the tax credit during the credit period.

20 The taxpayer shall file the certificate with the taxpayer's tax  
21 return with the department of taxation. Notwithstanding the



1 department of business, economic development, and tourism's  
2 certification authority under this section, the director of  
3 taxation may audit and adjust the certification process as is  
4 necessary.

5 If in any year, the annual amount of certified credits  
6 reaches \$3,000,000 in the aggregate, the department of business,  
7 economic development, and tourism shall immediately discontinue  
8 certifying credits and notify the department of taxation. In no  
9 instance shall the total amount of certified credits exceed  
10 \$3,000,000 per year. Notwithstanding any other law to the  
11 contrary, the verification and certification information  
12 compiled by the department of business, economic development,  
13 and tourism shall be available for public inspection and  
14 dissemination under chapter 92F.

15 (d) 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 All claims for a credit under this section shall be properly  
20 filed on or before the end of the twelfth month following the  
21 close of the taxable year for which the credit may be claimed.



1 Failure to comply with the foregoing provision shall constitute  
2 a waiver of the right to claim the credit.

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

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



1 production information shall be available for public inspection  
2 and dissemination under chapter 92F.

3 (g) Each calendar year during the credit period, the  
4 taxpayer shall provide information to the director of business,  
5 economic development, and tourism on the number of British  
6 thermal units of renewable fuels produced and sold during the  
7 previous calendar year, the type of fuels, feedstocks used for  
8 renewable fuels production, the number of employees of the  
9 facility and each employee's state of residency, and the  
10 projected number of British thermal units of renewable fuels  
11 production for the succeeding year.

12 (h) In the case of a partnership, S corporation, estate,  
13 or trust, distribution and share of the tax credit for renewable  
14 fuels production shall be determined pursuant to section 704(b)  
15 (with respect to partner's distributive share) of the Internal  
16 Revenue Code.

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:



- 1        (1) 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        (2) 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        (3) The projected number of British thermal units of
- 9        renewable fuels production for the succeeding year.
- 10       (j) The director of taxation shall prepare forms that may
- 11 be necessary to claim a credit under this section. The director
- 12 of taxation may require the taxpayer to furnish information to
- 13 ascertain the validity of the claim for credit made under this
- 14 section and may adopt rules necessary to effectuate the purposes
- 15 of this section pursuant to chapter 91."

16        SECTION 3. Section 235-110.3, Hawaii Revised Statutes, is

17 repealed.

18        [~~"§235-110.3 Ethanol facility tax credit. (a) Each year~~

19 ~~during the credit period, there shall be allowed to each~~

20 ~~taxpayer subject to the taxes imposed by this chapter, an~~

21 ~~ethanol facility tax credit that shall be applied to the~~

1 ~~taxpayer's net income tax liability, if any, imposed by this~~  
2 ~~chapter for the taxable year in which the credit is properly~~  
3 ~~claimed.~~

4 ~~For each qualified ethanol production facility, the annual~~  
5 ~~dollar amount of the ethanol facility tax credit during the~~  
6 ~~eight year period shall be equal to thirty per cent of its~~  
7 ~~nameplate capacity if the nameplate capacity is greater than~~  
8 ~~five hundred thousand but less than fifteen million gallons. A~~  
9 ~~taxpayer may claim this credit for each qualifying ethanol~~  
10 ~~facility, provided that:~~

11 ~~(1) The claim for this credit by any taxpayer of a~~  
12 ~~qualifying ethanol production facility shall not~~  
13 ~~exceed one hundred per cent of the total of all~~  
14 ~~investments made by the taxpayer in the qualifying~~  
15 ~~ethanol production facility during the credit period;~~

16 ~~(2) The qualifying ethanol production facility operated at~~  
17 ~~a level of production of at least seventy five per~~  
18 ~~cent of its nameplate capacity on an annualized basis;~~

19 ~~(3) The qualifying ethanol production facility is in~~  
20 ~~production on or before January 1, 2017; and~~



1 ~~(4) No taxpayer that claims the credit under this section~~  
2 ~~shall claim any other tax credit under this chapter~~  
3 ~~for the same taxable year.~~

4 ~~(b) As used in this section:~~

5 ~~"Credit period" means a maximum period of eight years~~  
6 ~~beginning from the first taxable year in which the qualifying~~  
7 ~~ethanol production facility begins production even if actual~~  
8 ~~production is not at seventy five per cent of nameplate~~  
9 ~~capacity.~~

