

STAND. COM. REP. NO. 1120

Honolulu, Hawaii

March 24, 2011

RE: S.B. No. 772
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and Economic Revitalization & Business, to which was referred S.B. No. 772, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO BIOFUEL FACILITIES,"

beg leave to report as follows:

The purpose of this bill, as received by your Committee, is to expand renewable energy production in the State by:

- (1) Renaming the "ethanol facility tax credit" to the "biofuel production facility tax credit" and expanding application of the tax credit to include various biofuels;
- (2) Changing the determination of the biofuel production facility tax credit from 30 percent of nameplate capacity to an unspecified monetary amount per gallon of production;
- (3) Requiring qualified facilities to be located within the State and to use locally grown feedstock for at least 75 percent of its production output;
- (4) Changing the amount of certified credits from \$12,000,000 to an unspecified amount;

SB772 HD1 HSCR EEP-ERB HMS 2011-3279



- (5) Revising the reporting requirement for taxpayers claiming the tax credit to include type of biofuel and percentage of Hawaii-grown feedstock used; and
- (6) Removing the 40,000,000-gallon production cap per year.

Prior to the hearing, your Committees circulated for review and accepted testimony on a Proposed H.D. 1. As amended, the purpose of the Proposed H.D. 1 is to expand renewable energy production in the State by, among other things:

- (1) Changing the name of the Ethanol Facility Tax Credit to the Bioenergy Production Facility Tax Credit (Bioenergy Tax Credit), and clarifying its scope to specifically include electricity generation from agricultural feedstock;
- (2) Changing references to "ethanol facility" and "qualified ethanol production facility" to "bioenergy production facility" and "qualifying bioenergy production facility", respectively;
- (3) Making the Bioenergy Tax Credit applicable from January 1, 2014;
- (4) Making the annual dollar amount of the Bioenergy Tax Credit equal to:
 - (A) Thirty percent of a qualifying biofuel production facility's annual nameplate capacity; or
 - (B) For an electricity generating facility, three cents per kilowatt hour of the facility's annual nameplate capacity if the facility's annual nameplate capacity is greater than 5,000,000 kilowatt hours;
- (5) Prohibiting a taxpayer from claiming the Bioenergy Tax Credit based on both biofuel production capacity and electricity generating capacity for the same facility;
- (6) Defining "agricultural feedstock", "bioenergy", and "biofuel";



- (7) Amending the definitions of "investment" and "nameplate capacity" to account for the inclusion of electricity generation in the Bioenergy Tax Credit;
- (8) Repealing existing provisions establishing a threshold of 40,000,000 gallons in total nameplate capacity per year of ethanol production facilities built in the State, over which no tax credits shall be allowed to be claimed; and
- (9) Requiring the Department of Business, Economic Development, and Tourism (DBEDT) to include in its annual report on the Bioenergy Tax Credit the total number of employees employed by each facility, including those employed in agricultural operations, and statistical information regarding biofuel, bioenergy, and electricity production and sales.

Aina Koa Pono and Pacific West Energy LLC testified in support of this bill. Hawaii Renewable Energy Alliance and Hu Honua Bioenergy, LLC, testified in opposition to this measure. The Department of Taxation, DBEDT, Green Energy Team LLC, Hawaii BioEnergy, Hawaii Carpenters Union, Pacific Biodiesel, Inc., and a concerned individual provided comments.

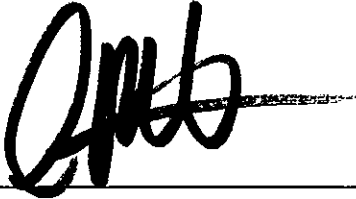
Hawaii is one of the most fossil fuel dependent states in the nation. Expanding the use of biofuels as a viable source of energy is one way in which our dependence on imported fossil fuels can be reduced and the use of biofuels is consistent with the State's goals relating to renewable energy and sustainability. Expanding the current Ethanol Facility Tax Credit to include other bioenergy production facilities and enable these facilities to be eligible for this tax credit will work towards this goal.

As such, your Committees have amended this measure by adopting the contents of the Proposed H.D. 1. Other technical, nonsubstantive amendments were also made for clarity, consistency, and style.

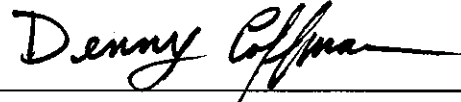
As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Economic Revitalization & Business that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 772, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 772, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Energy &
Environmental Protection and
Economic Revitalization &
Business,



ANGUS L.K. MCKELVEY, Chair



DENNY COFFMAN, Acting Chair



State of Hawaii
House of Representatives
The Twenty-sixth Legislature

HSCR 1120

Record of Votes of the Committee on Energy & Environmental Protection

Bill/Resolution No.: SB 772, SD2	Committee Referral: EEP/ERB, FIN	Date: 3/22/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EEP Members	Ayes	Ayes (WR)	Nays	Excused
1. MORITA, Hermina M. (C)				
2. COFFMAN, Denny (VC)	✓			
3. CABANILLA, Rida T.R.	✓			
4. CARROLL, Mele				✓
5. CHANG, Jerry L.	✓			
6. CHONG, Pono	✓			
7. HAR, Sharon E.				✓
8. HERKES, Robert N.	✓			
9. ITO, Ken				✓
10. NAKASHIMA, Mark M.	✓			
11. RIVIERE, Gil	✓			
12. THIELEN, Cynthia	✓			
TOTAL (12)	8	0	0	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

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House of Representatives
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Record of Votes of the Committee on Economic Revitalization & Business

Bill/Resolution No.: SSR SBTR SDZ 590	Committee Referral: ERP/ERB	Date: 3/22/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
ERB Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. AWANA, Karen L.	.	✓		
4. BROWER, Tom	✓			
5. EVANS, Cindy				✓
6. HASHEM, Mark J.	✓			
7. NISHIMOTO, Scott Y.	✓			
8. TOKIOKA, James Kunane				✓
9. TSUJI, Clift	✓			
10. MARUMOTO, Barbara C.	✓			
11. PINE, Kymberly Marcos	✓			
TOTAL (11)	8	1	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: _____ 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				