

SB 512

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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**SENATE COMMITTEE ON ENERGY & ENVIRONMENT
TESTIMONY REGARDING SB 512
RELATING TO TAXATION**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 10, 2009
TIME: 3:45PM
ROOM: 225

This measure modifies the current ethanol production facilities tax credit to provide a tax credit for biofuel production facilities.

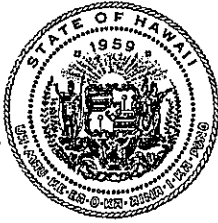
The Department of Taxation (Department) takes **no position** on this measure; however **prefers SB 870 and 871 as the energy policy priorities** this session.

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—The Department prefers the comprehensive energy-related tax package contained in SB 870 and SB 871, 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.

REVENUE LOSS—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.



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

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
Tuesday, February 10, 2009
3:45 PM
State Capitol, Conference Room 225

in consideration of
SB 512
RELATING TO TAXATION.

Chair Gabbard, Vice Chair English, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 512, which would provide a tax credit per gallon of biofuel produced in Hawaii.

We defer to the Department of Taxation with respect to potential problems with the interstate commerce clause. Such a concern could cause uncertainty for investors and reduce the likelihood of project development, which would be counterproductive to our efforts to attract this type of investment to Hawaii.

We prefer the approach and language provided below. It expands the applicability of the credit to biodiesel production facilities; removes the per-facility size limit but retains the per-facility credit cap; and maintains the annual State credit cap:

"§235-110.3 [~~Ethanol~~] Biofuel facility tax credit. (a)
Each year during the credit period, there shall be allowed to
each taxpayer subject to the taxes imposed by this chapter, [an

~~ethanol~~] a biofuel facility tax credit that shall be applied to the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in which the credit is properly claimed.

For each qualified ~~[ethanol]~~ biofuel production facility, the annual dollar amount of the ~~[ethanol]~~ biofuel facility tax credit during the eight-year period shall be equal to thirty per cent of its nameplate capacity if the nameplate capacity 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:

- (1) The claim for this credit by any taxpayer of a qualifying ~~[ethanol]~~ biofuel production facility shall not exceed one hundred per cent of the total of all investments made by the taxpayer in the qualifying ~~[ethanol]~~ biofuel production facility prior to and during the credit period;
- (2) The qualifying ~~[ethanol]~~ biofuel production facility operated at a level of production of at least seventy-five per cent of its nameplate capacity on an annualized basis;
- (3) The qualifying ~~[ethanol]~~ biofuel production facility is in production on or before January 1, 2017; and

(4) No taxpayer that claims the credit under this section shall claim any other tax credit under this chapter for the same taxable year.

(b) As used in this section:

"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.

"Credit period" means a maximum period of eight years beginning from the first taxable year in which the qualifying [~~ethanol~~] biofuel production facility begins production even if actual production is not at seventy-five per cent of nameplate capacity.

"Investment" means a nonrefundable capital expenditure related to the development and construction of any qualifying [~~ethanol~~] biofuel production facility, including processing equipment, waste treatment systems, pipelines, and liquid storage tanks at the facility or remote locations, including expansions or modifications. Capital expenditures shall be those direct and certain indirect costs determined in accordance with section 263A of the Internal Revenue Code, relating to uniform capitalization costs, but shall not include expenses for compensation paid to officers of the taxpayer, pension and other related costs, rent for land, the costs of repairing and maintaining the equipment or

facilities, training of operating personnel, utility costs during construction, property taxes, costs relating to negotiation of commercial agreements not related to development or construction, or service costs that can be identified specifically with a service department or function or that directly benefit or are incurred by reason of a service department or function. For the purposes of determining a capital expenditure under this section, the provisions of section 263A of the Internal Revenue Code shall apply as it read on March 1, 2004. For purposes of this section, investment excludes land costs and includes any investment for which the taxpayer is at risk, as that term is used in section 465 of the Internal Revenue Code (with respect to deductions limited to amount at risk).