10 ~~"Investment" means a nonrefundable capital expenditure~~  
11 ~~related to the development and construction of any qualifying~~  
12 ~~ethanol production facility, including processing equipment,~~  
13 ~~waste treatment systems, pipelines, and liquid storage tanks at~~  
14 ~~the facility or remote locations, including expansions or~~  
15 ~~modifications. Capital expenditures shall be those direct and~~  
16 ~~certain indirect costs determined in accordance with section~~  
17 ~~263A of the Internal Revenue Code, relating to uniform~~  
18 ~~capitalization costs, but shall not include expenses for~~  
19 ~~compensation paid to officers of the taxpayer, pension and other~~  
20 ~~related costs, rent for land, the costs of repairing and~~  
21 ~~maintaining the equipment or facilities, training of operating~~



1 ~~personnel, utility costs during construction, property taxes,~~  
2 ~~costs relating to negotiation of commercial agreements not~~  
3 ~~related to development or construction, or service costs that~~  
4 ~~can be identified specifically with a service department or~~  
5 ~~function or that directly benefit or are incurred by reason of a~~  
6 ~~service department or function. For the purposes of determining~~  
7 ~~a capital expenditure under this section, the provisions of~~  
8 ~~section 263A of the Internal Revenue Code shall apply as it read~~  
9 ~~on March 1, 2004. For purposes of this section, investment~~  
10 ~~excludes land costs and includes any investment for which the~~  
11 ~~taxpayer is at risk, as that term is used in section 465 of the~~  
12 ~~Internal Revenue Code (with respect to deductions limited to~~  
13 ~~amount at risk).~~

14 ~~"Nameplate capacity" means the qualifying ethanol~~  
15 ~~production facility's production design capacity, in gallons of~~  
16 ~~motor fuel grade ethanol per year.~~

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

19 ~~"Qualifying ethanol production" means ethanol produced from~~  
20 ~~renewable, organic feedstocks, or waste materials, including~~  
21 ~~municipal solid waste. All qualifying production shall be~~



1 ~~fermented, distilled, gasified, or produced by physical chemical~~  
2 ~~conversion methods such as reformation and catalytic conversion~~  
3 ~~and dehydrated at the facility.~~

4 ~~"Qualifying ethanol production facility" or "facility"~~  
5 ~~means a facility located in Hawaii which produces motor fuel~~  
6 ~~grade ethanol meeting the minimum specifications by the American~~  
7 ~~Society of Testing and Materials standard D 4806, as amended.~~

8 ~~(c) In the case of a taxable year in which the cumulative~~  
9 ~~claims for the credit by the taxpayer of a qualifying ethanol~~  
10 ~~production facility exceeds the cumulative investment made in~~  
11 ~~the qualifying ethanol production facility by the taxpayer, only~~  
12 ~~that portion that does not exceed the cumulative investment~~  
13 ~~shall be claimed and allowed.~~

14 ~~(d) The department of business, economic development, and~~  
15 ~~tourism shall:~~

16 ~~(1) Maintain records of the total amount of investment~~  
17 ~~made by each taxpayer in a facility;~~

18 ~~(2) Verify the amount of the qualifying investment;~~

19 ~~(3) Total all qualifying and cumulative investments that~~  
20 ~~the department of business, economic development, and~~  
21 ~~tourism certifies, and~~



1       ~~(4) Certify the total amount of the tax credit for each~~  
2           ~~taxable year and the cumulative amount of the tax~~  
3           ~~credit during the credit period.~~

4       ~~Upon each determination, the department of business,~~  
5       ~~economic development, and tourism shall issue a certificate to~~  
6       ~~the taxpayer verifying the qualifying investment amounts, the~~  
7       ~~credit amount certified for each taxable year, and the~~  
8       ~~cumulative amount of the tax credit during the credit period.~~  
9       ~~The taxpayer shall file the certificate with the taxpayer's tax~~  
10       ~~return with the department of taxation. Notwithstanding the~~  
11       ~~department of business, economic development, and tourism's~~  
12       ~~certification authority under this section, the director of~~  
13       ~~taxation may audit and adjust certification to conform to the~~  
14       ~~facts.~~

