THE SENATE
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

JAN 2 8 2009

S.B. NO. 1634

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that Hawaii must take bold steps towards reducing our dependence on imported fossil fuels. Our state imports ninety-five per cent of its energy, most of which comes from petroleum and coal. Eighty-nine per cent of Hawaii's energy is derived from petroleum. Six per cent is derived from coal. Of all energy consumed in the State, about forty per cent is used for transportation purposes, compared with eight per cent for residential purposes, ten per cent for commercial purposes, twenty-five per cent for electric power, and sixteen per cent for industrial uses.

It is essential that our State aggressively promote and develop alternatives to fossil fuel modes of transportation. Alternative fuel and electric vehicles are a viable solution. The electrification of transportation creates jobs, fosters economic growth, reduces greenhouse gas emissions, and stems the effects of climate change in Hawaii.

Developing an electric vehicle infrastructure is an essential first step towards the transformation of transportation in Hawaii. With developing technology, and a push by national and international automakers to expedite the production and supply of electric vehicles, Hawaii must be ready to embrace a new generation of highway transportation.

The purpose of this Act is to provide sufficient tools to develop an electric vehicle infrastructure in Hawaii. As a first step, this Act requires government agencies to lead the way in the electrification of transportation in the State, providing an aggressive but realistic timetable to replace fossil fuel vehicles with electric and alternative fuel vehicles.

PART I

SECTION 2. Section 226-10, Hawaii Revised Statutes, is amended to read as follows:

"**§226-10 Objective and policies for the economy--potential growth activities.** (a) Planning for the State's economy with regard to potential growth activities shall be directed towards achievement of the objective of development and expansion of potential growth activities that serve to increase and diversify Hawaii's economic base.

(b) To achieve the potential growth activity objective, it shall be the policy of this State to:

(1) Facilitate investment and employment in economic activities that have the potential for growth such as diversified agriculture, aquaculture, apparel and textile manufacturing, film and television production, and energy and marine-related industries [~~.~~] ;

(2) Expand Hawaii's capacity to attract and service international programs and activities that generate employment for Hawaii's people [~~.~~] ;

(3) Enhance and promote Hawaii's role as a center for international relations, trade, finance, services, technology, education, culture, and the arts [~~.~~] ;

(4) Accelerate research and development of new energy-related industries based on wind, solar, ocean, and underground resources and solid waste [~~.~~] ;

(5) Promote Hawaii's geographic, environmental, social, and technological advantages to attract new economic activities into the State [~~.~~] ;

(6) Provide public incentives and encourage private initiative to attract new industries that best support

Hawaii's social, economic, physical, and environmental objectives[~~.~~]; (7) Increase research and the development of ocean-related economic activities such as mining, food production, and scientific research[~~.~~]; (8) Develop, promote, and support research and educational and training programs that will enhance Hawaii's ability to attract and develop economic activities of benefit to Hawaii[~~.~~]; (9) Foster a broader public recognition and understanding of the potential benefits of new, growth-oriented industry in Hawaii[~~.~~]; (10) Encourage the development and implementation of joint federal and state initiatives to attract federal programs and projects that will support Hawaii's social, economic, physical, and environmental objectives[~~.~~]; (11) Increase research and development of businesses and services in the telecommunications and information industries[~~.~~]; and

(12) Foster the research and development of non-fossil fuel and energy efficient modes of transportation."

SECTION 3. Section 226-18, Hawaii Revised Statutes, is amended to read as follows:

"**§226-18 Objectives and policies for facility systems--energy.** (a) Planning for the State's facility systems with regard to energy shall be directed toward the achievement of the following objectives, giving due consideration to all:

(1) Dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people;

(2) Increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased;

(3) Greater energy security and diversification in the face of threats to Hawaii's energy supplies and systems; and

(4) Reduction, avoidance, or sequestration of greenhouse gas emissions from energy supply and use.

(b) To achieve the energy objectives, it shall be the policy of this State to ensure the short and long term provision of adequate, reasonably priced, and dependable energy services to accommodate demand.