"Nameplate capacity" means the qualifying [~~ethanol~~] biofuel production facility's production design capacity, in gallons of [~~motor fuel grade ethanol~~] biofuel per year.

"Net income tax liability" means net income tax liability reduced by all other credits allowed under this chapter.

"Qualifying [~~ethanol~~] biofuel production" means [~~ethanol~~] biofuel produced [~~from renewable, organic feedstocks, or waste materials, including municipal solid waste. All~~] at the facility, providing that all qualifying production shall be fermented, distilled, gasified, or produced by physical chemical conversion methods such as reformation and catalytic conversion and dehydrated at the facility.

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

(c) In the case of a taxable year in which the cumulative claims for the credit by the taxpayer of a qualifying [~~ethanol~~] biofuel production facility exceeds the cumulative investment made in the qualifying [~~ethanol~~] biofuel production facility by the taxpayer, only that portion that does not exceed the cumulative investment shall be claimed and allowed.

(d) The department of business, economic development, and tourism shall:

- (1) Maintain records of the total amount of investment made by each taxpayer in a facility;
- (2) Verify the amount of the qualifying investment;
- (3) Total all qualifying and cumulative investments that the department of business, economic development, and tourism certifies; and
- (4) Certify the total amount of the tax credit for each taxable year and the cumulative amount of the tax credit during the credit period.

Upon each determination, the department of business, economic development, and tourism shall issue a certificate to the taxpayer verifying the qualifying investment amounts, the credit amount certified for each taxable year, and the cumulative

amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation. Notwithstanding the department of business, economic development, and tourism's certification authority under this section, the director of taxation may audit and adjust certification to conform to the facts.

If in any year, the annual amount of certified credits reaches \$12,000,000 in the aggregate, the department of business, economic development, and tourism shall immediately discontinue certifying credits and notify the department of taxation. In no instance shall the total amount of certified credits exceed \$12,000,000 per year. Notwithstanding any other law to the contrary, this information shall be available for public inspection and dissemination under chapter 92F.

(e) If the credit under this section exceeds the taxpayer's income tax liability, the excess of credit over liability shall be refunded to the taxpayer; provided that no refunds or payments on account of the tax credit allowed by this section shall be made for amounts less than \$1. All claims for a credit under this section must be properly filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

(f) If a qualifying [~~ethanol~~] biofuel production facility or an interest therein is acquired by a taxpayer prior to the

expiration of the credit period, the credit allowable under subsection (a) for any period after such acquisition shall be equal to the credit that would have been allowable under subsection (a) to the prior taxpayer had the taxpayer not disposed of the interest. If an interest is disposed of during any year for which the credit is allowable under subsection (a), the credit shall be allowable between the parties on the basis of the number of days during the year the interest was held by each taxpayer. In no case shall the credit allowed under subsection (a) be allowed after the expiration of the credit period.

~~[(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.]~~

~~[(h)]~~ (g) Prior to construction of any new qualifying ~~[ethanol]~~ biofuel production facility, the taxpayer shall provide written notice of the taxpayer's intention to begin construction of a qualifying ~~[ethanol]~~ biofuel 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)]~~ (h) 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]~~ biofuel 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.

~~[(j)]~~ (i) If a qualifying ~~[ethanol]~~ biofuel production facility fails to achieve an average annual production of at least seventy-five per cent of its nameplate capacity for two consecutive years, the stated capacity of that facility may be revised by the director of business, economic development, and tourism to reflect actual production for the purposes of determining ~~[statewide production capacity under subsection (g) and]~~ allowable credits for that facility under subsection (a). Notwithstanding any other law to the contrary, this information shall be available for public inspection and dissemination under chapter 92F.

