



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

**NEIL ABERCROMBIE**  
GOVERNOR

**RICHARD C. LIM**  
DIRECTOR

**MARY ALICE EVANS**  
DEPUTY DIRECTOR

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Statement of  
**Richard C. Lim**  
Director

Department of Business, Economic Development, and Tourism  
before the

**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

Tuesday, March 18, 2014  
9:00 a.m.

State Capitol, Conference Room 312

in consideration of  
**SB 2197, SD 2, HD1**  
**RELATING TO TAXATION.**

Chair Tsuji, Vice Chair Ward, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) has concerns about SB 2197, SD2, which would establish a renewable fuels production tax credit.

If it is the intent of the Legislature to adopt a renewable fuels production tax credit, DBEDT notes that the financial (approximately \$100,000) and human resources (.5 full time equivalent) required to administer the duties of this bill are not included in this bill. Further, DBEDT prefers the approach taken in Act 270 (13) for the Research Activities Tax Credit.

In addition, we defer to the Department of Taxation on the fiscal impact of the bill and while we defer to the Attorney General on the legal aspects, we are concerned that the definition of "renewable fuels" in the bill appears to be in conflict with the commerce clause of the US Constitution.

Thank you for the opportunity to offer these comments.

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Renewable fuels production tax credit

BILL NUMBER: SB 2197, HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

EXECUTIVE SUMMARY: Replaces the ethanol facility tax credit with a renewable fuels production tax credit of an unspecified amount with unspecified limits. As an alternative, this credit should be repealed and replaced with a direct appropriation as it: (1) would provide some accountability for the taxpayers' funds being utilized to support this effort; and (2) would not be a blank check.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to establish a renewable fuels production tax credit. The credit shall be allowed to taxpayers producing qualifying renewable fuels provided the credit shall not be claimed for more than five years.

The annual dollar amount of the credit shall be \_\_\_ cents per 115,000 British thermal units (BTU) of renewable fuels using the lower heating value produced for distribution in Hawaii; provided that the production by the facility is not less than 15 billion BTUs of renewable fuels per year. Limits the amount of tax credit that may be claimed by a taxpayer to \$\_\_\_ million per taxable year.

Defines "credit period," "net income tax liability" and "qualifying renewable fuels." "Renewable fuels" are fuels produced in the state from renewable feedstocks; provided the fuel shall be sold in the state as a fuel and meet the relevant ASTM International specifications for the particular fuel or other industry specifications for liquid or gaseous fuels, including but not limited to: (1) methanol, ethanol, or other alcohols; (2) hydrogen; (3) biodiesel or renewable diesel; (4) other biofuels; or (5) renewable jet fuel or renewable gasoline. Defines "renewable feedstocks" as feedstock requiring less than one barrel of oil, or the equivalent in derived oil-based products, per ton of feedstock to harvest and transport prior to processing in qualifying renewable fuels.

Requires the department of business, economic development and tourism (DBEDT) to verify and certify each claim for the credit including the total amount of credit for each taxable year and the cumulative amount of tax credit during the credit period. The department shall issue a certificate to qualifying taxpayers who shall file the certificate with the department of taxation (DOTax).

If the amount of credits exceeds the taxpayer's income tax liability, the excess of credit over liability may be carried over to future years.

Prior to production of any qualifying renewable fuels for the year, the taxpayer is to provide written notice of the taxpayer's intention to begin production of qualifying renewable fuels to DOTax and DBEDT with information on the taxpayer, facility location, facility production capacity, anticipated production start date, and the taxpayer's contact information. The taxpayer shall also provide written

notice to the directors of taxation and DBEDT within 30 days following the start of production and include the production start date and expected renewable fuel production for the next year.

In each calendar year during the credit period, the taxpayer shall provide information to the director of DBEDT on the number of BTUs of renewable fuels produced and sold during the previous calendar year, the type of fuels, feedstocks used for renewable fuels production, the number of employees of the facility and each employee's state of residency, and the projected number of BTUs of renewable fuels production for the succeeding year.

Requires taxpayers claiming the credit to complete and file with DBEDT through their website, an annual survey with information to allow the DBEDT to measure the effectiveness of the credit. Directs DBEDT to submit a report to the legislature annually by September 1.