(c) To further achieve the energy objectives, it shall be the policy of this State to:

(1) Support research and development as well as promote the use of renewable energy sources;

(2) Ensure that the combination of energy supplies and energy-saving systems is sufficient to support the demands of growth;

(3) Base decisions of least-cost supply-side and demand-side energy resource options on a comparison of their total costs and benefits when a least-cost is determined by a reasonably comprehensive, quantitative, and qualitative accounting of their long-term, direct and indirect economic, environmental, social, cultural, and public health costs and benefits;

(4) Promote all cost-effective conservation of power and fuel supplies through measures, including:

(A) Development of cost-effective demand-side management programs;

(B) Education; and

(C) Adoption of energy-efficient practices and technologies;

(5) Ensure, to the extent that new supply-side resources are needed, that the development or expansion of

energy systems uses the least-cost energy supply option and maximizes efficient technologies;

(6) Support research, development, [~~and~~] demonstration, and utilization of energy efficiency, load management, and other demand-side management programs, practices, and technologies;

(7) Promote alternate fuels and transportation energy efficiency [~~by encouraging diversification of transportation modes and infrastructure~~];

(8) Support actions that reduce, avoid, or sequester greenhouse gases in utility, transportation, and industrial sector applications;

(9) Support actions that reduce, avoid, or sequester Hawaii's greenhouse gas emissions through agriculture and forestry initiatives; and

(10) Provide priority handling and processing for all state and county permits required for renewable energy projects."

PART II

SECTION 4. Chapter 235, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§235-A **Electric vehicle charging infrastructure; income tax credit.** (a) Each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for code compliant electric vehicle charging infrastructure installed and placed in service in the State after January 1, 2010, and prior to the close of the taxable year. The tax credit may be claimed as for taxable years ending before January 1, 2012, for the purchase and installation of electric vehicle charging infrastructure. The credit shall be seventy per cent of the installed cost of the electric vehicle charging system or $1,000 per electric vehicle charge point of the system, whichever is less.

(b) The director of taxation shall prepare any forms that may be necessary to claim a tax credit under this section. The director may also require the taxpayer to furnish reasonable 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.

(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over

liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

(d) The director of taxation shall provide an annual report to the legislature on the amount of income and corporate tax credits claimed under subsection (a).

For the purposes of this section:

"Actual cost" means costs related to the electric vehicle charging system under subsection (a), including accessories and installation, but not including the cost of consumer incentive premiums unrelated to the operation of the system or offered with the sale of the system and costs for which another credit is claimed under this chapter.

"Electric vehicle charge point" means the part of the electric vehicle charging system that delivers electricity from a source outside an electric vehicle into one electric vehicle.

"Electric vehicle charging system" means a system that is designed in compliance with Article 625 of the National Electrical Code and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging system may include several charge points simultaneously connecting several electric vehicles to the system.

§235-B Alternative fuel refueling infrastructure; income tax credit. (a) Each individual or corporate taxpayer that files a corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state corporate net income tax. The tax credit may be claimed for alternative fuel refueling infrastructure installed and placed in service during the taxable year. The tax credit may be claimed for taxable years ending before January 1, 2016, for the purchase and installation of alternative fuel refueling infrastructure. The credit shall be thirty per cent of the installed cost of the alternative fuel refueling infrastructure or $25,000, whichever is less.

(b) The director of taxation shall prepare any forms that may be necessary to claim a tax credit under this section. The director may also require the taxpayer to furnish reasonable 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.

(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted.

(d) The director of taxation shall provide an annual report to the legislature on the amount of corporate tax credits claimed under subsection (a).

For the purposes of this section:

"Actual cost" means costs related to the alternative fuel refueling infrastructure under subsection (a), including accessories and installation, but not including costs for which another credit is claimed under this chapter.

"Alternative fuel refueling infrastructure" means equipment for the storage and dispensing of alternative fuels for the refueling of alternative fuel vehicles, as further described and defined in the Internal Revenue Code, Section 30C."

SECTION 5. Chapter 291, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**§291- Parking spaces reserved for electric vehicles; penalties.** (a) Beginning January 1, 2011, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall receive a written warning.

(b) Beginning July 1, 2011, any person who parks a non-electric vehicle in a space designated and marked as reserved for electric vehicles shall be guilty of a traffic

infraction under chapter 291D and shall be fined not less than $50 nor more than $100 and pay any costs incurred by the court related to assessing the fine.

(c) Any citation issued under this section may be mailed to the violator pursuant to section 291C-165(b)."

SECTION 6. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utility" to read:

""Public utility":

(1) Includes every person who may own, control, operate, or manage as owner, lessee, trustee, receiver, or otherwise, whether under a franchise, charter, license, articles of association, or otherwise, any plant or equipment, or any part thereof, directly or indirectly for public use, for the transportation of passengers or freight, or the conveyance or transmission of telecommunications messages, or the furnishing of facilities for the transmission of intelligence by electricity by land or water or air within the State, or between points within the State, or for the production, conveyance, transmission, delivery, or furnishing of light, power, heat, cold, water, gas, or oil, or for the storage or warehousing

of goods, or the disposal of sewage; provided that the term shall include:

(A) Any person insofar as that person owns or operates a private sewer company or sewer facility; and

(B) Any telecommunications carrier or telecommunications common carrier;

(2) Shall not include:

(A) Any person insofar as that person owns or operates an aerial transportation enterprise;