15       ~~If in any year, the annual amount of certified credits~~  
16       ~~reaches \$12,000,000 in the aggregate, the department of~~  
17       ~~business, economic development, and tourism shall immediately~~  
18       ~~discontinue certifying credits and notify the department of~~  
19       ~~taxation. In no instance shall the total amount of certified~~  
20       ~~credits exceed \$12,000,000 per year. Notwithstanding any other~~



1 ~~law to the contrary, this information shall be available for~~  
2 ~~public inspection and dissemination under chapter 92F.~~

3 ~~(e) If the credit under this section exceeds the~~  
4 ~~taxpayer's income tax liability, the excess of credit over~~  
5 ~~liability shall be refunded to the taxpayer, provided that no~~  
6 ~~refunds or payments on account of the tax credit allowed by this~~  
7 ~~section shall be made for amounts less than \$1. All claims for~~  
8 ~~a credit under this section must be properly filed on or before~~  
9 ~~the end of the twelfth month following the close of the taxable~~  
10 ~~year for which the credit may be claimed. Failure to comply~~  
11 ~~with the foregoing provision shall constitute a waiver of the~~  
12 ~~right to claim the credit.~~

13 ~~(f) If a qualifying ethanol production facility or an~~  
14 ~~interest therein is acquired by a taxpayer prior to the~~  
15 ~~expiration of the credit period, the credit allowable under~~  
16 ~~subsection (a) for any period after such acquisition shall be~~  
17 ~~equal to the credit that would have been allowable under~~  
18 ~~subsection (a) to the prior taxpayer had the taxpayer not~~  
19 ~~disposed of the interest. If an interest is disposed of during~~  
20 ~~any year for which the credit is allowable under subsection (a),~~  
21 ~~the credit shall be allowable between the parties on the basis~~



1 ~~of the number of days during the year the interest was held by~~  
2 ~~each taxpayer. In no case shall the credit allowed under~~  
3 ~~subsection (a) be allowed after the expiration of the credit~~  
4 ~~period.~~

5 ~~(g) Once the total nameplate capacities of qualifying~~  
6 ~~ethanol production facilities built within the State reaches or~~  
7 ~~exceeds a level of forty million gallons per year, credits under~~  
8 ~~this section shall not be allowed for new ethanol production~~  
9 ~~facilities. If a new facility's production capacity would cause~~  
10 ~~the statewide ethanol production capacity to exceed forty~~  
11 ~~million gallons per year, only the ethanol production capacity~~  
12 ~~that does not exceed the statewide forty million gallon per year~~  
13 ~~level shall be eligible for the credit.~~

14 ~~(h) Prior to construction of any new qualifying ethanol~~  
15 ~~production facility, the taxpayer shall provide written notice~~  
16 ~~of the taxpayer's intention to begin construction of a~~  
17 ~~qualifying ethanol production facility. The information shall~~  
18 ~~be provided to the department of taxation and the department of~~  
19 ~~business, economic development, and tourism on forms provided by~~  
20 ~~the department of business, economic development, and tourism,~~  
21 ~~and shall include information on the taxpayer, facility~~



1 ~~location, facility production capacity, anticipated production~~  
2 ~~start date, and the taxpayer's contact information.~~  
3 ~~Notwithstanding any other law to the contrary, this information~~  
4 ~~shall be available for public inspection and dissemination under~~  
5 ~~chapter 92F.~~

6 ~~(i) The taxpayer shall provide written notice to the~~  
7 ~~director of taxation and the director of business, economic~~  
8 ~~development, and tourism within thirty days following the start~~  
9 ~~of production. The notice shall include the production start~~  
10 ~~date and expected ethanol fuel production for the next twenty~~  
11 ~~four months. Notwithstanding any other law to the contrary,~~  
12 ~~this information shall be available for public inspection and~~  
13 ~~dissemination under chapter 92F.~~

14 ~~(j) If a qualifying ethanol production facility fails to~~  
15 ~~achieve an average annual production of at least seventy five~~  
16 ~~per cent of its nameplate capacity for two consecutive years,~~  
17 ~~the stated capacity of that facility may be revised by the~~  
18 ~~director of business, economic development, and tourism to~~  
19 ~~reflect actual production for the purposes of determining~~  
20 ~~statewide production capacity under subsection (g) and allowable~~  
21 ~~credits for that facility under subsection (a). Notwithstanding~~



