David Y. Ige
GOVERNOR
Luis P. Salaveria
DIRECTOR
Mary Alice Evans
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt
Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ENERGY & ENVIRONMENTAL PROTECTION

Tuesday, March 22, 2016
8:30 a.m.
State Capitol, Conference Room 325

in consideration of
SB 2652, SD2, PROPOSED HD1
RELATING TO TAXATION.

Chair Lee, Vice Chair Lowen, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) offers comments on SB 2652, SD2, PROPOSED HD1, which establishes a renewable fuels production tax credit (TC), repeals the ethanol facility tax credit, and establishes a tax credit for organic food production. SD2 changes the renewable fuels production tax credit from a refundable to a non-refundable tax credit and changes the effective date from July 1, 2016, to July 1, 2050. HD1 establishes an organic foods production tax credit. DBEDT does not take a position on the SD2 or HD1 amendments.

DBEDT is concerned that this bill does not provide a clear definition of how much renewable feedstock must originate from Hawaii and be used for renewable fuel production and qualify for the full tax credit, thus negating potential diversification of our energy portfolio with indigenous resources and allowing subsidization of non-indigenous resources. For example, a renewable fuel producer may use only 1% Hawaii grown renewable feedstock and blend it with another 99% non-Hawaii sourced renewable feedstock and still qualify for the full tax credit under the present language under the bill. Therefore, this bill will require more clarity on the administration of the tax credit and how it will be computed, especially if a blend of renewable feedstock is allowed.

The bill limits the tax credit to a maximum of $3.0 million per year, allowing a single taxpayer to capture the full amount of the credit, thus concentrating the tax credit benefit with a single entity and defeating our policy of creating an efficient market.

Further, DBEDT is also concerned about several issues regarding its responsibilities under this bill. First, DBEDT lacks the expertise and staffing to execute the required verification and certification requirement and would also require further clarity on the implementation of the verification and certification process. Second, DBEDT lacks and will require the necessary funding and budget allocation to execute the responsibilities under the Bill (i.e., DBEDT would require $100,000 and at least a .5 full time equivalent staff each year for the duration of its responsibilities under this measure). Finally, DBEDT would require further clarity on the prioritization of the aggregate tax credit should, for example, all renewable fuel producers turn in the tax credit applications all at once.

Finally, regarding DBEDT's role in verifying and certifying the tax credits, DBEDT suggests that the Legislature consider having the renewable fuel producer(s) self-certify by providing required confirmation via an independent third party and impose upon participating renewable producers a performance penalty that is material enough to hold them accountable for meeting their stated self-certified renewable fuels production (i.e., a 200 percent recapture of all tax credit allocated and lifetime ban of any future tax credit participation in the State).

DBEDT defers to the Department of Taxation on the administration of the renewable fuels production tax credit.

Thank you for the opportunity to offer these comments regarding SB 2652, SD2, PROPOSED HD1.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

JOSEPH K. KIM
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy and Environmental Protection

Date: March 22, 2016
Time: 8:30 A.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 2652, S.D. 2, Proposed H.D. 1, Relating to Taxation.

The Department of Taxation (Department) appreciates the intent of S.B. 2652, S.D. 2, Proposed H.D. 1, and offers the following comments for your consideration.

S.B. 2652, S.D. 2, Proposed H.D. 1, repeals the ethanol facility tax credit and establishes a refundable renewable fuels production tax credit. The new tax credit is available at the rate of 20 cents per 76,000 British thermal units of fuel produced and has a per-taxpayer and aggregate cap of $3,000,000 per taxable year. The credit is certified by the Department of Business, Economic Development and Tourism (DBEDT). This measure additionally creates an organic foods production tax credit, which is equal to the qualified expenses of a qualified taxpayer. The organic foods production tax credit has a per-taxpayer cap of $10,000 per taxable year and an aggregate cap of $5,000,000 per taxable year. The measure has a defective effective date of July 1, 2050 and would apply to taxable years beginning after December 31, 2016. The renewable fuels production tax credit has a sunset date of December 31, 2021.

First, regarding the renewable fuels production tax credit, the Department notes that, as a general matter, the Department recommends non-refundable credits over refundable credits, because refundable credits are more prone to wrongful claims and abuse. Prior versions of this credit contained requirements that were likely to be impermissible under the Commerce Clause of the United States Constitution. Those requirements have been removed in this version of the measure, but the Department defers to the Department of the Attorney General for an analysis of the constitutionality of this tax credit.

