



# 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, SD-1

INTRODUCED BY: Senate Committee on Energy and Environment

**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 20 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 \$3 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 transported less than one thousand miles from point of origin to the production facility located in the state. 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 biomass crops; agricultural residues; oil crops, including but not limited to algae, canola, jatropha, palm, soybean and sunflower; other agricultural crops; grease and waste cooking oil; food wastes; municipal solid wastes and industrial wastes; and animal residues and wastes that can be used to generate energy.

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 in any year the annual amount of certified credits reaches \$12 million in the aggregate, DBEDT may discontinue certifying credits and notify 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.

Directs the director of DBEDT, following each year in which a credit under this section has been claimed, to submit a written report to the governor and legislature regarding the production and sale of renewable fuels. 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.

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

EFFECTIVE DATE: 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 2/18/14



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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jacqui Hoover	Hawaii Island Economic Development Board	Support	No

Comments: This bill is extremely important to the success of biofuel production in Hawaii; supports local biodiesel production, the local economy and local jobs. Hawaii Island Economic Development Board is a private, non-profit corporation established in 1984 for the purpose of supporting balanced economic development, job creation and opportunity on Hawai`i. Island. Testimony is submitted on behalf of HIEDB and its 100+ members and affiliates. Mahalo.

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**LATE**



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**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 1 RELATING TO TAXATION**

**Before the**  
**SENATE COMMITTEE ON WAYS AND MEANS**

**February 19, 2014 9:15 a.m.**

Aloha Chair Ige, Vice-Chair Kidani 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 1.

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 1 – 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.



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February 18, 2014

## **Testimony on Senate Bill 2197, Relating to Taxation SUPPORT**

Senate Committee on Ways and Means  
Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice Chair  
Hearing February 19, 2014 at 9:15pm, Conference Room 211

Dear Chair Ige, Vice Chair Kidani and Committee Members,

Thank you for the opportunity to testify in support of Senate Bill 2197. We wholeheartedly support this bill that will not only help the State of Hawaii achieve its transportation renewable energy goals but provide new quality jobs and a greater level of energy self sufficiency.

This bill is crucial if we are to sustain and even increase the number of jobs that the growing biofuels industry in Hawaii has created to date. For maximum benefit in this time of critical need, we ask you to consider reinstating the previous level of \$0.30 per 115,000 BTUs and moving the effective date to July 1, 2014. If SB 2197 is passed, it will be one of the most important actions the Legislature can take to promote renewable fuel production, support current and future local jobs as well as ensure the future energy security of our island communities.

Pacific Biodiesel alone 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. Hawaii's biofuels industry supports a broad range of quality local jobs and generates economic benefits in our communities, as outlined in the attached page two of this testimony.

We urge you to consider the proposed changes outlined above and pass SB2197. Please support the efforts of Hawaii's renewable fuel producers as they strive to provide economic and environmental benefits throughout the State.

Mahalo,

A handwritten signature in black ink that reads "Beth Mathias". The signature is written in a cursive, flowing style.

Beth Mathias  
Director, Sales & Marketing  
[bmathias@biodiesel.com](mailto:bmathias@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





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**SB2197**

Submitted on: 2/18/2014

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cameron Healy	Pacific Biodiesel/ Big Island Biodiesel	Support	No

Comments: Please support SB2197, as it is critical to building capacity for locally produced biofuel.

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**SB2197**

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

Comments:

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mark Schacht	Green Divers Productions	Support	No

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**SENATE COMMITTEE ON WAYS AND MEANS**

February 19, 2014, 9:15 A.M.

Room 211

**(Testimony is 1 page long)**



**TESTIMONY IN SUPPORT OF SB 2197**

Chair Ige and members of the Committee on Ways and Means:

The Blue Planet Foundation supports SB 2197, expanding the eligibility for biofuel production facilities beyond ethanol. This policy—providing a biofuel facility tax credit to incentivize the needed development and construction of such facilities—will provide greater support for Hawaii’s diverse biofuel production infrastructure.

Biofuels will likely play a major role in Hawaii’s clean energy future—particularly as a substitute for petroleum-based transportation fuels. Transportation fuels in Hawai`i can be made from renewable resources, such as biomass in various forms, algae, and waste products. These materials are neither as scarce nor as expensive as crude oil. Even more importantly, these materials are available here. Hawai`i should set a clear course for a steady, incremental transition to renewable fuels including local and sustainable biofuels.

Blue Planet also supports policy to require that a certain percentage (5%, 10%) of diesel fuel sold in Hawai`i be biodiesel. One of Hawai`i’s entrepreneurial success stories is biodiesel, a fuel that can be created from recycled cooking grease and oils or grown locally, and that can be substituted in place of fossil fuel-based diesel for transportation. Already, this local industry is creating enough fuel to displace 5% of transportation diesel fuel sold in the state. The biofuels industry is also making headway on the state’s use of aviation fuels; HawaiiBioenergy has completed an agreement with Alaska airlines to power Hawai`i flights with biofuels starting as soon as 2018.

Blue Planet supports a mandate to blend biodiesel with all locally sold diesel fuel. This smart step will help to continue the momentum for a local industry to supply indigenous clean energy for our transportation energy needs.

Thank you for the opportunity to testify.

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**SB2197**

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<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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**SB2197**

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carolyn Loeffler	Individual	Support	No

Comments: We strongly support SB2197. This bill is extremely important to the success of Big Island Biodiesel and future biofuel production in Hawaii. This bill supports local biodiesel production, the local economy and local jobs. Thank you for the opportunity to share. William and Carolyn Loeffler

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Daniel Mizner	Individual	Support	No

Comments: This is absolutely necessary for our renewable fuels here in Hawaii

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David B. Fisher	Individual	Support	No

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

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**SB2197**

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Doug Olds	Individual	Support	No

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<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Erik Stein	Individual	Support	No

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Harold Yamada	Individual	Support	No

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Jan Alejandro	Individual	Support	No

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**SB2197**

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

Comments:

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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<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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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kekoa Kaluhiwa	Individual	Support	No

Comments: I STRONGLY SUPPORT the establishment of a renewable fuels production income tax credit. The intent of this bill will be a critical component in supporting the clean energy and transportation fuels goals for the state of Hawaii. Such an opportunity to support domestically produced biofuels and local jobs is an endeavor that our state legislature should support wholeheartedly. Mahalo for the opportunity to comment in support of SB2197. Aloha, Kekoa Kaluhiwa

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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

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

Comments:

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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
matthias kusch	Individual	Support	No

Comments: I support SB2197 as it will help support good paying jobs in our communities, as well as increase farming activities in the state of hawaii via the use of more feed stocks for biodiesel. Please pass this important bill and help Hawaii succeed in it's drive towards energy self sufficiency. Thank you! Matthias Kusch

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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<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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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Gauvin-LaDuke	Individual	Comments Only	No

Comments: Im 14.

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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<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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**SB2197**

Submitted on: 2/19/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Russell Grass	Individual	Support	No

Comments:

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**SB2197**

Submitted on: 2/18/2014

Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Terry Hans	Individual	Support	No

Comments:

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**SB2197**

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Testimony for WAM on Feb 19, 2014 09:15AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Tony Pastrama	Individual	Support	No

Comments:

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