Requires the department of taxation to prepare the necessary forms to claim the credit, requires the taxpayer to furnish information to validate a claim for the credit. Provides that the credit shall be available for tax years beginning after December 31, 2014; provided that the credit period shall begin in a tax year beginning before December 31, 2019.

Repeals the ethanol facility tax credit under HRS section 235-110.3.

EFFECTIVE DATE: July 1, 2050; applicable to tax years beginning after December 31, 2014

STAFF COMMENTS: The legislature by Act 289, SLH 2000, established an investment tax credit to encourage the construction of an ethanol production facility in the state. The legislature by Act 140, SLH 2004, changed the credit from an investment tax credit to a facility tax credit. This measure proposes to replace the ethanol facility tax credit with a renewable fuels production tax credit.

While it has been almost ten years since the credit for the construction of an ethanol plant in Hawaii was enacted and ground has not broken yet, it appears that there are other far more efficient biofuels which could be developed and, therefore, the existing credit, which is specific to ethanol, might not be available to assist in the development of these other types of fuels.

While the idea of providing a tax credit to encourage such activities may have been acceptable a few years ago when the economy was on a roll and advocates could point to credits like those to encourage construction and renovation activities, what lawmakers and administrators have learned in these past few months is that unbridled tax incentives, where there is no accountability or limits on how much in credits can be claimed, are indeed irresponsible as the cost of these credits goes far beyond what was ever contemplated. As an alternative, lawmakers should consider repealing this credit and look for other types of alternate energy to encourage through the appropriation of a specific number of taxpayer dollars. At least lawmakers would have a better idea of what is being funded and hold the developers of these alternate forms of energy to a deliberate timetable or else lose the funds altogether. A direct appropriation would be preferable to the tax credit as it would: (1) provide some accountability for the taxpayers' funds being utilized to support this effort; and (2) not be a blank check.

While ethanol was the panacea of yesterday, lawmakers have learned that there are more minuses to the use of ethanol than there are pluses. Ethanol production demands more energy to produce than using a

traditional petroleum product to produce the same amount of energy, and the demand for feedstock that is used to produce ethanol basically redirects that feedstock away from traditional uses, causing products derived from the feedstock to substantially increase in price.

When judging targeted tax incentives such as this one, we recommend revisiting the criteria proposed by the 2001-2003 Tax Review Commission:

- (i) *Cost-benefit studies.* Cost-benefit studies should be required prior to inaugurating new or revised tax credit programs. Policy makers should use only those programs with quantifiable and demonstrable benefits over costs. Such costs and benefits should not only look at fiscal and economic effects, but should examine social ones as well.
- (ii) *Periodic evaluations* of all tax incentive programs should be required.
- (iii) *Truth and disclosure reporting* separate and apart from a taxpayer's tax returns should generally be required of all taxpayers benefitting from tax incentive programs, making public all aspects of these subsidies for private investment.
- (iv) *Strategic planning.* Embed tax incentives in strategic plans, leveraging as much of the State's scarce resources as possible. Rather than promoting diverse incentives in search of a cohesive strategy, the State should employ only incentives that make strategic sense.
- (v) *Public participation.* Encourage public participation in and comment on tax incentive use to foster public accountability. There should at least be as much public discussion over generous multi-million dollar business incentive tax credits as there is over \$50,000 renovations to school libraries.
- (vi) *Sunset provisions* should be required to ensure that the above processes will be implemented before an incentive can be extended. It should be demonstrated to the Legislature that the targeted benefit to the State was in fact received, what the tax cost of that benefit was, and whether the continuation of the tax incentive is appropriate and necessary.
- (vii) *Enforcement.* Given the magnitude and the complexity of these business incentive tax credits, the small chance of audit, ambiguous statutory requirements as to what can be claimed as a credit, there must be legislative oversight of these credits. In addition, the Department of Taxation must be given sufficient resources to police these credits.

Rather than singling out a particular group for tax relief, concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses.

Digested 3/17/14

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

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To: The Honorable Clift Tsuji, Chair  
and Members of the House Committee on Economic Development and Business

Date: Tuesday, March 18, 2014  
Time: 9:00 A.M.  
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: S.B. 2197, S.D. 2, H.D. 1 Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 2197, S.D. 2, H.D. 1, and provides the following information and comments for your consideration with respect to incentives for the production of renewable fuels.