~~[(k)]~~ (j) Each calendar year during the credit period, the taxpayer shall provide information to the director of business, economic development, and tourism on the ~~[number of]~~ gallons ~~[of ethanol]~~ and type of biofuel produced and sold during the previous calendar year, how much was sold in Hawaii versus overseas, percentage of Hawaii-grown feedstocks and other feedstocks used for ~~[ethanol]~~ biofuel production, the number of employees of the facility, and the projected ~~[number of]~~ gallons ~~[of ethanol]~~ and type of biofuel production for the succeeding year.

~~[(l)]~~ (k) In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every qualifying ~~[ethanol]~~ biofuel production facility. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section 235-110.7(a).

~~[(m)]~~ (l) Following each year in which a credit under this section has been claimed, the director of business, economic development, and tourism shall ~~[submit a written]~~ include in its annual report to the governor and legislature ~~[regarding the production and sale of ethanol. The report shall include]~~ the following:

- (1) The number, location, and nameplate capacities of qualifying ~~[ethanol]~~ biofuel production facilities in the State;

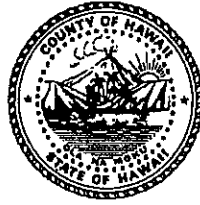
- (2) The total number of gallons of [~~ethanol~~] biofuel produced and sold during the previous year; and
- (3) The projected number of gallons of [~~ethanol~~] biofuel production for the succeeding year.

[~~(n)~~] (m) The director of taxation shall prepare forms that may be necessary to claim a credit under this section.

Notwithstanding the department of business, economic development, and tourism's certification authority under this section, the director may audit and adjust certification to conform to the facts. The director may also require the taxpayer to furnish information to ascertain the validity of the claim for credit made under this section and may adopt rules necessary to effectuate the purposes of this section pursuant to chapter 91."

Thank you for the opportunity to offer these comments.

William P. Kenoi
Mayor



Lono A. Tyson
Director

County of Hawai'i
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
25 Aupuni Street • Hilo, Hawai'i 96720
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February 9, 2009

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair
Committee on Energy and Environment

Hearing: Tuesday, February 10, 2008

RE: S.B. No. 512, Relating to Taxation

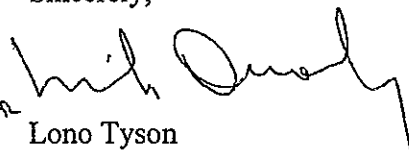
Dear Chair Gabbard and Vice Chair English:

The County of Hawai'i, Department of Environmental Management, strongly supports this bill introduced to the State Legislature, SB 512, which would change an already existing, but unused, ethanol facility tax credit to include all biofuels. Changing the wording "ethanol facility" to "biofuel facility" would enable the County's vendors as well as other companies to put this dormant credit to use and expand biofuel production capacity statewide.

The County has recently issued a Request For Proposal to develop and maintain a biodiesel production and composting facility adjacent to the Pu'uana'hulu Landfill. The County envisions companies throughout the state will continue their quest for a more sustainable consumer fuel. Biodiesel production allows farmers as well as used cooking oil collectors to continue collecting island generated resources while turning former waste products into biofuel which reduces vehicle emissions. This supports current federal initiatives that encourage companies to continue research into areas like biodiesel that are a renewable and clean energy source for our island community. Recognizing this tax credit will encourage small companies to continue to look for ways to incorporate biodiesel technology into daily life.

We respectfully request your consideration of the above testimony, and support for S.B. No. 512, relating to taxation.

Sincerely,

For

Lono Tyson
DIRECTOR



HAWAII COUNTY ECONOMIC OPPORTUNITY COUNCIL

47 Rainbow Drive
Hilo, Hawaii 96720-2013
Tel: (808) 961-2681 / Fax: (808) 935-9213

To: Committee on Energy and Environment
Date: Tuesday, February 10, 2009
Time: 3:45 p.m.
Place: Conference Room 225 – State Capitol

Re: TESTIMONY OF GEORGE YOKOYAMA IN SUPPORT OF SB 512

Honorable Chairperson and Members of the Committee,

On behalf of Hawaii County Economic Opportunity Council (HCEOC), a community action agency, I testify in support of Senate Bill 512 that amends the definition of nameplate capacity for biofuels facilities and revises the allowable tax credit for the simple reason that ethanol is no longer the only product that exclusively represents biofuels. The amendment to replace “ethanol” with “biofuel” is meaningful and appropriate.

