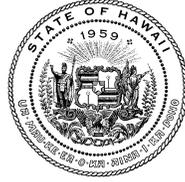


DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Jill N. Tokuda, Chair  
and Members of the Senate Committee on Ways and Means

Date: Monday, April 3, 2017  
Time: 1:35 P.M.  
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: H.B. 1044, H.D. 1, S.D. 1 Relating to Renewable Fuels Tax Credit

The Department of Taxation (Department) supports the intent of H.B. 1044, H.D. 1, S.D. 1, an Administration measure, and provides the following comments for your consideration.

H.B. 1044, H.D. 1, S.D. 1 amends the renewable fuels production tax credit to change the procedure by which claims for the credit are certified by the Department of Business, Economic Development, and Tourism (DBEDT). Instead of the former certification requirements, taxpayers claiming the tax credit must submit a survey providing information regarding the type of fuel produced, the feedstock used, the amount of credit, and the number of employees of the facility in which the fuel is produced. The measure has a defective effective date of July 1, 2030, and would otherwise apply to taxable years beginning after December 31, 2017.

The Department has no objection to the certification being conducted by survey as described in this measure and is able to implement this measure for taxable years beginning after December 31, 2017.

Thank you for the opportunity to provide comments



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE  
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LUIS P. SALAVERIA  
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Statement of  
**LUIS P. SALAVERIA**  
**Director**

Department of Business, Economic Development, and Tourism

before the  
**SENATE COMMITTEE ON WAYS AND MEANS**

April 03, 2017  
1:35 p.m.  
State Capitol, Conference Room 211

in consideration of  
**HB1044, HD1, SD1**  
**RELATING TO RENEWABLE FUELS TAX CREDIT.**

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee on Ways and Means.

The Department of Business, Economic Development & Tourism (DBEDT) **supports** HB1044, HD1, SD1, an Administration bill to amend Section 235-110.31 that replaces DBEDT's requirements associated with the certification, administration, and verification of the renewable fuels production tax credit with a survey of the renewable fuels production tax credit via a certified statement to be filed by the taxpayer to DBEDT.

DBEDT supports this bill because we lack the resources and expertise required to effectively conduct the certification, verification and administration requirements under the existing Section 235-110.31. Specifically, DBEDT lacks: (1) expertise in tax accounting; (2) specific knowledge of fuels production industries sufficient to verify the actual renewable fuels production and sale; and (3) the necessary resources, including management database, budget and human resources to administer its requirements.

Statutory amendments in this bill will align DBEDT's existing resources and expertise with statutory requirements while still providing for DBEDT to collect data about the tax credit effectiveness and report the findings to the Governor and Legislature.

DBEDT defers to the Department of Taxation on any impacts on its duties pertaining to the administration of the renewable fuels tax credit in this bill.

Thank you for the opportunity to offer these comments in support of this HB1044, HD1, SD1.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Renewable Fuels Credit Administration

BILL NUMBER: HB 1044, SD-1

INTRODUCED BY: Senate Committees on Transportation and Energy and Economic Development, Tourism, and Technology

EXECUTIVE SUMMARY: Provides that DBEDT will no longer certify, administer, and verify claims for this credit. Instead, DBEDT would receive an independent, third-party certified statement from the credit claimant and would acknowledge receipt of the statement. DBEDT would keep tabs on the \$3 million annual aggregate cap, but complains that it lacks the required resources or expertise.

SYNOPSIS: Extensively amends HRS section 235-110.31 to replace the requirement that DBEDT certify, administer, and verify credit claims, with an independent, third-party certified statement from the credit claimant that would be prepared solely at the claimant's expense. DBEDT would acknowledge its receipt, and would stop sending acknowledgments when the annual aggregate cap on the credit has been reached. DBEDT would report its findings to the Governor and Legislature.

EFFECTIVE DATE: July 1, 2030, applies to taxable years beginning after December 31, 2017.

STAFF COMMENTS: This measure was originally submitted by DBEDT as BED-13 (17).

The measure concerns the Renewable Fuels Production Tax Credit under Act 202, SLH 2016. Under the credit as enacted, DBEDT is tasked with initial verification and certification of credit claims, similar to what it now does with claims for the motion picture, digital media, and television film production credit (HRS section 235-17).

DBEDT is now complaining that it doesn't have either the expertise or resources to do this job, and wants out. That would seem consistent with its testimony last year before House Finance:

Further, DBEDT is also concerned about three issues regarding its responsibilities under this bill. First, DBEDT lacks the expertise and staffing to execute the required verification and certification requirement and would also require further clarity on the implementation of the verification and certification process.

Second, DBEDT lacks, and will require the necessary funding and budget allocation, to execute the responsibilities under the bill (i.e., DBEDT would require \$100,000 and at least a 0.5 full time equivalent staff each year for the duration of its responsibilities under this measure).

Third, given the annual cap of \$3,000,000 DBEDT would require further clarity on how to prioritize the aggregate tax credit, if all renewable fuel producers turn in the tax credit applications all at once.

Finally, regarding DBEDT's role in verifying and certifying the tax credits, DBEDT suggests that the Legislature consider having the renewable fuel producer(s) self-certify by providing required confirmation via an independent third party and impose upon participating renewable producers a performance penalty that is material enough to hold them accountable for meeting their stated self-certified renewable fuels production (i.e., a 200 percent recapture of all tax credit allocated and lifetime ban of any future tax credit participation in the State).

If the idea is to have the creditable expenses totaled by an independent third party, we would like to draw the Committee's attention to Temp. Haw. Admin. R. §18-235-17-15, which requires an independent certification of motion picture, digital media, and film production income tax credit claims. Language similar to this (but perhaps without so many details) could be applied to this credit without unduly restricting the kinds of practitioners that could provide the certification.

Digested 4/1/2017