S.B. 2197, S.D. 2, H.D. 1, repeals the existing income tax credit for ethanol facilities and adds a new tax credit for the production of renewable fuels. The tax credit would be available for five consecutive years, with the credit period beginning in a year beginning before December 31, 2019, and would be certified by the Department of Business, Economic Development, and Tourism. The credit would have an unspecified cap per taxpayer per year. H.D. 1 has a defective effective date of July 1, 2050.

H.D. 1 removes the facially discriminatory language in the definition of "renewable feedstocks" from previous version of this measure; however, Section 4 of this measure still contains a severability clause. The Department defers to the Department of the Attorney General regarding the effectiveness of this severability clause and for a more thorough analysis of the constitutionality of S.B. 2197, S.D.2, H.D. 1.

The Department notes that tax measures that discriminate against interstate commerce are generally held unconstitutional by the courts. For example, the holding in Bacchus Imports Ltd. v. Dias, 468 U.S. 263 (1984), indicates that provisions that result in taxation that is

discriminatory against products imported from outside the State would violate the Commerce Clause of the United States Constitution.

The Department further notes that, while the requirement that the feedstock used to create renewable fuels requires no consumption of fuel to transport is sensible given the nature of the proposed tax credit, the Department is uncertain regarding the Constitutionality of this provision. Although the wording of the requirement has been changed from previous versions, the wording of the requirement is not the issue. Courts are required to look to the effect, not the wording, of tax measures to determine their constitutionality under the Commerce Clause. See Complete Auto Transit v. Brady, 430 U.S. 976 (1977). It is possible that, because renewable fuels could be used to transport the feedstocks from outside the state, this definition would be permissible under the Commerce Clause, but the Department again defers to the Department of the Attorney General for an analysis of that issue, as well as the requirement in this measure that the renewable fuel eligible for this tax credit must be sold within the State.

The amount of the credit, and the amount of credit available to an individual taxpayer, is unspecified. The Department notes that one hundred fifteen thousand British thermal units of fuel would likely correspond to roughly one gallon of renewable fuels.

Thank you for the opportunity to provide comments.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

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**REVISED 3/16/14**

Statement of  
**Richard C. Lim**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

Tuesday, March 18, 2014  
9:00 a.m.  
State Capitol, Conference Room 312

in consideration of  
**SB 2197, SD 2, HD1**  
**RELATING TO TAXATION.**

Chair Tsuji, Vice Chair Ward, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) comments on SB 2197, SD 2, HD1, which would establish a renewable fuels production tax credit.

DBEDT notes that the ambiguous definition of “renewable feedstocks,” specifically “requiring less than one barrel of oil...per ton of feedstock to harvest and transport prior to processing into qualifying renewable fuels,” could lead to difficulties in accurately interpreting and implementing the will of the Legislature.

If it is the intent of the Legislature to adopt a renewable fuels production tax credit, DBEDT notes that the financial (approximately \$100,000) and human resources (.5 full time equivalent) required to administer the duties of this bill are not included. Should the committee decide to proceed with this measure, we respectfully request that the additional funding requirement should not replace or adversely impact priorities indicated in our Executive Budget. Further, DBEDT prefers the approach taken in Act 270 (13) for the Research Activities Tax Credit whereby it uses an online survey for the tax credit taken instead of having DBEDT issue a certificate to the taxpayer.

We defer to the Department of Taxation on the fiscal impact of the bill.

Thank you for the opportunity to offer these comments.



**Directors**

Jody Allione  
Silver Ridge

Joe Boivin  
Hawaii Gas

Kelly King  
Pacific Biodiesel

Warren S. Bollmeier II  
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE  
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE  
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

SB 2197 SD2 HD1, Relating to Taxation

March 18, 2014

Chair Tsuji, Vice-Chair Ward and members of the Committee I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically- sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of SB 2197 SD2 HD1 are to: (i) establish a renewable fuels production tax credit to achieve greater energy security for Hawaii, and (ii) repeal the Ethanol Facility Tax Credit.