(B) Persons owning or operating taxicabs, as defined in this section;

(C) Common carriers transporting only freight on the public highways, unless operating within localities or along routes or between points that the public utilities commission finds to be inadequately serviced without regulation under this chapter;

(D) Persons engaged in the business of warehousing or storage unless the commission finds that regulation thereof is necessary in the public interest;

(E) The business of any carrier by water to the extent that the carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally;

(F) The business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure;

(G) Any person who:

(i) Controls, operates, or manages plants or facilities for the production, transmission, or furnishing of power primarily or entirely from nonfossil fuel sources; [~~and~~]

(ii) Provides, sells, or transmits all of that power, except such power as is used in its own internal operations, directly to a

public utility for transmission to the public; and

(iii) Any person or business who owns, controls, operates or manages plants or facilities primarily used to charge or discharge a vehicle battery, the purpose of which is to provide the power for vehicle propulsion;

(H) A telecommunications provider only to the extent determined by the commission pursuant to section 269-16.9;

(I) Any person who controls, operates, or manages plants or facilities developed pursuant to chapter 167 for conveying, distributing, and transmitting water for irrigation and such other purposes that shall be held for public use and purpose;

(J) Any person who owns, controls, operates, or manages plants or facilities for the reclamation of wastewater; provided that:

(i) The services of the facility shall be provided pursuant to a service contract between the person and a state or county

agency and at least ten per cent of the wastewater processed is used directly by the State or county which has entered into the service contract;

(ii) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;

(iii) The facility shall not make sales of water to residential customers;

(iv) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water shall be voluntary and its pricing fair and reasonable. For purposes of this subparagraph, "recycled water" and "reclaimed water" mean treated wastewater

that by design is intended or used for a beneficial purpose; and

(v) The facility shall not be engaged, either directly or indirectly, in the processing of food wastes; and

(K) Any person who owns, controls, operates, or manages any seawater air conditioning district cooling project; provided that at least fifty per cent of the energy required for the seawater air conditioning district cooling system is provided by a renewable energy resource, such as cold, deep seawater.

If the application of this chapter is ordered by the commission in any case provided in paragraphs (2)(C), (2)(D), (2)(H), and (2)(I), the business of any public utility that presents evidence of bona fide operation on the date of the commencement of the proceedings resulting in the order shall be presumed to be necessary to public convenience and necessity, but any certificate issued under this proviso shall nevertheless be subject to such terms and conditions as the commission may prescribe, as provided in sections 269-16.9 and 269-20."

PART III

SECTION 7. Section 103D-412, Hawaii Revised Statutes, is amended to read as follows:

"**§103D-412 [~~Energy-efficient~~] Light-duty vehicles[~~.~~]; requirements.** (a) The procurement policy for all agencies purchasing or leasing [~~motor~~] light-duty vehicles shall be to [~~obtain energy-efficient vehicles.~~] reduce dependence on petroleum products for transportation energy. [~~All covered fleets are directed to procure increasing percentages of energy-efficient vehicles as part of their annual vehicle acquisition plans, which shall be as follows:~~

~~(1) In the fiscal year beginning July 1, 2006, at least twenty per cent of newly purchased light-duty vehicles acquired by each covered fleet shall be energy-efficient vehicles;~~

~~(2) In the fiscal year beginning July 1, 2007, at least thirty per cent of newly purchased light-duty vehicles acquired by each covered fleet shall be energy-efficient vehicles;~~

~~(3) In the fiscal year beginning July 1, 2008, at least forty per cent of newly purchased light-duty vehicles acquired by each covered fleet shall be energy-efficient vehicles; and~~

~~(4) For each subsequent fiscal year, the percentage of energy-efficient vehicles newly purchased shall be five percentage points higher than the previous year, until at least seventy-five per cent of each covered fleet's newly purchased, light-duty vehicles are energy-efficient vehicles.~~]

Beginning January 1, 2010, all state and county entities, when purchasing new vehicles, shall purchase vehicles with reduced dependence on petroleum-based fuels, in the following descending order of priority:

(1) The agency shall first evaluate any available electric or plug-in hybrid electric vehicle and, if it meets the needs of the agency, that vehicle shall be selected;

(2) If an electric or plug-in hybrid electric vehicle that meets the needs of the agency is not available, the agency may select a hydrogen or fuel cell vehicle;

(3) If a hydrogen or fuel cell vehicle that meets the needs of the agency is not available, the agency may select a flexible fuel vehicle;

(4) If a flexible fuel vehicle that meets the needs of the agency is not available, the agency may select a hybrid electric vehicle; and

(5) If a hybrid electric vehicle that meets the needs of the agency is not available, the agency shall select a vehicle that is identified by the United States Environmental Protection Agency in its annual "Fuel Economy Leaders" report as being among the top performers for fuel economy in its class.

