

JAN 22 2010

S.B. NO. 2444

---

# A BILL FOR AN ACT

RELATING TO BIODIESEL PRODUCTION.

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

1           SECTION 1. The legislature finds that attaining  
2 independence from our detrimental reliance on imported fossil  
3 fuels has been a long-standing objective of the State.  
4 Increasing tax incentives for in-state biodiesel fuel producers  
5 will encourage in-state fuel production and bring us closer to  
6 this goal. To maximize benefits for Hawaii residents these tax  
7 incentives will be contingent on the biodiesel facility  
8 producing biodiesel fuel from crops produced or grown in the  
9 State.

10           Energy insecurity due to overreliance on imports is one of  
11 the biggest threats facing Hawaii today. According to the  
12 Hawaiian Electric Company, ninety-three per cent of the energy  
13 used in Hawaii comes from imported oil at a cost of \$6 billion  
14 to \$7 billion annually. Importing fuel raises its cost and  
15 consequently Hawaii pays among the highest electricity and  
16 gasoline prices in the United States. Fuel surcharges pass the



1 increases in fuel costs to consumers and increase the cost of  
2 over eighty per cent of the goods and services sold in Hawaii.

3 Dependence on imported fuel also leaves Hawaii vulnerable  
4 to fluctuations in fuel prices. According to the United States  
5 Bureau of Labor Statistics consumer price index, between June  
6 2008 and June 2009 fuel oil prices fluctuated between a high of  
7 \$4.649 per gallon in July 2008 and a low of \$2.319 in March of  
8 2009 and unleaded gasoline had a high of \$4.090 per gallon in  
9 July of 2008 and a low of \$1.689 in December of 2008. With  
10 Hawaii's energy costs approaching eleven per cent of its gross  
11 domestic product, these price fluctuations have far reaching  
12 effects for the State. Reducing our dependence on imported fuel  
13 and the consequent price volatility is critical.

14 The legislature further finds that Hawaii's water supply is  
15 almost entirely dependent on imported fuel for distribution  
16 which has the potential for devastating consequences. According  
17 to a December 2009 Honolulu Weekly interview with the deputy  
18 chief engineer with the Honolulu Board of Water Supply, all  
19 public water for Oahu is pumped from the underground aquifer  
20 using electric pumps. The electricity used to run the pumps is  
21 generated using mostly imported fuel. If electricity is  
22 interrupted, by an interruption in the supply chain of foreign



1 fuel for example, the island of Oahu has only a twenty-four hour  
2 supply of water.

3 The purpose of this Act is to address energy insecurity and  
4 price volatility by encouraging in-state biodiesel fuel  
5 production while encouraging local agriculture. This Act shall  
6 achieve this by providing income tax incentives to biodiesel  
7 fuel production facilities that process crops produced or grown  
8 in the State.

9 SECTION 2. Section 235-7, Hawaii Revised Statutes, is  
10 amended by amending subsection (a) to read as follows:

11 "(a) There shall be excluded from gross income, adjusted  
12 gross income, and taxable income:

13 (1) Income not subject to taxation by the State under the  
14 Constitution and laws of the United States;

15 (2) Rights, benefits, and other income exempted from  
16 taxation by section 88-91, having to do with the state  
17 retirement system, and the rights, benefits, and other  
18 income, comparable to the rights, benefits, and other  
19 income exempted by section 88-91, under any other  
20 public retirement system;

21 (3) Any compensation received in the form of a pension for  
22 past services;



- 1           (4)    Compensation paid to a patient affected with Hansen's  
2                    disease employed by the State or the United States in  
3                    any hospital, settlement, or place for the treatment  
4                    of Hansen's disease;
  
- 5           (5)    Except as otherwise expressly provided, payments made  
6                    by the United States or this State, under an act of  
7                    Congress or a law of this State, which by express  
8                    provision or administrative regulation or  
9                    interpretation are exempt from both the normal and  
10                   surtaxes of the United States, even though not so  
11                   exempted by the Internal Revenue Code itself;
  
- 12          (6)    Any income expressly exempted or excluded from the  
13                    measure of the tax imposed by this chapter by any  
14                    other law of the State, it being the intent of this  
15                    chapter not to repeal or supersede any express  
16                    exemption or exclusion;
  
- 17          (7)    Income received by each member of the reserve  
18                    components of the Army, Navy, Air Force, Marine Corps,  
19                    or Coast Guard of the United States of America, and  
20                    the Hawaii national guard as compensation for  
21                    performance of duty, equivalent to pay received for