HREA **strongly supports** this measure with the following comments:

- 1) Meeting Our Clean Energy. This measure supports our clean energy goals by encouraging business opportunities in the production of renewable fuels in Hawaii.
- 2) Merits of a Production Tax Credit ("PTC"). We believe a PTC is the best way for the state to support biofuel production in Hawaii. With a PTC, a "producer" gets paid when the producer actually produces, not when he installs his production facility. This reduces the risk to the state significantly. The PTC has other features that we find attractive:
  - a) we believe the PTC will be easy to administer, including the qualification of biofuel facilities, and documentation of the types and amounts of biofuels produced and sold in Hawaii; and
  - b) the PTC will help facilitate effective producer-ag grower relationships to grow renewable feedstocks for the production of local renewable fuels.
- 3) Recommendations. We recommend that the payment rate per 115,000 BTU be 30 cents (line 7, p.2), and the project CAP be \$3M (line 15, p.2), which were the amounts included in previous versions of this bill. We recommend that the committee pass out this measures with these amendments

Mahalo for this opportunity to testify.



**ward2-Robin**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 14, 2014 4:45 PM  
**To:** edbtestimony  
**Cc:** ewooldridge@biodiesel.com  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/14/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Erin Wooldridge	Individual	Support	No

Comments:

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HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS  
Tuesday, March 18, 2014 – 9:00 a.m. – Room 312

**Ulupono Initiative Supports SB 2197 SD 2 HD 1 with amendments, Relating to Taxation**

Dear Chair Tsuji, Vice Chair Ward and Members of the Committee:

My name is Murray Clay and I am managing partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally grown food, increase renewable energy, and reduce/recycle waste. Ulupono invests in projects that have the potential to create large-scale, innovative change.

**Ulupono supports SB 2197 SD 2 HD 1 with amendments**, which establishes a renewable fuels production tax credit. In recent years Hawai'i has seen significant growth in renewable energy adoption moving the State towards its renewable energy goals. However, while the state locally produces about 14% renewable electricity, renewable fuels are far less than 1% of fuel use. Electricity represents approximately 40% of energy use in the state while transportation fuels account for a larger share at 51%. This is disturbing as this means we are making the least amount of progress to date in renewable production for the largest share of the state's energy use.

This important bill could be made more effective in achieving Hawai'i's renewable energy goals with three amendments:

1. Ulupono recommends, on page 2, line 7, the production tax credit be equal to 20 cents per one hundred fifteen thousand British thermal units.
2. On page 2, line 15, the per taxable year limit be put to at least \$6 million per taxable year, which is equivalent to 30 million gallons per year of production. It is important to note that renewable fuel facilities as large as 50 million gallons per year of capacity have been proposed for Hawai'i. Furthermore, ethanol imports alone, at a 10% blend with gasoline, amounted to more than 45 million gallons last year. If we want to replace a meaningful portion of imported fuels with locally produced renewable fuels, at least \$6 million per taxable year is a reasonable amount that balances enough incentive for developers while minimizing cost for the State.
3. The listing of renewable feedstocks that begins on page 3, line 20 should be expanded to include, "sugar and starch crops including but not limited to sugar cane and cassava." We understand that the phrase "other agricultural crops" could be interpreted to include sugar/starch crops used in biofuel production, but as oil crops were listed it seems prudent to list sugar & starch crops to avoid doubt. It is important to note that sugar and starch crops can be processed into ethanol today with existing technology meaning zero technology risk.

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We strongly believe that this bill has the potential to open the door for significant renewable energy growth in Hawai'i. In terms of renewable energy production, transportation fuels are significant behind electricity in "going green". This bill will help move renewable fuels forward.

Thank you for this opportunity to testify.

