

STAND. COM. REP. NO.

2994

Honolulu, Hawaii

MAR 23 2012

RE: H.B. No. 2262
H.D. 2
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Energy and Environment and Economic Development and Technology, to which was referred H.B. No. 2262, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENERGY,"

beg leave to report as follows:

The purpose and intent of this measure is to encourage development of Hawaii's renewable energy industry by broadening the ethanol facility income tax credit to apply to the construction of facilities for the production of various specified types of renewable fuels, including ethanol.

Your Committees received testimony in support of this measure from the Hawaii Renewable Energy Alliance, Pacific Biodiesel, Inc., Hawaii Bioenergy, LLC, H2 Technologies, Inc., and one individual. Your Committees received comments on this measure from the Department of Business, Economic Development, and Tourism, Tax Foundation of Hawaii, and Pacific West Energy, LLC.

Your Committees find that Hawaii has tremendous potential to produce a range of advanced, high-density biofuels from locally produced feedstocks. This measure supports the fledgling industry by making investment more attractive and minimizing technology and capital risk. This measure also supports the industry by helping offset investment costs for the establishment of this promising industry.



Your Committees have amended this measure by:

- (1) Specifying that the tax credit applies only to specified renewable transportation fuels, and renaming the tax credit as the renewable transportation fuels production facility tax credit;
- (2) Decreasing the minimum production required to claim the tax credit by:
 - (A) Eliminating the requirement that the tax credit apply only to production facilities that have a nameplate capacity of not less than 28.75 billion British thermal units of renewable fuels;
 - (B) Eliminating the requirement that the production facility operate at a level of production of a minimum percentage of its nameplate capacity on an annualized basis; and
 - (C) Inserting a requirement that the tax credit be available to production facilities that produce not less than 15 billion British thermal units of renewable transportation fuels per year;
- (3) Making a conforming amendment to account for the reduction in the amount of fuel required to claim the tax credit, by clarifying that the definition of "credit period" begins from the first taxable year in which the production facility begins production at a level of at least fifteen billion British thermal units of renewable transportation fuels per year;
- (4) Making conforming amendments to account for the deletion of the definition of "nameplate capacity" and all references to "nameplate capacity";
- (5) Clarifying that "qualifying renewable transportation fuel production" means production of renewable transportation fuels from renewable feedstocks produced within the State; provided that the renewable transportation fuels shall be sold in the State;



- (6) Clarifying that a "qualifying renewable transportation fuels production facility" or "facility" excludes a facility that produces only propane;
- (7) Replacing the \$12,000,000 maximum aggregate amount of certified credits available per year with an unspecified maximum aggregate amount of credits;
- (8) Authorizing the Department of Business, Economic Development, and Tourism, in the event the amount of certified tax credits exceeds \$12,000,000, to either:
 - (A) Discontinue certifying credit and notify the Department of Taxation; or
 - (B) Increase the unspecified maximum aggregate amount of available credits to above \$12,000,000 per year according to the level of demand of qualified renewable transportation fuel production; provided that the department report the rationale and justification for any such increase to the Legislature;
- (9) Clarifying that the taxpayer claiming the tax credit is required to provide written notice to Department of Business, Economic Development, and Tourism of the taxpayer's intention to begin production of qualifying renewable transportation fuels, rather than notice of intent to begin construction of a qualifying renewable transportation fuels production facility;
- (10) Inserting a part II, containing the contents of S.B. No. 2666, S.D. 2, which:
 - (A) Provides for a biofuel production facility income tax credit, but modifying the language to make the biofuel production facility income tax credit fully refundable, rather than non-refundable; and
 - (B) Inserts a definition for "oil refinery" in the environmental impact statements law, which clarifies the circumstances under which an environmental assessment is required;



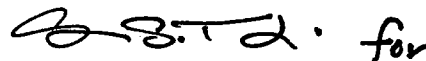
- (11) Changing the effective date to upon approval; provided that:
- (A) The renewable transportation fuels production facility tax credit shall apply to taxable years beginning after December 31, 2012; and
 - (B) The biofuel production facility income tax credit shall apply to taxable years beginning after December 31, 2011; apply to qualified development and construction costs of qualified biofuel production facilities incurred on or after July 1, 2011, and before January 1, 2017; and be repealed on January 1, 2029; and
- (12) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Energy and Environment and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2262, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2262, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Energy and
Environment and Economic
Development and Technology,



CAROL FUKUNAGA, Chair



MIKE GABBARD, Chair