Thank you for the opportunity to testify.


George Yokoyama
Executive Director

**Testimony before the
Senate Committee on**

Energy and Environment

S.B. 512 -- Relating to Energy

**Tuesday, February 10, 2009
3:45 pm, Conference Room 225**

**By Arthur Seki
Director, Technology
Hawaiian Electric Company, Inc.**

Chair Gabbard, Vice-Chair English and Members of the Committee:

My name is Arthur Seki. I am the Director of Technology for Hawaiian Electric Company. I am testifying on behalf of Hawaiian Electric Company (HECO) and its subsidiary utilities, Maui Electric Company (MECO) and Hawaii Electric Light Company (HELCO), hereby referred to collectively as the HECO Utilities.

We support S.B. 512 amending the definitions for biofuel facilities and providing incentives for biofuel development in Hawaii. We respectfully offer a few amendments (**in bold**) under Hawaii Revised Statutes ("HRS") § 235-110.3--biofuel facility tax credit:

- Under "qualifying biofuel production", page 4, lines 15 to 21:
"Qualifying [~~ethanol~~] biofuel production" means ethanol or biodiesel produced from renewable, organic feedstocks, or waste materials, including fats, oils, grease, and municipal solid waste. All qualifying production shall be fermented, distilled, gasified, **processed, refined,** or produced by physical or chemical conversion methods such as, **but not limited to,** reformation and catalytic conversion and dehydrated at the facility."

- Under “qualifying biofuel production facility”, page 5, lines 1 to 5:
"Qualifying [~~ethanol~~] biofuel production facility" or "facility" means a facility located in Hawaii which produces motor fuel grade [~~ethanol~~] biofuel meeting the minimum specifications by the American Society of Testing and Materials standard D-4806[,] **or biofuel meeting the specifications for electrical production**, as amended."

As you may know, HECO Utilities are committed to exploring and using biofuels in its existing and planned generating units. The amendments we propose will help biofuel production facility development. The use of biofuels can reduce the State's dependence on imported oil and increase the amount of renewable energy from sustainable resources. This commitment by the HECO Utilities is demonstrated by the following initiatives:

- Installing the 2009 power plant (100 MW) at Campbell Industrial Park to be 100% biofueled;
- Testing biodiesel in its diesel engines and combustion turbine at MECO's Maalaea power plant and conducting further tests;
- Planning for a 30-day test at Kahe 3 biofuel co-firing demonstration in a steam boiler generating unit for late 2009;
- Provided 2 years of seed funding to the Hawaii Agriculture Research Center ("HARC") and the agriculture departments at the University of Hawaii's Manoa and Hilo campuses to conduct biofuel crop research and a 3rd year funding to follow this year; and
- Evaluating micro-algae for biofuels and ocean energy projects.

In conclusion, HECO Utilities support S.B. 512 as a way to stimulate the biofuel development.

Thank you for the opportunity to present this testimony.

PACIFIC WEST ENERGY LLC
1212 NUUANU #1704
HONOLULU, HI 96817
Tel. 808-927-0619

February 9, 2009

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice-Chair
And Members of the Committee on Energy and Environment
Hawaii State Capitol
415 S. Beretania
Honolulu, HI 96813

Re: SB 512 – Relating to Taxation

Dear Chair Gabbard, Vice-Chair English and Members of the Committee,

My name is William Maloney and I am the President and Chief Executive Officer of Pacific West Energy LLC and its subsidiaries, Kauai Ethanol LLC and G&R Ag-Energy LLC, the developers of the integrated sugarcane to ethanol and green power project on Kauai. I testify today in opposition to SB 512, amending the nameplate capacity for biofuels facilities and revising the allowable tax credit to be equal to \$0.40 per gallon of biofuel produced.