Respectfully,

Murray Clay  
Managing Partner

Email: [communications@ulupono.com](mailto:communications@ulupono.com)

**ward2-Robin**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 14, 2014 5:13 PM  
**To:** edbtestimony  
**Cc:** mheinemann@biodiesel.com  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/14/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Heinemann	Individual	Support	No

Comments:

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**ward2-Robin**

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**Sent:** Friday, March 14, 2014 5:24 PM  
**To:** edbtestimony  
**Cc:** jkking@hawaii.edu  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/14/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jenna Long	Individual	Support	No

Comments:

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**ward2-Robin**

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**Sent:** Friday, March 14, 2014 5:25 PM  
**To:** edbtestimony  
**Cc:** pennysfh@hawaii.rr.com  
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**SB2197**

Submitted on: 3/14/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Penny Levin	Individual	Support	No

Comments:

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**ward2-Robin**

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**Sent:** Friday, March 14, 2014 6:49 PM  
**To:** edbtestimony  
**Cc:** lzolezzi@biodiesel.com  
**Subject:** Submitted testimony for SB2197 on Mar 18, 2014 09:00AM

**SB2197**

Submitted on: 3/14/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Larry Zolezzi	Pacific Biodiesel	Support	No

Comments: Please help support renewable fuels and reduce imports of petroleum to Hawaii

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**ward2-Robin**

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**To:** edbtestimony  
**Cc:** zerowastemaui@gmail.com  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/15/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shaun Stenshol	Maui Recycling Service	Support	No

Comments:

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**ward2-Robin**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, March 15, 2014 4:52 PM  
**To:** edbtestimony  
**Cc:** unmanib@maui.net  
**Subject:** Submitted testimony for SB2197 on Mar 18, 2014 09:00AM

**SB2197**

Submitted on: 3/15/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Unmani Cynthia Groves	Individual	Support	No

Comments: Definitely!

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March 16, 2014

**Testimony on Senate Bill 2197, SD2, HD1 Relating to Taxation  
SUPPORT**

Committee on Economic Development and Business  
Representative Clift Tsuji, Chair  
Representative Gene Ward, Vice Chair  
Hearing March 18, 2014 at 9:00am, House Conference Room 312

Dear Chair Tsuji, Vice Chair Ward and Committee Members,

The employees, management and investors of the Pacific Biodiesel ohana thank you for hearing Senate Bill 2197, SD2, HD1 for consideration by the Committee on Energy and Environmental Protection. This bill is crucial to growing the biofuels industry in Hawaii, especially since our state is far behind in our transportation renewable energy goals. We testify in strong support of this bill, especially since the budget already includes the \$12 million in funding if nothing is done to sunset the Ethanol Facility credit.

This bill supports the State of Hawaii's interest in becoming more energy self-sufficient; however, we do ask you to consider reinstating the previous level of \$.30 per 115,000 BTUs and move the effective date to July 1, 2014 to bring maximum benefits to producers at this time of critical need. If SB2197 is passed, it will be one of the most important actions the Legislature can take to incentivize renewable fuel production, support current and future local jobs as well as ensure the future energy security of our island communities.

Pacific Biodiesel employs over 75 people in a wide range of positions from chemists to engineers, office and sales personnel to biodiesel facility operators and farmers, as well as outside consultants. Employment represents \$3 million in wages paid in 2013 and continued operations generate over \$10 million in revenue for the State of Hawaii every year. When biodiesel is purchased from Pacific Biodiesel in Hawaii, over 85% of the money stays in the Hawaii economy, and 98% of the money stays in the US economy. This is truly an economic boost as opposed to the economic drain of foreign petroleum.

It is the goal of all those connected with Pacific Biodiesel to continue with our mission to promote a clean, sustainable energy future through the community-based production of renewable fuels, but we need your help as federal support for biofuel continues to be inconsistent and short-term. Meanwhile, the petroleum industry with whom we must compete enjoys on-going, statutory support at all levels of government.

We ask you to consider our proposed changes and please pass Senate Bill 2197, SD2, HD1 to support the continued efforts of renewable fuel producers throughout the State of Hawaii.

Mahalo,

A handwritten signature in cursive script that reads "Kelly T. King".