1 ~~any other law to the contrary, this information shall be~~  
2 ~~available for public inspection and dissemination under chapter~~  
3 ~~92F.~~

4 ~~(k) Each calendar year during the credit period, the~~  
5 ~~taxpayer shall provide information to the director of business,~~  
6 ~~economic development, and tourism on the number of gallons of~~  
7 ~~ethanol produced and sold during the previous calendar year, how~~  
8 ~~much was sold in Hawaii versus overseas, feedstocks used for~~  
9 ~~ethanol production, the number of employees of the facility, and~~  
10 ~~the projected number of gallons of ethanol production for the~~  
11 ~~succeeding year.~~

12 ~~(l) In the case of a partnership, S corporation, estate,~~  
13 ~~or trust, the tax credit allowable is for every qualifying~~  
14 ~~ethanol production facility. The cost upon which the tax credit~~  
15 ~~is computed shall be determined at the entity level.~~

16 ~~Distribution and share of credit shall be determined pursuant to~~  
17 ~~section 235-110.7(a).~~

18 ~~(m) Following each year in which a credit under this~~  
19 ~~section has been claimed, the director of business, economic~~  
20 ~~development, and tourism shall submit a written report to the~~



1 ~~governor and legislature regarding the production and sale of~~  
2 ~~ethanol. The report shall include:~~

- 3       ~~(1) The number, location, and nameplate capacities of~~  
4           ~~qualifying ethanol production facilities in the State;~~
- 5       ~~(2) The total number of gallons of ethanol produced and~~  
6           ~~sold during the previous year; and~~
- 7       ~~(3) The projected number of gallons of ethanol production~~  
8           ~~for the succeeding year.~~

9       ~~(n) The director of taxation shall prepare forms that may~~  
10 ~~be necessary to claim a credit under this section.~~

11 ~~Notwithstanding the department of business, economic~~  
12 ~~development, and tourism's certification authority under this~~  
13 ~~section, the director may audit and adjust certification to~~  
14 ~~conform to the facts. The director may also require the~~  
15 ~~taxpayer to furnish information to ascertain the validity of the~~  
16 ~~claim for credit made under this section and may adopt rules~~  
17 ~~necessary to effectuate the purposes of this section pursuant to~~  
18 ~~chapter 91." ]~~



1 PART III

2 SECTION 4. Chapter 235, Hawaii Revised Statutes, is  
3 amended by adding a new section to be appropriately designated  
4 and to read as follows:

5 "§235-B Organic foods production tax credit. (a) There  
6 shall be allowed to each qualified taxpayer subject to the tax  
7 imposed under this chapter, an income tax credit that shall be  
8 deductible from the taxpayer's net income tax liability, if any,  
9 imposed by this chapter for the taxable year in which the credit  
10 is properly claimed.

11 (b) The amount of the tax credit shall be equal to the  
12 qualified expenses of the qualified taxpayer, up to a maximum of  
13 \$10,000.

14 (c) In the case of a partnership, S corporation, estate,  
15 or trust, the tax credit allowable is for qualified expenses  
16 incurred by the entity for the taxable year. The expenses upon  
17 which the tax credit is computed shall be determined at the  
18 entity level. Distribution and share of credit shall be  
19 determined by rule.

20 (d) The total amount of tax credits allowed under this  
21 section shall not exceed \$5,000,000 for all qualified taxpayers

1 in any taxable year; provided that any taxpayer who is not  
2 eligible to claim the credit in a taxable year due to the  
3 \$5,000,000 cap having been exceeded for that taxable year shall  
4 be eligible to claim the credit in the subsequent taxable year.

5 (e) Every qualified taxpayer, before March 31 of each year  
6 in which qualified expenses were incurred by the taxpayer in the  
7 previous taxable year, shall submit a written, certified  
8 statement to the chairperson of the board of agriculture  
9 identifying:

10 (1) Qualified expenses incurred in the previous taxable  
11 year; and

12 (2) The amount of the tax credit claimed by the taxpayer  
13 pursuant to this section, if any, in the previous  
14 taxable year.