(b) For the purposes of this section:

"Agency" means a state agency, office, or department.

"Alternative fuel" [~~has the same meaning as contained in 10 Code of Federal Regulations Part 490.~~] means alcohol fuels; mixtures containing eighty-five per cent or more by volume of alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; biodiesel; mixtures containing twenty per cent or more by volume of biodiesel with diesel or other fuels; other fuels derived from biological materials; and electricity provided by off-board energy sources.

"Covered fleet" has the same meaning as contained in 10 Code of Federal Regulations Part 490 Subpart C.

[~~"Energy efficient vehicle" means a vehicle that:~~

~~(1) Is capable of using an alternative fuel;~~

~~(2) Is powered primarily through the use of an electric battery or battery pack that stores energy produced by an electric motor through regenerative braking to assist in vehicle operation;~~

~~(3) Is propelled by power derived from one or more cells converting chemical energy directly into electricity by combining oxygen with hydrogen fuel that is stored on board the vehicle in any form;~~

~~(4) Draws propulsion energy from onboard sources of stored energy generated from an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; or~~

~~(5) Is on the list of "Most Energy Efficient Vehicles" in its class or is in the top one fifth of the most energy efficient vehicles in its class available in Hawaii as shown by vehicle fuel efficiency lists, rankings, or reports maintained by the United States Environmental Protection Agency.~~]

"Excluded vehicles" has the same meaning as provided in 10 Code of Federal Regulations Section 490.3.

"Light-duty vehicle" has the same meaning as contained in 10 Code of Federal Regulations Part 490.

[~~(c) Agencies may offset energy efficient vehicle purchase requirements by successfully demonstrating percentage improvements in overall light-duty vehicle fleet mileage economy. The offsets shall be measured against the fleet average miles per gallon of petroleum based gasoline and diesel fuel, using the fiscal year beginning July 1, 2006, as a baseline, on a percentage by percentage basis.~~

~~(d) Agencies that use biodiesel fuel may offset the vehicle purchase requirements of this section at the rate of one vehicle for each four hundred fifty gallons of neat biodiesel fuel used. Neat biodiesel fuel is one hundred per cent biodiesel (B100) by volume.~~

~~(e)~~] (c) Agencies may apply to the chief procurement officer for exemptions from the requirements of this section to the extent that the vehicles required by this section are not available or do not meet the specific needs of the agency. Life cycle vehicle and fuel costs may be included in the determination of whether a particular vehicle meets the needs of the agency. Estimates of future fuel prices shall be based on

projections from the United States Energy Information Administration.

[~~(f)~~] (d) Vehicles acquired from another state agency and excluded vehicles are exempt from the requirements of this section.

[~~(g)~~] (e) Nothing in this section is intended to interfere with [~~an agency's~~] the ability of a covered fleet to comply with [~~federally-imposed~~] vehicle purchase mandates [~~such as those~~] required by 10 Code of Federal Regulations Part 490 Subpart C."

SECTION 8. Section 286-172, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

(1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;

(2) Any request from a person having a legitimate reason, as determined by the director, as provided under the

rules adopted by the director under paragraph (1), to obtain the information for verification of vehicle ownership, traffic safety programs, or for research or statistical reports; [~~or~~]

(3) Any request from the energy resources coordinator to track the number and type of vehicles in use, and the effectiveness of efforts to increase the efficiency and diversity of the fuel needs of the State's transportation sector; or

[~~(3)~~] (4) Any request from a person required or authorized by law to give written notice by mail to owners of vehicles."

SECTION 9. The department of transportation, in consultation with the department of accounting and general services and the department of business economic development and tourism, shall coordinate with the various county governments, energy industry experts, transportation specialists, and business, labor, and community leaders to develop and implement a plan to expedite state and county permitting and installation of battery exchange stations and electric vehicle charging outlets in homes, businesses, public parking lots, and other buildings and facilities throughout the State.

SECTION 10. The department of transportation shall provide a plan to expedite the permitting and development of electric vehicle infrastructure in the State and recommendations on proposed legislation to the legislature no later than twenty days prior to the convening of the regular session of 2010.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect upon its approval.

INTRODUCED BY: _____

By Request

S.B. NO. 1634

Report Title:
Transportation; Planning; Energy Efficiency; Tax Credit

Description:
Includes in the State's potential growth policy research and development of non-fossil fuel and energy efficient modes of transportation; provides tax credits for the installation of electric vehicle charging infrastructures and alternative fuel refueling infrastructures; establishes penalties for parking in electric vehicle parking spaces; requires agencies purchasing light-duty vehicles to consider electric, hybrid, then hydrogen options.