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Testimony of SCOTT J. GLENN, Chief Energy Officer

before the
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

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SUPPORT HB 1809 HD3 RELATING TO TAXATION.

Chair Wakai, Vice Chair Misalucha, and Members of the Committee, the Hawai'i State Energy Office (HSEO) supports HB 1809, HD3, which establishes a renewable fuels production tax credit.

Renewable fuels provide local jobs and economic benefits in energy and agriculture, while contributing to Hawai'i's economic diversification and the potential for greater production of food, cosmetics, and other value-added products. HSEO managed the certification of the previous renewable fuels production tax credit.¹

HB 1809, HD3, creates a ten-year credit period (compared to the five years under the previous tax credit), leaves blank the annual aggregated cap and the amount each taxpayer may claim per year (compared to three million under the previous tax credit), sets a facility's minimum production requirement at 15 billion British thermal units per year (compared to 2.5 billion previously) and inserts language to ensure that each taxpayer shall not be eligible for more than a single ten-year credit period.² Those

¹ The renewable fuels production tax credit, HRS 235-110.31, effective for the five year period between January 1, 2017 and December 31, 2021, was established by [Act 202, Session Laws of Hawaii \(SLH\) 2016](#), amended by [Act 142, SLH 2017](#), and further amended by [Act 143, SLH 2018](#).

² HSEO notes that page 1, line 13 refers to a "ten-year credit period" but the definition of "credit period" beginning on page 7, line 11, refers to "beginning from the first taxable year in which a taxpayer begins renewable fuels production." This may be interpreted to reduce the number of years a taxpayer would be eligible for this credit if fuel production started prior to enactment of this measure, whether or not this credit or the previous credit had been claimed. A definition that referred to "beginning from the first taxable year in which a taxpayer receives a credit under this Act" may be one method to include existing fuel producers, if it is the Legislature's intent to do so, as the credit would be tied to this Act. A statement of legislative intent regarding eligibility would facilitate credit administration.

changes are not expected to affect the administration of the verification and certification process.

There are, however, differences between the most recent iteration of the credit and that proposed by HB 1809, HD3, that HSEO would recommend for the Committee's consideration because it affects the verification and certification process.

HSEO recommends re-wording paragraph (f) to add a requirement and timeline for the taxpayer to provide information necessary for the verification of the fuel production claim, in a manner similar to previous requirements:

(f) Not later than thirty days following the close of each calendar year during the credit period, the taxpayer claiming a credit under this section shall complete and file an independent, third-party certified statement, at the taxpayer's sole expense, with the chief energy officer of the Hawaii state energy office. The statement shall be in the form prescribed by the chief energy officer of the Hawaii state energy office and shall include the following information:

- (1) For each type of qualified fuel claimed:
 - (A) The type of fuel produced;
 - (B) The volume of fuel produced;
 - (C) The volume of fuel sold;
 - (D) The lower heating value in British thermal units of fuel produced and sold during the previous calendar year;
 - (E) The feedstock used;
 - (F) The lifecycle greenhouse gas emissions of the fuel produced and sold; and
 - (G) The lifecycle greenhouse gas emissions of the fossil fuel displaced by the qualified fuel.
- (2) The dollar amount of renewable fuel production credit claimed by the taxpayer for qualified fuel produced and sold during the calendar year, not to exceed the amount per taxpayer established in paragraph (a).

- (3) The cumulative amount of renewable fuels production tax credits received by the taxpayer during prior years during the credit period.
- (4) The number of employees of the facility and each employee's state of residency.
- (5) The projected lower heating value in British thermal units of renewable fuels production for the succeeding year.
- (6) Whether a renewable fuels production tax credit is anticipated to be claimed in the succeeding year.

HSEO also recommends re-wording paragraph (b) to establish a timeline for the review of the information provided, so that if the claim is timely, complete, and accurate, the taxpayer may receive the certificate to file with the taxpayer's tax return:

(b) Within thirty calendar days after the due date of the statements required under subsection (f), the Hawaii state energy office shall:

- (1) Acknowledge receipt of the statements in writing;
- (2) Total all renewable fuels production that the Hawaii state energy office certifies as eligible for the tax credit for the calendar year;
- (3) In the event the verified credit claims under this section exceed \$6,000,000 for all eligible taxpayers in any given calendar year, the \$6,000,000 shall be divided between all eligible taxpayers for that year in proportion to the lower heating value of renewable fuels produced by all eligible taxpayers. Upon reaching \$6,000,000 in the aggregate, the Hawaii state energy office shall immediately notify the department of taxation. In no instance shall the total dollar amount of certificates issued exceed \$6,000,000 per year;
- (4) Issue a certificate to the taxpayer verifying the amount of renewable fuels

- produced and sold in the taxable year, the credit amount certified for the taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation.
- (5) Notwithstanding the Hawaii state energy office's certification authority under this section, the director of taxation may audit and adjust the certification to conform to the facts.
 - (6) Notwithstanding any other law to the contrary, the verification and certification information compiled by the Hawaii state energy office shall be available for public inspection and dissemination under chapter 92F.

HB 1809, HD3, includes a new requirement for HSEO to certify that the renewable fuels produced have “life cycle emissions substantially below that of fossil fuels” (page 2, lines 17-19).

Neither the process nor effect of such a determination (or failure of a particular fuel to demonstrate such) are currently defined in HB1809, HD3. Although HSEO’s proposed revision to paragraph (f)(1)(F) and (G) specifies greenhouse gas emissions, the current language is not specific to greenhouse gas emissions. The current language also does not appear to make fuel that fails such a certification ineligible for the credit.

If the eligibility for the tax credit is to include a life cycle greenhouse gas emissions analysis of the renewable fuels, comparison to the greenhouse gas emissions of specific fossil fuels, and a determination of whether the renewable fuels “have life cycle emissions substantially below that of fossil fuels,” it would also be helpful to include definitions and criteria to be used in such a determination, and an indication of the effect of the assessment, if any, on the eligibility of the taxpayer for the tax credit.

Finally, HSEO would need to be appropriately resourced to perform certifications. As a consequence of recent significant budget reductions to personnel, HSEO adjusted the prioritization of staff responsibilities following the sunset of the tax credit on

December 31, 2021. HSEO has requested an Energy Economics Specialist position in the FY23 Executive Supplemental Budget to serve as subject matter expert on energy economics and financing of energy systems. The planned duties and responsibilities of the position align with HSEO's role in certifying the tax credits. The requested position would identify market gaps and innovation opportunities, collaborate with stakeholders, and facilitate public-private partnerships to develop projects, programs, and tools to encourage private and public exploration, research, and development of energy resources, distributed energy resources, and data analytics that will support the State's energy and decarbonization goals; evaluate, recommend, and participate in the development of incentives and programs that encourage resource development; assess and evaluate the effectiveness and continued necessity of existing energy related incentives, tax credits, and programs; and provide recommendations and proposed changes.

HSEO defers to the appropriate agencies on matters relating to tax administration and budget concerns.

HSEO's comments are guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy.

Thank you for the opportunity to testify.