15 (f) The department of agriculture shall:

16 (1) Maintain records of the names and addresses of the  
17 qualified taxpayers claiming the credits under this  
18 section and the total amount of the qualified expenses  
19 upon which the tax credits are based;

20 (2) Verify the nature and amount of the qualified  
21 expenses;



1       (3) Total all qualified and cumulative expenses that the  
2       department certifies; and

3       (4) Certify the amount of the tax credit for each taxpayer  
4       for each taxable year and the cumulative amount of the  
5       tax credit.

6       Upon each determination made under this subsection, the  
7       department of agriculture shall issue a certificate to the  
8       taxpayer verifying information submitted to the department,  
9       including amounts of qualified expenses, the credit amount  
10      certified for the taxpayer for each taxable year, and the  
11      cumulative amount of tax credits certified. The taxpayer shall  
12      file the certificate with the taxpayer's tax return with the  
13      department of taxation.

14      The board of agriculture may assess and collect a fee to  
15      offset the costs of certifying tax credit claims under this  
16      section.

17      (g) The director of taxation:

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



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

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

6       (h) If the tax credit under this section exceeds the  
7       taxpayer's net income tax liability, the excess of the credit  
8       over liability may be used as a credit against the taxpayer's  
9       net income tax liability in subsequent years until exhausted.  
10      All claims for the tax credit under this section, including  
11      amended claims, shall be filed on or before the end of the  
12      twelfth month following the close of the taxable year for which  
13      the credit may be claimed. Failure to comply with the foregoing  
14      provision shall constitute a waiver of the right to claim the  
15      credit.

16      (i) As used in this section:

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

19      "Organic Foods Production Act" means the federal Organic  
20      Foods Production Act of 1990, as amended (7 United States Code  
21      section 6501 et seq.).



1       "Organic system plan" has the same meaning as provided in 7  
2 Code of Federal Regulations section 205.2.

3       "Qualified expenses" means expenses incurred by a qualified  
4 taxpayer to produce organically produced agricultural products,  
5 including expenses incurred to obtain organic certification from  
6 the United States Department of Agriculture, pursuant to the  
7 Organic Foods Production Act. "Qualified expenses" include:

- 8       (1) Application fees;
- 9       (2) Inspection costs;
- 10       (3) Fees related to equivalency agreement/arrangement  
11 requirements, travel/per diem for inspectors, user  
12 fees, sales assessments, and postage; and
- 13       (4) Costs for any equipment, materials, or supplies  
14 necessary for organic certification or production of  
15 agricultural products, in accordance with the  
16 qualified taxpayer's organic system plan and the  
17 organic production and handling requirements of the  
18 National Organic Program, codified at 7 Code of  
19 Federal Regulations part 205, subpart C, including but  
20 not limited to certified organic seed, cover crops, or  
21 animal feed.

1 "Qualified expenses" shall not include any amount refunded or to  
2 be refunded to the taxpayer by the United States Department of  
3 Agriculture's organic certification cost-share program or any  
4 other similar financial assistance program.

5 "Qualified taxpayer" means a producer, handler, or handling  
6 operation, as those terms are defined in title 7 United States  
7 Code section 6502:

8 (1) That sells agricultural products in adherence to the  
9 standards and requirements of the Organic Foods  
10 Production Act;

11 (2) That has applied for organic certification, in  
12 accordance with the requirements of the Organic Foods  
13 Production Act; and

14 (3) Whose gross income from the sale of organically  
15 produced agricultural products for the most recently  
16 reported fiscal year totals no more than \$50,000."

17 PART IV

18 SECTION 5. If any provision of this Act, or the  
19 application thereof to any person or circumstance, is held  
20 invalid, the invalidity does not affect other provisions or  
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 6. In codifying the new sections added by this  
4 Act, the revisor of statutes shall substitute the appropriate  
5 section numbers for the letters used in designating the new  
6 sections in this Act.

7 SECTION 7. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 2050, and  
10 shall apply to taxable years beginning after December 31, 2016;  
11 provided that section 2 shall be repealed on December 31, 2021.



**Report Title:**

Tax Credit; Renewable Fuels Production; Organic Foods Production

**Description:**

Establishes a five-year renewable fuels production tax credit applicable to taxable years beginning after 12/31/2016. Repeals the ethanol facility tax credit. Repeals the renewable fuels production tax credit on 12/31/2021. Establishes an organic foods production tax credit applicable to taxable years beginning after December 31, 2016. (SB2652 HD1)

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

