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IN REPLY REFER TO:

March 29, 2012

**HOUSE BILL NO. 101, HD 2 SD1**  
**RELATING TO TRANSPORTATION**

SENATE COMMITTEE ON WAYS AND MEANS

The Department of Transportation appreciates the intent of this bill, but wishes to inform the committee that airlines are already entitled to receive a credit for the aviation fuel tax, which is commonly used to offset expenses such as airport landing fees.

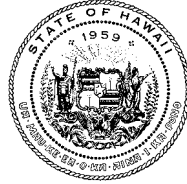
Thank you for the opportunity to provide testimony.





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To: The Honorable David Y. Ige, Chair  
and Members of the Senate Committee on Ways and Means

Date: Thursday, March 29, 2012  
Time: 9:00 A.M.  
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. No. 101 H.D. 2 SD 1, Relating to Transportation

The Department of Taxation (Department) offers the following comments on H.B. 101 HD2 SD1 for the Committee's consideration.

H.B. 101 HD2 SD1 creates an aviation fuel tax credit for aviation fuel taxes passed on by fuel distributors to interisland airplane carriers that transport people and goods between the islands of this State.

The Department notes the following concerns:

- The bill's effective date applies to all taxable years after July 1, 2012. The Department is not sure it will be able to implement all the tasks necessary to administer this tax credit by July 1, 2012.
- Unless the distributor is required to verify the amount of fuel taxes it passes on to an interisland airplane carrier, it may be difficult for the Department to verify that the income tax credit claimed by the carrier is correct and the amount claimed was actually paid. Furthermore, the current fuel tax form is not designed to have distributors separately report fuel taxes by customer and/or industries to the Department. Without any verification, this tax credit could easily be abused.
- Interisland airplane carriers are already able to deduct any fuel taxes paid from their income. This tax credit would provide a double benefit.
- Creation of a new tax credit will require the Department to make changes to its tax credit form, instructions, as well as updating of all related materials posted on our website.

Thank you for the opportunity to provide comments.

# TAXBILLSERVICE

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SUBJECT: FUEL, Fuel tax credit for interisland airplane carriers

BILL NUMBER: HB 101, SD-1

INTRODUCED BY: House Committee on Transportation and International Affairs

BRIEF SUMMARY: Adds a new section to HRS chapter 243 to allow taxpayers to claim an aviation fuel tax credit that shall be deducted from the taxpayer's net income tax liability for the taxable year in which the credit is properly claimed. The tax credit allowed shall be the amount of the fuel taxes passed on to the interisland airplane carrier by a distributor; not to exceed \_\_\_\_\_. Defines "interisland airplane carrier" as a business, person, or entity that owns or operates one or more airplanes to transport or convey baggage, passengers, or goods between the islands of this state for a fee.

Credits in excess of a taxpayer's income tax liability shall be refunded, provided such amounts are over \$1. All claims, including any amended claims, shall be 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 properly claim the credit shall constitute a waiver of the right to claim the credit. The director of taxation shall prepare the necessary forms to claim a credit, may require the taxpayer to furnish information to ascertain the validity of the claim for the credit, and may adopt rules necessary to effectuate the purposes of this section pursuant to HRS chapter 91.

EFFECTIVE DATE: Tax years beginning after June 30, 2012

STAFF COMMENTS: The proposed measure would allow an interisland air carrier in the state to claim an aviation fuel tax credit equal to the amount of the fuel taxes passed on to them by a distributor during a taxable year. While the measure provides that the tax credit, which is based on the amount of fuel taxes paid by the airline, shall be deducted against a taxpayer's income tax liability, it should be noted that the fuel tax on aviation fuel accrues to the state's airport special fund while the proposed tax credit would be applied against the state's net income tax which is a receipt of the state general fund. Thus, all taxpayers would be subsidizing the state airport system as opposed to the users of the airport facilities.

It should be remembered that tax credits generally are designed to alleviate an undue burden on those who are unable to carry that burden, largely the poor and low income. The adoption of this measure would result in nothing more than a subsidy by the state to interisland air carriers and would not in any way address the taxpayer's need for tax relief. Public subsidies are best handled through the appropriation process which allows transparency and accountability. Taxpayers would then know how much in public dollars is being spent and who is the beneficiary of those public dollars. A tax credit accomplishes neither accountability nor transparency.

If this proposal is to address the unfair competitive disadvantage of interisland carriers having to compete with international carriers who deliver their customers or freight directly to each of the islands utilizing bonded fuel which is not subject to the state's fuel tax on aviation fuel, then the simple solution

is to exempt that fuel from the fuel tax knowing full well that the shortfall of revenues created by the exemption will result in either less to spend on airport improvements or an increase in landing fees for all carriers. The strategy proposed in this measure amounts to nothing more than a subsidy provided by all taxpayers in the state. This is the identical error made by 1981 legislature which adopted an income tax credit for purchase of fuel by commercial fishers.

Digested 3/28/12