Pacific West Energy LLC intends to construct a 15 million gallon per annum fuel ethanol production facility at Kaumakani, Kauai, integrated with a sugar mill facility and including a green energy cogeneration facility. The project cost is \$125 million. We intend to expand sugar cane cultivation on Kauai to at least 12,000 acres (from the existing 7,000 acres). In addition to producing fuel ethanol for the local Hawaiian motor fuel market we intend to produce approximately 150 million kWh's per year of green electricity for the island's electricity requirements. We recently signed a joint-development agreement with Kauai Island Utility Cooperative ("KIUC") to provide for a power purchase agreement and the securing of debt financing from the US Department of Agriculture's Rural Utility Services agency. Our technology is proven and would involve a process that will yield an energy conversion ratio in excess of 9:1, including cogenerated electricity. To date, we have expended over \$8 million and several years of effort in reliance on the Hawaii Facility Tax Credit.

My own background is not just in ethanol, but biofuels generally. From 1998 through 2008 I served as Director of Business Development for ED & F Man Biofuels Inc. ("Man"). Man is one of the largest traders in ethanol, biodiesel, vegetable oils and tropical oils internationally, and provides feedstocks to biodiesel plants. In addition, they are significant equity holders in biodiesel production companies. In my capacity with Man I evaluated both ethanol and biodiesel project opportunities, including production facilities in Hawaii.

As some of you may recall, in 2000 and again in 2004 the legislature enacted the Ethanol Facility Tax Credit to stimulate investment in local ethanol production. The incentive is designed to make Hawaiian production competitive with other states providing similar production based incentives, to protect Hawaiian producers from non-domestic imported ethanol, which has also enjoyed much historical governmental support, and to offset the negative economies of scale

associated with smaller local production facilities (e.g., 15 million gallons per annum locally as opposed to US mainland 100-500 million gallon per annum capacity facilities).

The Ethanol Facility Tax Credit was only approved by the legislature in both 2000 and 2004 after comprehensive reviews that included a detailed fiscal and economic analysis commissioned by DBEDT and prepared for the legislature by Decision Analysts Hawaii Inc. ("DAHI"). These cost / benefit analysis required the presentation of all our capital and operating budgets to DAHI. The findings were that the incentive would be revenue positive for the State over the life of the project. At that time the project was to be primarily a molasses based facility – today it is a fully integrated sugar cane based facility preserving hundreds of direct jobs and creating directly 130 additional jobs. The fiscal and economic benefits to the State from our project that were positive in 2004 would be far greater today with the expanded project scope.

Our project has taken much longer to develop than we originally envisaged. There have been many challenges, including the current turmoil in the financial sector, volatility in the energy markets, and securing lands suitable for sugar cane against competing uses. However, we have received our air permit and, as noted above, believe our recent accord with KIUC sets a firm foundation for our project to move forward at an accelerating pace. In recent months we have secured equity commitments for the project and as noted above we intend to pursue debt financing through the US Department of Agriculture, as well as from private lenders who offered debt financing last fall just prior to the recent lending freeze. Our project is a model for an integrated bio-energy refinery, and it is consistent with the expressed intentions of the Hawaiian legislature to develop indigenous energy resources. However, the proposed amendments to the Ethanol Facility Tax Credit would have the effect of killing our project entirely, with an immediate freezing of both our equity and debt financing and a loss of all the investments made to date.

I outline below our major issues relating to the proposed amendments to the Ethanol Facility Tax Credit.

