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HOUSE COMMITTEES ON FINANCE
TESTIMONY REGARDING HB 1491 HD1
RELATING TO ETHANOL FACILITY TAX CREDIT

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 26, 2009
TIME: 11:00AM
ROOM: 308

This bill intends to temporarily decrease the aggregate amount of credit allowed each calendar year from $12,000,000 to $8,000,000.

The Department of Taxation (Department) **defers to the Department of Business, Economic Development, and Tourism regarding the effect this reduction will have** on incentivizing the construction of an ethanol facility.

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Thursday, February 26, 2009
11:00 AM
State Capitol, Conference Room 308

in consideration of
HB 1491, HD1
RELATING TO ETHANOL FACILITY TAX CREDIT.

Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) opposes HB 1491 HD1, which would reduce the ethanol facility incentive at the very time when investment and jobs are most needed.

Some may be misled to view the proposed change as a means to remedy the current budget situation. That interpretation would be incorrect. The cap in statute is the upper limit that theoretically could be taken, if all 40 million gallons per year of capacity came on-line at the same time. The actual amount that has been used is $0, and will continue to be $0, until AFTER fuel production facilities have been built and are in production.

Since the ethanol production facilities are required to file notices in advance of facility construction, and again upon commencement of ethanol production, and the tax credit is not available until after the facility has produced at least 75% of its nameplate capacity (i.e. at least 9 months after start of production), there is significant advance notice before any funds are paid out for this incentive. These provisions provide lead time for the State to plan for anticipated expenditures under this program:

" (h) Prior to construction of any new qualifying ethanol production facility, the taxpayer shall provide written notice of the taxpayer's intention to begin construction of a qualifying ethanol production facility. The information shall be provided to the department of taxation and the department of business, economic development, and tourism on forms provided by the department of business, economic development, and tourism, and shall include information on the taxpayer, facility location, facility production capacity, anticipated production start date, and the taxpayer's contact information. Notwithstanding any other law to the contrary, this information shall be available for public inspection and dissemination under chapter 92F.

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

To reduce the stated incentive at this date would put potential projects in jeopardy; signal to those in the investment community a lack of our commitment to the goals of diversification of energy supplies and use of renewable fuels; and weaken our progress to meet the energy objectives of the State.

Thank you for the opportunity to offer these comments.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Ethanol facility tax credit

BILL NUMBER: HB 1491, HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

BRIEF SUMMARY: Amends HRS section 235-110.3 (d) to reduce the total amount of ethanol facility tax credits that may be issued between July 1, 2011 through December 31, 2012 from $12 million to $8 million. This measure shall be applicable to tax years beginning after December 31, 2010 and ending before January 1, 2013.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The legislature by Act 289, SLH 2000, established an investment tax credit to encourage the construction of an ethanol production facility in the state. The legislature by Act 140, SLH 2004, changed the credit from an investment tax credit to a facility tax credit.

This measure proposes to reduce the total amount of credits that may be issued from $12 million to $8 million and perpetuates the tax incentives for the construction and development of an ethanol production facility in the state. It should be remembered that a direct appropriation would be preferable to the tax credit as this would provide some accountability for the taxpayers' funds being utilized to support this effort.

However, the more important point to note here is the arduous path to success for this proposal with the initial tax incentive adopted in 2000 and here some nine years later, the interested parties have yet to put the first spade in the ground. Meanwhile the administration, in its great wisdom, has mandated the use of 10% ethanol in motor vehicles, resulting in the importation of ethanol to meet the needs of the state. The result is an added cost to import the ethanol. While it has been acknowledged that the production of ethanol requires the use of fossil fuels and that its production is not energy efficient, perhaps that is why there is no ethanol production plant in the state.

As an alternative, lawmakers should consider repealing this credit and look for other types of alternate energy to encourage through the appropriation of a specific number of taxpayer dollars. At least lawmakers would have a better idea of what is being funded and hold the developers of these alternate forms of energy to a deliberate timetable or else lose the funds altogether.

Digested 2/25/09

HAWAI'I BioEnergy

HB 1491

RELATING TO ETHANOL FACILITY TAX CREDIT

JOEL K. MATSUNAGA
CHIEF OPERATING OFFICER & EXECUTIVE VP
HAWAII BIOENERGY

FEBRUARY 26, 2009

Chair Oshiro and Members of the House Finance Committee:

I am Joel Matsunaga, testifying on behalf of Hawaii BioEnergy on HB 1491, "Relating to Ethanol Facility Tax Credit".

