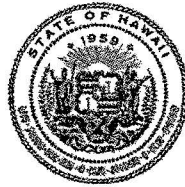


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**HOUSE COMMITTEES ON ENERGY & ENVIRONMENTAL PROTECTION,  
WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS, AND  
AGRICULTURE**

**TESTIMONY REGARDING SB 3215 SD 3  
RELATING TO BIODIESEL**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: MARCH 13, 2008**

**TIME: 9:30AM**

**ROOM: 312**

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This legislation, among other things, amends Section 235-7, HRS, to include an income tax exemption for income derived from an oil seed crushing facility.

The Department of Taxation (Department) has concerns on the current text of this legislation and prefers the text of HB 3410.

**BIODIESEL GENERALLY**

The Department is of the position that stimulating the biodiesel industry is a viable means of minimizing Hawaii's dependency on foreign oil. This bill serves as another step in the right direction for minimizing Hawaii's dependence on fossil fuels.

**TECHNICAL CONSIDERATION**

**MECHANICS OF IDENTIFYING THE ACTIVITY NEEDED TO BENEFIT**—The Department notes that the income tax exemption, listed as subsection (a)(14) of Section 4 of the bill, is vague. It is unclear whether the tax exemption applies to 100% of income derived from the processing of oil seed produced in the State or to 100% of all income from any facility that processes any amount of oil seed produced in the State.

**100% EXCLUSION**—The Department also points out that the Ways & Means committee report suggested that it intended to insert "100%" into the bill for purposes of determining the amount of income tax exclusion. This number was never inserted.

The Department suggests adopting the text of HB 3410, which reads as follows:

(14) One hundred per cent of income derived from the operation of an oil seed crushing facility that processes oil seed produced or grown in the state for biodiesel production in the state.

As used in this paragraph:

"Biodiesel" means a vegetable oil-based fuel that meets ASTM International Standard D6751, "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels", as amended.

"Biodiesel production facility" means a facility that processes feedstock to produce biodiesel.

"Feedstock" means the form of biomass as it is processed in an oil seed crushing facility.

"Oil seed crushing facility" means a facility that processes oil seed that is grown in the state, including soy, corn, bean, nut, olive, canola, mustard, and sunflower and other such crops and the seeds thereof, to be used as biomass to produce biodiesel, and that is not integrated with a biodiesel production facility.

### REVENUE IMPACT

This bill will result in an indeterminate revenue loss.

There is a 2006 study done by the Hawaii Agricultural Research Center that discusses all the potential feedstock crops that can grow in Hawaii, but based on this study and discussions with DBEDT, these viable crops are not currently in production. The bill applies to companies that use locally produced feedstock crops in the production of their biodiesel fuel.

**LINDA LINGLE**  
Governor



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**SANDRA LEE KUNIMOTO**  
Chairperson, Board of Agriculture

**DUANE K. OKAMOTO**  
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION  
WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS**

**AND  
AGRICULTURE**

**THURSDAY, MARCH 13, 2008**

**9:30 a.m.**

**Room 312**

**SENATE BILL 3215, S.D. 3  
RELATING TO BIODIESEL**

Chairs Morita, Ito, and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 3215, S.D. 3. We are strongly opposed to Part II, (b) (1, 2, 3) which directs the Hawaii Department of Agriculture (HDOA) to purchase biodiesel feedstock and biodiesel fuel, and to determine its disposition.

In 2006, the Rocky Mountain Institute (RMI) prepared a briefing book for the Department of Business, Economic Development and Tourism on biofuel and biodiesel production in Hawaii and identified a target of 14.2 million gallons of biodiesel to be produced by 2020. Depending upon the crop, this target could require between 55 million-114 million pounds of biodiesel feedstock per year by 2020. HDOA would require significant funding to purchase the crop and CIP funds to build storage facilities as well as personnel with expertise in fuel trading and processing to negotiate a contract with a processor of the feedstock. Or HDOA would need to broker the crop to a processor so HDOA does not take physical delivery of the crop. In either case, HDOA does not have the specialized personnel or funds to carry out these transactions and its involvement only adds cost and time. HDOA would also have to have access to

feedstock producers' cost of production records to determine the offering price. This is likely to vary from producer to producer and will require additional accounting staff.

Transportation is another issue. Is there sufficient carrier and port capacity to transport Neighbor Island feedstock to the storage or processing site? Who will pay for the transportation cost - HDOA or the feedstock producer? What will happen if HDOA cannot find a processor for the feedstock at a price that covers the cost of purchase, transportation, storage and overhead?

Similar problems arise if HDOA is required to purchase biodiesel fuel offered at a "fair and reasonable price". What if HDOA and the in-state processor(s) cannot agree on a price? HDOA will be at a severe disadvantage if the processor(s) knows that HDOA does not have an alternate buyer. Unless the processor is prepared to open up their accounting and production records, it will be impossible to determine what is a "fair and reasonable price." The problems of storage, transportation, and end use are also not addressed in the bill.

The private sector brings specialized skills and far more technical resources than the State, and can better assess the risks, make the necessary investments, and if their analysis is correct, reap the rewards. We strongly believe that the private sector is best positioned to assume the responsibilities proposed for HDOA in Part II, (b) (1, 2, 3).

We would also like to offer the comment that we believe that biofuel and food production deserve to be treated equally and that if the board of land and natural resources is authorized to give biofuel producers the ability to directly negotiate for public agricultural lands than the same privilege should be given to food producers. Also we believe that the same preference for use of locally produced biodiesel fuels in State vehicles should be extended to Hawaii grown agricultural products in State operated schools, hospitals, correctional centers and other State supported institutions.