- While the expanded production of biodiesel in Hawaii is a desirable from energy independence and economic development standpoints, its development should not be at the expense of the local production of ethanol, and its related benefit of electricity cogeneration.
- Biodiesel and ethanol are both biofuels, but completely different products, with significantly different economics and markets. To simply add biodiesel to the carefully crafted Hawaii Ethanol Facility Tax Credit bears no relation to the relative economics of the two products, and would not be good public policy, with one, ethanol, being carefully evaluated, and the other, biodiesel, not.
- A 15 million gallon per annum sugarcane based ethanol facility has a capital cost (excluding cogeneration) of over \$50 million, more than \$3.00 per gallon of installed capacity. A 15 million gallon biodiesel facility is likely to cost between \$7.5 and \$10 million, less than \$1.00 per gallon of installed capacity (the industry standard today is about \$0.50 per gallon of installed capacity, excluding seed crushing). Biodiesel plants are typically modular and pre-fabricated and fit in 40 ft. containers. Most of the capital for local plants under the proposed law would likely be for storage tanks for imported oil feedstocks.

- Under the existing Ethanol Facility Tax Credit an ethanol facility will not recover its capital costs from the credit over the 8 years that the incentive would be paid. As proposed, a biodiesel producer would likely recover 100% of capital costs in refundable tax credits within two years, so over the 8 years they would likely receive over 4 times their capital investment in refundable tax credits.
- To increase the level of credit beyond capital costs as defined in the existing statute it is proposed to include inventory costs as capital costs. These costs should not be included, and this amendment is included in order to enable a biodiesel producer to receive the multiple of invested capital.
- The existing statute eliminates further credits once 40 million gallons of ethanol production capacity in-state is realized. The 40 million gallons equates to the level of ethanol required to support 10% ethanol blended in gasoline. If the proposed amendments are passed there will certainly be far more than 40 million gallons of biodiesel capacity in place within one year, before any ethanol facility could come on-line, crowding out credits and eliminating any ethanol facility from receiving any credits.

Therefore, we request that the Committee maintain the Ethanol Facility Tax Credit as is, with no amendments.

If the Committee determines that it wants to provide a per gallon incentive to biodiesel production facilities it should do so either in a separate statute, and only after a careful detailed independent cost / benefit analysis and it should also ensure that any such incentives are not to the detriment of ethanol production.

Sincerely,

William Maloney

William Maloney
President & Chief Executive Office
Pacific West Energy LLC

WRITTEN TESTIMONY

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair
Committee on Energy and Environment

OmniGreen Renewables LLC – 808.923.1737 – omnigreen2020@yahoo.com

Tuesday, Feb. 10, 2009

OmniGreen Renewables LLC strongly supports a bill introduced to the state legislature, SB 512, which would change an already existing, but unused, ethanol facility tax credit to include all biofuels. Changing the wording 'ethanol facility' to 'biofuel facility' would enable a more diverse group of companies to put this dormant credit to use and expand biofuel production capacity statewide.

Respectfully,

Bill Akiona II
OGR Projects Director

Tuesday, Feb. 10, 2009
3:45 PM, Conference Room # 225

COMMITTEE ON ENERGY AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

Testimony of Robert King, Pacific Biodiesel

In support of SB 512, Relating to Taxation

Headquartered in Kahului, Pacific Biodiesel is a respected technology and operations expert in the rapidly expanding biodiesel industry~~pioneer and leading advocate for the establishment of community-based biodiesel~~. Since opening and operating the very first retail biodiesel pump in America, Pacific Biodiesel has built a solid reputation as a pioneer and leading advocate for the establishment of community-based biodiesel~~leading pioneer in the rapidly expanding biodiesel industry~~.

Pacific Biodiesel strongly supports SB 512, which would amend~~ter~~ an already existing, but as yet unused, ethanol facility tax credit to include also encourage the production of biodiesel in the State of Hawaii. all biofuels. Changing the wording 'ethanol facility' to 'biofuel facility' would enable local ou companiesr company, as well as others, to utilize this dormant incentive to expand biofuel production capacity statewide.

