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Testimony of
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before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

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9:15 AM
State Capitol, Conference Room 325, and Videoconference

Providing Comments on
SB 2376, SD2

RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT.

Chair Lowen, Vice Chair Perruso, and Members of the Committee, the Hawai'i State Energy Office (HSEO) offers comments on SB 2376, SD2, which amends the Renewable Fuels Production Tax Credit (RFPTC), Section 235-110, Hawai'i Revised Statutes (HRS). Amendments 1) clarify that the RFPTC shall only be claimed by taxpayers for which qualified renewable fuels production costs are incurred within the State and sold for distribution within the State, 2) allow taxpayers to be eligible for a separate ten-year credit period for each separate qualified renewable fuels production that independently meets eligibility requirements, 3) extends the time frame for taxpayers to file certain statements, and 4) introduces a rollover mechanism so that, if the total amount of credits applied for exceeds the annual cap, the remaining credits may be applied in the subsequent year.

HSEO offers the following comments and context on the remaining provisions of the bill and defers to the Department of Taxation on any additional administrative or compliance considerations.

The bill maintains existing guardrails, including:

- A credit value of \$0.20 per 76,000 BTUs (lower heating value);
- A \$3.5 million annual cap per taxpayer;

- A minimum annual production threshold of 2.5 billion BTUs; and
- A requirement that eligible fuels demonstrate lifecycle greenhouse gas emissions below those of fossil fuels.

While HSEO appreciates the in-state clarification included in SB 2376, SD1, (page 1, lines 14-15), as this clarification aligns the RFPTC with its underlying policy objective of encouraging renewable fuel production and use occurring within Hawai'i, HSEO notes that in-state production alone is unlikely to achieve the scale of greenhouse gas reductions needed. Due primarily to land use constraints, any substantial progress towards greenhouse gas reductions will most likely require substantial imports of refined renewable fuels and/or feedstocks. HSEO further notes that imported fuels may offer meaningful greenhouse gas reduction potential; however, such potential cannot be assumed without lifecycle verification and reporting requirements to ensure claimed emissions reductions are measured and verifiable. To achieve Hawai'i's decarbonization objectives, HSEO asserts that a flexible approach to accommodate both in-state and qualifying imported fuels supported by robust lifecycle greenhouse gas accounting is necessary.

Additionally, SB 2376, SD2, clarifies the treatment of related entities by allowing separate ten-year credit periods for each qualifying production facility, rather than limiting eligibility based solely on corporate affiliation (page 2, lines 15-17). This approach more accurately reflects facility-level investment and production decisions and supports the development of additional renewable fuel capacity within the State. HSEO supports this clarification as a targeted improvement that reinforces the RFPTC's in-state focus without expanding the overall credit value or per-taxpayer cap.

Reporting requirement amendments are summarized in the table below.

| Category | Current Statute | New Requirement (Per SB2376, SD2) |
|-------------------------------|--|---|
| <i>Filing Deadline</i> | No later than 30 days after the close of the calendar year. | No later than 90 days after the close of the calendar year. |
| <i>Employee Data</i> | Must report the number of full-time and part-time employees AND their states of residency. | Must report the number of full-time and part-time employees only. (Residency data removed). |

| Category | Current Statute | New Requirement (Per SB2376, SD2) |
|-----------------------------|---|--|
| Facility Data | Report the number/location of production facilities inside and outside the State. | Report the number and state location of production facilities. (Refocused on Hawai'i-specific impact). |
| Credit Tracking | Total credit for the year only. | Must report the current year credit AND the cumulative amount received over the 10 years. |
| Environmental Data | General proof of eligibility (lifecycle emissions below fossil fuels). | Must report specific lifecycle greenhouse gas emissions per BTU for each fuel type. |
| Public Accessibility | Generally public under Chapter 92F. | Specific locations and Critical Energy Infrastructure Information (CEII) are now Confidential. |

The bill also introduces a rollover mechanism (page 5, lines 13-18) under which excess claims are treated as having been applied for in a subsequent year. While this provision may increase predictability for taxpayers, it also raises questions regarding budgeting, timing of credit realization, and long-term fiscal exposure.

Below is HSEO's summary of this provision and potential impacts.

- Current Statute: If the \$20M cap is hit, certificates are discontinued.
- SB 2376, SD1 Revision: If applications exceed the \$20M cap, the excess is treated as having been applied for in the subsequent year. This ensures taxpayers do not lose out entirely if the program is oversubscribed.

Ultimately, the total statewide cap for this credit remains \$20 million per year; however, the bill introduces a taxpayer-protective rollover provision.

If the state's \$20 million annual limit is reached before taxpayers receive the full credit, they do not lose the money. Instead, the State pushes the claim to the front of the line for the following year. In practical terms, if claims total \$25 million in a given year, \$20 million is distributed on a proportional basis, and the remaining \$5 million is automatically deferred to the following year.

Implications for the Producer (The Pros)

- Investment Certainty: This reduces the "race to apply" dynamic. Large-scale producers can invest in infrastructure knowing that even if the state's budget is tight one year, they will eventually receive the credit.
- Audit and Financial Planning: It allows companies to carry an "account receivable" or deferred tax asset on their books, which is much better for financial planning than a contingent credit.

Implications and considerations for the State (The Potential Risks)

- Budget "Snowballing": If Hawai'i producers consistently produce more renewable fuel than the \$20 million cap allows, a backlog will form. Eventually, the first \$15 million or even the full \$20 million of a future year's budget could be "pre-spent" on fuel produced years prior.
- Dilution: Note that Subsection (f) still says if the cap is exceeded, the money is "divided between all eligible taxpayers... in proportion." The rollover ensures producers eventually receive the value, but it might be spread over multiple years rather than in a lump sum.

Important Nuance: The bill states that the credit is allowed for a ten-year credit period. If the credits keep rolling forward because the state cap is always hit, the state might still process "Year 10" credits in Year 12 or 13.

Recommendation: Given the implications for the State, HSEO recommends removing the added rollover language (page 5, lines 13-18).

Thank you for the opportunity to testify.