

**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

**HOUSE COMMITTEES ON
ENERGY AND ENVIRONMENTAL PROTECTION
AND
AGRICULTURE**

Tuesday, March 24, 2009
10:00 AM
State Capitol, Conference Room 325

in consideration of
SB 512 SD2
RELATING TO TAXATION.

Bill No. 512
Support N
Date 3/23/09
Time 1536
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Chairs Morita and Tsuji, Vice Chairs Coffman and Wooley, and Members of the
Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports
the intent of SB 512, SD2, which would: 1) broaden the applicability of the ethanol facility
incentive to other biofuels, such as biodiesel, produced in Hawaii; and 2) increase the incentive
from thirty cents per gallon of capacity to forty cents per gallon produced.

The change proposed by this bill would increase the potential annual maximum tax credit
received by each facility and therefore could potentially reduce the number of facilities eligible
for the credit and the in-state capacity constructed. That change may be valid, since this credit
has not yet been used. We recommend broadening the applicability of the credit, removing the
caps on facility size and statewide production capacity, and retaining the level and method of

calculating the incentive. We defer to the Department of Taxation with respect to implementation.

To encourage greater fuel production capacity in the state, we suggest that the bill be amended to remove the facility size cap and statewide production cap. This can be done, without additional revenue impacts, by maintaining the thirty percent level and the annual facility credit cap. To accomplish this, two changes are needed.

First, the section that begins on page 1, line 14, would be revised to read as follows:

"if the nameplate capacity of the qualified biofuel production facility is greater than five hundred thousand [~~but less than fifteen million~~] gallons. A taxpayer may claim this credit for the first fifteen million gallons of capacity of each qualifying [~~ethanol~~] biofuel facility, provided that:"

Second, the section that begins on page 7, line 21, would be deleted:

"[~~(g) Once the total nameplate capacities of qualifying ethanol production facilities built within the State reaches or exceeds a level of forty million gallons per year, credits under this section shall not be allowed for new ethanol production facilities. If a new facility's production capacity would cause the statewide ethanol production capacity to exceed forty million gallons per year, only the ethanol production capacity that does not exceed the statewide forty million gallon per year level shall be eligible for the credit.]"~~

Also, for consistency, the definition of "Qualifying [~~ethanol~~] biofuel production facility" on page 5, lines 5 through 9, should be modified to read as follows:

"Qualifying [~~ethanol~~] biofuel production facility" or "facility" means a facility located in Hawaii [~~which~~] that produces [~~motor fuel grade ethanol meeting the minimum specifications by the American Society of Testing and Materials standard D-4806, as amended.]~~ biofuel.

There is currently no definition for the term "Biofuel;" we recommend the following:

"Biofuel" means ethanol, biodiesel, diesel, jet fuel, or other liquid fuel meeting the relevant fuel specifications of ASTM International (formerly ASTM, the American Society for Testing and Materials), provided such fuel is produced from renewable, organic feedstocks, or waste materials, including fats, oils, grease, and municipal solid waste.

These changes, together with the broader applicability to biodiesel production, will increase the attractiveness of the incentive to local biofuels projects.

Thank you for the opportunity to offer these comments.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
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Bill No. 512

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Date 3/23/09

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HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
AGRICULTURE
TESTIMONY REGARDING SB 512 SD 2
RELATING TO TAXATION

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

DATE: MARCH 24, 2009

TIME: 10AM

ROOM: 325

This measure modifies the current ethanol production facilities tax credit to provide a tax credit for biofuel production facilities. This measure also includes a requirement that such a facility be located within the state and use local feedstock for the biofuel production.

The Department of Taxation (Department) takes no position on this measure; however prefers SB 872 as the energy policy priorities this session.

SUPPORT FOR ALTERNATIVE ENERGY—The Department strongly supports the encouragement and implementation of alternative energy systems in Hawaii in order to lessen the State's dependence on alternative energy. As fossil fuel and petroleum prices become more volatile, Hawaii's ability to generate its own energy from home will make the State more secure and less reliant on others.

PREFERENCE FOR ADMINISTRATION'S TAX PACKAGE FOR ALTERNATIVE ENERGY POLICIES—The Department prefers the comprehensive energy-related tax package contained in SB 872, which clarifies the renewable energy systems tax credits, as well as tax incentives for net-zero energy efficient buildings. The Administration's measure has been factored into the biennium budget and the financial plan.

CONCERNS WITH CREDIT CALCULATION METHODS—The Department has concerns with the method for calculating the credit as modified. Rather than a percentage of nameplate capacity, the credit is determined based upon cents per gallon of nameplate capacity. The Department has greater concerns with the nameplate capacity determination. As amended, the bill allows the nameplate capacity to be determined by the owner of the facility, rather than the government. The Department suggests that the government retain some oversight over the size of the facility that is entitled to enjoy this credit.

REQUIREMENT REGARDING LOCAL FACILITY AND FEEDSTOCK—The Department has strong concerns regarding the amendments that require a local feedstock requirement in order to enjoy the credit. Provisions such as this are commonly found unconstitutional preferences for local participation, which can infringe upon interstate commerce. The Department defers to the Attorney General on this issue; however raises it nonetheless.

REVENUE LOSS—Assuming a current effective date, the potential revenue loss of this bill could be up to \$12 million per year, which is the maximum allowable credit by the law, beginning in FY12.



Congress of the United States
House of Representatives
Washington, D.C. 20515

Energy and Environmental Protection Committee

Representative Hermina M. Morita, Chair

Representative Denny Coffman, Vice-Chair

Agriculture Committee

Representative Clift Tsuji, Chair

Representative Jessica Wooley, Vice-Chair

Testimony for SB 512 from

U.S. Representative Neil Abercrombie

Member of Congress

March 24, 2009

10:00 a.m. - Room 325

I strongly endorse SB 512 to encourage the production of biodiesel by expanding the existing ethanol facility tax credit. This well-intended ethanol facility tax credit needs to be updated to reflect current opportunities in the biofuels market. Local companies are waiting to utilize this incentive to expand biofuel production capacity state-wide. An expanded tax credit would move Hawaii toward greater energy self-sufficiency and increase job opportunities in green industry.

At the federal level, Congress has expanded opportunities for renewable energy development through extension of renewable tax credits for open and closed-loop biomass through 2014 and tax credits for biodiesel and renewable diesel through 2013 in the Energy Improvement and Extension Act. SB 512 would be a complimentary action by the State Legislature to support and encourage sustainable energy development in our islands.

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In short, SB 512 will help hasten the day that we are “paying ourselves” by employing Hawaii workers and producing locally grown biofuels rather than exporting our energy investment through the importation of fossil fuels.

Thank you for your time and consideration of this important legislation.