The included language limiting qualifying facilities to production capacities of 15 million gallons per year or less will encourage the construction of multiple sustainably-scaled~~small scale~~ facilities, providing a more a diverse and flexible biofuel production network within the state. Increasing the size and scope of applicants while l~~Additionally, limiting aggregate funding~~credits to \$12 million per year will incur~~avoid~~ the problems encountered by the federal bioenergy program~~m~~, which did not cap the total credits available. This created an oversized pool of applicants for a limited amount of funding, ultimately reducing the shares of credits to individual companies significantly. In order for such subsidies to encourage real projects, there must be a meaningful pool of funds that we can count on, at least for a significant period.

Pacific Biodiesel urges the committee to pass SB 512 which will allow a more sustainable diverse group of businesses to utilize an already well constructed policy, propelling the state forward towards energy independence and encouraging jobs and economic growth through locally owned businesses.

Thank you for the opportunity to testify,

Robert King, President
Pacific Biodiesel, Inc.
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Kahului, Hawaii 96732
Ph: (808) 877-3144
www.biodiesel.com



SB 512

RELATING TO TAXATION

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

FEBRUARY 10, 2009

Chair Gabbard and Members of the Senate Committee on Energy and Environment:

I am Joel Matsunaga, testifying on behalf of Hawaii BioEnergy on SB 512, "Relating to Taxation".

SUMMARY

Hawaii BioEnergy ("HBE") supports, with amendment, SB 512 which would revise Section 235-110.3 of the Hawaii Revised Statutes to encourage the development of local renewable energy sources by allowing the facility credit to apply to biofuels besides ethanol. The amendment to SB 512 proposed below would maximize the benefit to Hawaii of the development of renewable energy sources in the State by recognizing the importance of the use of locally produced feedstocks.

HAWAII BENEFITS FROM LOCAL BIOFUEL PRODUCTION

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 before this legislative session is done. 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.

Based on an independent analysis commissioned by HBE, it's projected that a large scale agricultural operation along with an ethanol facility could provide up to 1,400 new jobs and over \$115 million in added value in the State.

In addition to the economic benefits of local biofuels production, Hawaii would benefit greatly from the energy security that would result from having a significant portion of its energy needs met by locally grown feedstocks. In addition to the energy security, biofuels from locally grown feedstocks will also help to reduce the severe volatility of energy prices associated with the price of fossil fuels as they fluctuate with world demand and politics.

SB 512 REQUIRES AMENDMENT TO FULLY BENEFIT HAWAII

As indicated by the independent study commissioned by HBE, a biofuel operation using locally grown feedstocks could significantly benefit Hawaii both economically, net tax revenues, and in terms of energy prices and security. However, the State would benefit fully if the feedstocks used to produce the biofuels are grown locally - - which will create more jobs, taxes for the State and other benefits.

In order for the State to realize the full benefits of Section 235-110.3, HBE recommends that SB 512 be amended as shown below to recognize the importance to Hawaii of locally produced feedstocks:

- “...(2) The qualifying [ethanol] biofuel production facility operated at a level of production of at least seventy-five per cent of its nameplate capacity on an annualized basis;
- (3) The qualifying biofuel production facility shall be located within the State of Hawaii and shall utilize locally grown feedstocks for at least seventy-five percent of its production output;
- (3)(4) The qualifying [ethanol] biofuel production facility is in production on or before January 1, 2017; and...”

Without the amendment proposed above, the State would not fully benefit from the development of a biofuel facility in Hawaii.

CONCLUSION

HBE is moving forward with projects that will help to address Hawaii's energy future and believes that SB 512, with the amendments proposed, will encourage the development of renewable energy sources in Hawaii.

Based on the aforementioned, Hawaii BioEnergy respectfully requests your support for SB 512 with amendment.

Thank you for the opportunity to testify.