Kelly King Vice  
President  
[ktk@biodiesel.com](mailto:ktk@biodiesel.com)

Hawaii spent more than \$5 billion on imported petroleum last year. Government support helps biofuel maintain competitiveness as compared to the highly subsidized and mature petroleum industry. The Economic Case for Biodiesel includes:

- Jobs and income
- Tax revenue for State
- Energy Security
- Biodiesel production supports HCEI renewable energy goals

In 2009, the U.S. biodiesel industry:\*

- Added \$4.1 billion to the GDP, increasing household income by nearly \$1 billion
- Supported nearly 23,000 jobs in all sectors of the economy
- Provided \$445 million of tax revenue to the Federal treasury
- Provided \$383 million to state and local governments

States and Counties that offer additional incentives would reap a greater share of the benefits

Real world experience indicates that one 5mil GPY biodiesel plant creates:

- \$25,000,000 in Revenue (5MMgal x \$5/gal = \$25MM) (more in Salem)
- \$22,500,000 remains in the State of Hawaii (90%)
- \$1,000,000 per year in GET revenue for the State (4% x \$25MM)
- With agricultural feedstock, numbers increase by 2-3x (Oil + Meal)
- With addition of non-direct activity, multiplier effect is 3-5x
- Total incentive cost could be up to \$1.5MM per year for one plant (\$.30 x 5MM GPY)

In addition, Pacific Biodiesel activities in Hawaii have realized the following benefits:

- Continuing Agricultural research to benefit economic growth in Ag sector
- Saving local businesses money with free UCO pick up and reduced charges for grease trap pumping services
- Extends life of existing landfills through diversion of waste oils
- Less state, city and county remediation costs (waste water systems) when waste oils are recycled.
- Co-Products distributed in Hawaii, ie. glycerin, seed cake will support other Hawaii industries
- Other local business activity created (through local biodiesel production)
  - Bio-Beetle Rental Cars
  - Industrial Solutions (new revenue stream providing UCO containers locally)

\* *Economic Impact of Eliminating the Biodiesel Tax Credit*, Report by John M. Urbanchuk, LECG LLC, Dec. 2009

**ward2-Robin**

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**From:** mailinglist@capitol.hawaii.gov  
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**To:** edbtestimony  
**Cc:** gaiwohi@hotmail.com  
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**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
George Aiwohi	Individual	Support	No

Comments:

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**To:** edbtestimony  
**Cc:** mgauvin@biodiesel.com  
**Subject:** Submitted testimony for SB2197 on Mar 18, 2014 09:00AM

**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mae Gauvin	Individual	Support	No

Comments: Hawaii needs to show that our communities don't need to rely on off-shore petroleum in order to function. This bill passing is extremely important to safe guard a future for our children and making clean energy a reality in every day living. Let's Do This and support something that is really going to make a difference in Hawaii!

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**To:** edbtestimony  
**Cc:** RMATSUO@BIODIESEL.COM  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
ROSS MATSUO	Individual	Support	No

Comments:

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**Sent:** Monday, March 17, 2014 10:51 AM  
**To:** edbtestimony  
**Cc:** rsrobinson@gmail.com  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rob Robinson	Individual	Support	No

Comments:

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**ward2-Robin**

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**Sent:** Monday, March 17, 2014 10:53 AM  
**To:** edbtestimony  
**Cc:** bwleighton@gmail.com  
**Subject:** \*Submitted testimony for SB2197 on Mar 18, 2014 09:00AM\*

**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

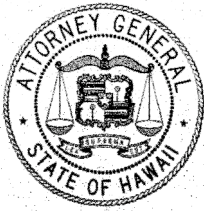
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brian Leighton	Individual	Support	No

Comments:

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**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2014**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2197, S.D. 2, H.D.1, RELATING TO TAXATION.

**BEFORE THE:**

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

**DATE:** Tuesday, March 18, 2014 **TIME:** 9:00 a.m.

**LOCATION:** State Capitol, Room 312

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Damien A. Elefante, Deputy Attorney General

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Chair Tsuji and Members of the Committee:

The Department of the Attorney General offers the following comments on this bill. The bill may be challenged as violating the Commerce Clause of the United States Constitution because it could be found to discriminate against interstate commerce.

The stated purpose of this bill is to establish a credit for “renewable fuels.” The bill defines “renewable feedstocks” as “feedstock requiring less than one barrel of oil, or the equivalent in derived oil based products, per ton of feedstock to harvest and transport prior to processing into qualifying renewable fuels. . . .” (Page 3, lines 16-19). The phrase “less than one barrel of oil” or equivalent fuel in the “harvest and transportation” of the feedstock seems to create, in affect, a geographical limitation on the harvest and transportation and harvest of feedstock to only those that are produced only in the State. One barrel of oil or equivalent fuel is not enough fuel to harvest and transport feedstock to the State from anywhere in the continental United States.

