

HB 1491



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

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Statement of
THEODORE E. LIU
Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON WAYS AND MEANS

Friday, April 3, 2009

9:45 AM

State Capitol, Conference Room 211

in consideration of

HB 1491, HD2, SD1
RELATING TO ETHANOL FACILITY TAX CREDIT.

Chair Kim, Vice Chair Tsutsui, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) opposes HB 1491 HD2 SD1, 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 will put actual 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.

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SUBJECT: INCOME, Ethanol facility tax credit

BILL NUMBER: HB 1491, SD-1

INTRODUCED BY: Senate Committee on Energy & Environment

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. After December 31, 2012, the annual amount of \$12 million in certified credits shall be reinstated.

EFFECTIVE DATE: July 1, 2009

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 temporarily 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. Further, those who have been working on this issue report that there are other far more efficient biofuels which could be developed and therefore the credit, which is specific to ethanol, might not be available to assist in the development of these other types of fuels.

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 4/1/09