SUMMARY

This bill would reduce the aggregate annual amount of the ethanol facility tax credit from the current $12 million to $8 million from July 1, 2011, through December 31, 2012. Hawaii BioEnergy ("HBE") requests that HB 1491 be amended to reinstitute the credit to the full amount after June 30, 2012, in order to avoid any negative impact to its ongoing planning to develop ethanol production in Hawaii:

RENEWABLE ENERGY PROJECTS IN HAWAII

Hawaii BioEnergy is a local company with a mission to help Hawaii toward a sustainable energy future through the production of biofuels from locally grown feedstocks. Among its partners are three of the larger land owners in Hawaii who control in total over 430,000 acres of land. HBE and its partners would like to use significant portions of their land to address Hawaii's energy needs. Since its inception in 2006, HBE has been researching various biofuels alternatives to clearly evaluate each biofuel's relative suitability and sustainability based on Hawaii's natural resource base, climate, market and infrastructure.

One of those biofuel alternatives which HBE is pursuing is the production of jet fuel and other oil derivatives from micro-algae. Preparations have been underway for many months and facilities to conduct on-site research and development are expected to be in place by this summer. Algae not only offers Hawaii the benefit of developing a locally produced fuel source, but it also benefits the agriculture industry by providing proteins for animal feed, fertilizers and other locally produced products.

HBE is also currently considering plans to develop locally produced ethanol from sugar cane, sweet sorghum, or other crops that can be processed into ethanol. The production of ethanol in Hawaii will provide its residents with better energy security, create a significant number of jobs, reduce the burning of fossil fuels, and retain dollars in the State's economy rather than sending them overseas.

REINSTATING THE FACILITY CREDIT IN FULL IS CRITICAL TO DEVELOPING ETHANOL IN HAWAII

HBE recognizes the significant budget issues that are before this Legislature and the need to look at all alternatives, including the nature and amount of the different tax credits and incentives. HBE believes that HB 1491 attempts to balance the budget realities with the importance of developing a renewable fuel industry in Hawaii. While it reduces the aggregate amount of the credit available for a limited period of time, it provides to potential developers the assurance that the credit will be reinstated in full. The reinstatement is something that would be very important and looked at carefully by potential lenders for any projects in Hawaii.

This is because the production of ethanol in Hawaii would need to compete against ethanol produced and available on the world markets where land, labor and other costs, including adherence to environmental and other regulations, are lower. The current Ethanol Facility Tax Credit helps to offset those cost disparities to the extent that, under the right conditions, HBE would be willing to pursue producing ethanol locally. Further, the credit helps to offset a portion of the risk that first-movers must assume in the establishment of a new industry. Without that credit it would be very difficult, if not impossible, to justify investment in ethanol production facilities in Hawaii.

Without the credit, it is possible that HBE's projects, as well as the benefits they will provide to Hawaii's residents, will be delayed. Based on an independent analysis commissioned by HBE, a large-scale ethanol facility could provide up to 1,400 new jobs and over $115 million in added value in the State.

PROPOSED AMENDMENT

HBE would respectfully request that this committee consider amending HB 1491 to change the date when the Ethanol Facility Tax Credit will be reinstated in full from December 30, 2012, to June 30, 2012. HBE believes that the change in date will better avoid any potential delays in developing ethanol production capacity in Hawaii.

CONCLUSION

HBE is moving forward with projects that will help to address Hawaii's energy future. Hawaii residents will benefit from:

- Greater energy security from the displacement of fuel imports;
- A cleaner environment from the expansion of sustainable agriculture, the sequestration of CO2 and harmful green house gas emissions, and reduction of fossil fuel consumption;

- A stronger economy through local job creation and investment in the local economy.

However, reducing the amount of the Ethanol Facility Tax Credit for an extended period of time could jeopardize those benefits by either significantly delaying or terminating projects under consideration.

Based on the aforementioned, Hawai`i BioEnergy respectfully requests your support in amending HB 1491 to reinstate the Ethanol Facility Tax Credit in full by June 30, 2012.

Thank you for the opportunity to testify.