The limitation on the fuel used to harvest and transport that results in the use of feedstocks produced exclusively in the State, as created by this bill, appears to have similar purpose and effect as the exemption that violated the Commerce Clause in Bacchus. The severability clause in section 4, page 19, lines 15-20, does not change this discriminatory purpose and effect to favor local products (feedstock). We suggest removing the transportation limitation requirements contained in the definition of renewable feedstock.

A cardinal rule of Commerce Clause jurisprudence is that “[n]o State, consistent with the Commerce Clause, may ‘impose a tax which discriminates against interstate commerce . . . by providing a direct commercial advantage to local business.’” Bacchus Imports, Ltd. v. Dias, 468

U.S. 263, 268 (1984), *citing* Boston Stock Exchange v. State Tax Comm'n, 429 U.S. 318, 329 (1977).

In Bacchus, the United States Supreme Court found that an exemption similar to the exemption proposed in this bill violated the Commerce Clause. At issue in Bacchus was the Hawaii liquor tax, which was originally enacted in 1939 to defray the costs of police and other governmental services. Because the Legislature sought to encourage development of the Hawaiian liquor industry, it enacted an exemption from the liquor tax for okolehao (a brandy distilled from the root of the ti plant, an indigenous shrub of Hawaii) and for certain fruit wine manufactured in Hawaii. The United States Supreme Court concluded that the exemption violated the Commerce Clause because the exemption had both the purpose and effect of discriminating in favor of local products.

**ward2-Robin**

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**Sent:** Monday, March 17, 2014 3:12 PM  
**To:** edbtestimony  
**Cc:** ihemphi@live.com  
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**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Denise Key	Individual	Support	No

Comments:

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1110 University Avenue, Suite 402  
Honolulu, Hawaii 96826  
Tel: (808) 371-1475  
[www.REACHhawaii.org](http://www.REACHhawaii.org)

**Testimony of ERIK KVAM**  
**President of Renewable Energy Action Coalition of Hawaii**  
**e-mail: [Kvam@REACHhawaii.org](mailto:Kvam@REACHhawaii.org)**

**In SUPPORT of SB 2197 SD 2 HD1 RELATING TO TAXATION**

**Before the**  
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

**March 18, 2014 9:00 a.m.**

Aloha Chair Tsuji, Vice-Chair Ward and members of the Committee.

My name is Erik Kvam. I am the President of Renewable Energy Action Coalition of Hawaii (REACH), a trade association whose vision is a Hawaiian energy economy based 100% on renewable sources indigenous to Hawaii.

REACH is in **SUPPORT** of SB 2197 SD 2 HD1.

Hawaii is far behind in achieving its renewable goals for transportation. Transportation fuels account for about two-thirds of all the energy consumed in Hawaii. Virtually all of Hawaii's energy for transportation comes from imported fuels.

Without renewable fuel production from sources indigenous to Hawaii, Hawaii will have virtually no fuel available for critical transportation needs when imported fuels stop flowing to Hawaii.

REACH **SUPPORTS** SB 2197 SD 2 HD1 – creating a production tax credit of so-many cents per 115,000 BTUs of renewable fuels produced from sources indigenous to Hawaii -- to encourage the development of renewable fuel production from sources indigenous to

Hawaii, so that Hawaii has the transportation fuels it needs when imported fuels stop flowing to Hawaii.

Thank you for providing this opportunity to testify.

**ward2-Robin**

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**To:** edbtestimony  
**Cc:** dshinsato@biodiesel.com  
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**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dana Shinsato	Individual	Support	No

Comments:

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**Sent:** Monday, March 17, 2014 5:25 PM  
**To:** edbtestimony  
**Cc:** jan.b.alejandro@gmail.com  
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**SB2197**

Submitted on: 3/17/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jan Alejandro	Individual	Support	No

Comments:

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**To:** edbtestimony  
**Cc:** efzwick@gmail.com  
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**SB2197**

Submitted on: 3/18/2014

Testimony for EDB on Mar 18, 2014 09:00AM in Conference Room 312

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
edward f. zwick	Individual	Support	No

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