1           forty-eight drills (equivalent of twelve weekends) and  
2           fifteen days of annual duty, at an:

3           (A) E-1 pay grade after eight years of service;  
4                 provided that this subparagraph shall apply to  
5                 taxable years beginning after December 31, 2004;

6           (B) E-2 pay grade after eight years of service;  
7                 provided that this subparagraph shall apply to  
8                 taxable years beginning after December 31, 2005;

9           (C) E-3 pay grade after eight years of service;  
10                provided that this subparagraph shall apply to  
11                taxable years beginning after December 31, 2006;

12           (D) E-4 pay grade after eight years of service;  
13                provided that this subparagraph shall apply to  
14                taxable years beginning after December 31, 2007;

15           and

16           (E) E-5 pay grade after eight years of service;  
17                provided that this subparagraph shall apply to  
18                taxable years beginning after December 31, 2008;

19           (8) Income derived from the operation of ships or aircraft  
20                if the income is exempt under the Internal Revenue  
21                Code pursuant to the provisions of an income tax  
22                treaty or agreement entered into by and between the



1 United States and a foreign country; provided that the  
2 tax laws of the local governments of that country  
3 reciprocally exempt from the application of all of  
4 their net income taxes, the income derived from the  
5 operation of ships or aircraft that are documented or  
6 registered under the laws of the United States;

7 (9) The value of legal services provided by a prepaid  
8 legal service plan to a taxpayer, the taxpayer's  
9 spouse, and the taxpayer's dependents;

10 (10) Amounts paid, directly or indirectly, by a prepaid  
11 legal service plan to a taxpayer as payment or  
12 reimbursement for the provision of legal services to  
13 the taxpayer, the taxpayer's spouse, and the  
14 taxpayer's dependents;

15 (11) Contributions by an employer to a prepaid legal  
16 service plan for compensation (through insurance or  
17 otherwise) to the employer's employees for the costs  
18 of legal services incurred by the employer's  
19 employees, their spouses, and their dependents;

20 (12) Amounts received in the form of a monthly surcharge by  
21 a utility acting on behalf of an affected utility  
22 under section 269-16.3 shall not be gross income,



1 adjusted gross income, or taxable income for the  
2 acting utility under this chapter. Any amounts  
3 retained by the acting utility for collection or other  
4 costs shall not be included in this exemption; [and]

5 (13) One hundred per cent of the gain realized by a fee  
6 simple owner from the sale of a leased fee interest in  
7 units within a condominium project, cooperative  
8 project, or planned unit development to the  
9 association of owners under chapter 514A or 514B, or  
10 the residential cooperative corporation of the  
11 leasehold units.

12 For purposes of this paragraph:

13 "Fee simple owner" shall have the same meaning as  
14 provided under section 516-1; provided that it shall  
15 include legal and equitable owners;

16 "Legal and equitable owner", and "leased fee  
17 interest" shall have the same meanings as provided  
18 under section 516-1; and

19 "Condominium project" and "cooperative project"  
20 shall have the same meanings as provided under section  
21 514C-1 [-]; and



1        (14) One hundred per cent of income derived from the  
2        operation of an oil seed crushing facility that  
3        processes oil seed produced or grown in the State for  
4        biodiesel production in the State.

5                As used in this paragraph:

6                "Biodiesel" means the same as section  
7        103D-1012(d).

8                "Oil seed crushing facility" means a facility  
9        that processes oil seed that is grown in the State,  
10       including soy, corn, bean, nut, olive, canola,  
11       mustard, and sunflower and other crops and the seeds  
12       thereof, to be used as biomass to produce biodiesel."

13        SECTION 3. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15        SECTION 4. This Act, upon its approval, shall apply to  
16 taxable years beginning after December 31, 2009; provided that  
17 the amendments made to section 235-7(a), Hawaii Revised  
18 Statutes, by section 2 of this Act, shall not be repealed when  
19 that section is repealed and reenacted on January 1, 2013,

20





1 pursuant to section 3 of Act 166, Session Laws of Hawaii 2007.

2

INTRODUCED BY:

Ray L. Aana  
Will Sykes  
A.S. Ili

F. Kelani Eglish

Ronald H. Pak

Clarence K. Kishimoto

Iyo Ue

Michelle N. Iuliani



**Report Title:**

Biodiesel; Tax Credit

**Description:**

Provides a tax credit for biodiesel production using crops grown in the State.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