Second, regarding the organic foods production tax credit, the Department notes that it is required to verify and certify the expenses for which a taxpayer may claim this credit. This requirement will cause difficulties in administering this tax credit. Although the Department is allowed to collect a fee for the certification, the knowledge necessary to adequately certify these expenses is outside the scope of tax administration. Most of the costs listed in paragraph (4) of the definition of "qualified expenses" require specialized knowledge that the Department does not possess. For example, it is difficult for the Department to determine whether a particular piece of equipment is necessary for organic certification or production of agricultural products, or whether such equipment would be in accordance with the referenced federal program, as the Department has no expertise or understanding of what is needed for agricultural production.

Similarly, the requirements for a "qualified taxpayer" in this measure would require the Department to have considerable knowledge of the standards and requirements of the Organic Foods Production Act, which is outside the scope of the Department's duties and authority. The Department therefore suggests that this credit be certified by a different government agency that has the resources and knowledge necessary to certify this credit, similar to the DBEDT certification contained in the renewable fuels production tax credit also contained in this measure. Certification by a department with expertise in the necessary areas would ease administration of this tax credit and reduce the chance of unintended revenue consequences.

Finally, it is important to note that the Department should not be certifying any tax credit, as it is the Department's responsibility to examine, audit, and potentially deny tax credits whole or in part. Pre-filing certification by the Department gives taxpayers the wrong impression that the tax credit has been approved and will not be examined, audited, or denied. Requiring the Department to do pre-filing certification would create a conflict between its pre-filing and post-filing duties.

Thank you for the opportunity to provide comments.

HREA
HAWAII RENEWABLE ENERGY ALLIANCE

Directors

Jody Allione
Project Development Consultant

Joe Boivin
Hawaii Gas

Kelly King
Pacific Biodiesel

Warren S. Bollmeier II
WSB-Hawaii

TESTIMONY IN **SUPPORT**

WARREN BOLLMEIER ON BEHALF OF THE
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

SENATE BILL 2652 SD2 Proposed HD1 Relating to Taxation

TUESDAY, MARCH 22, 2016 8:30 AM

Chair Lee, Vice Chair Lowen and Members of the Committee Energy and Environmental Protection,

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 this Act in SD1 are to establish a five-year renewable fuels production tax credit and repeal the ethanol facility tax credit. Proposed HD1 proposes the same and to establish an organic foods production tax credit.

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

1) Biofuels can diversify Hawaii's fuel mix, which can increase system reliability and reduce risk.
2) Intermittent Wind and Solar can be better managed with complementary firm power from Biofuels.
3) Biofuels can displace oil and be utilized in the transportation sector.
4) Biogas production is limited in Hawaii and is there are no incentives to produce biogas, which is a proven technology in other parts of the world.
5) SB2652 SD1 is a version that corrects the AG issues from a previously passed but Governor vetoed bill in the 2015 Legislative Session (SB349 SD2 HD2 CD1) (BM1332)
6) We have no comments on the organic foods production tax credit.

Recommendation: We recommend passing the measure.

Mahalo for this opportunity to testify.

46-040 Konane Place #3816, Kaneohe HI 96744 • www.http://hawaiirenewableenergy.org: 808.247.7753 •wsb@lava.net

SUBJECT: INCOME, Renewable Fuels Facility Tax Credit, Organic Food Production Credit

BILL NUMBER: SB 2652, Proposed HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

EXECUTIVE SUMMARY: Replaces the ethanol fuels income tax credit with a renewable fuels production income tax credit to encourage the production of such fuels. Also adds a new organic food production credit that has not yet been heard in either chamber. A direct appropriation would be preferable as it would provide some accountability for the taxpayer funds being utilized to support this effort. Meaning, we as taxpayers know what we're getting and we know how much we're paying for it.

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 76,000 British thermal units (BTU) of renewable fuels using the lower heating value sold for distribution in Hawaii; provided that the taxpayer's production of renewable fuels 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" and "net income tax liability." Defines "renewable fuels" as fuels produced from renewable feedstocks provided that the fuels shall be sold 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) biogas; (5) other biofuels; or (6) renewable jet fuel or renewable gasoline.

Defines "renewable feedstocks" as (1) biomass crops; (2) agricultural residues; (3) oil crops, including but not limited to algae, canola, jatropha, palm, soybean, and sunflower; (4) sugar and starch crops, including but not limited to sugar cane and cassava; (5) other agricultural crops; (6) grease and waste cooking oil; (7) food wastes; (8) municipal solid wastes and industrial wastes; (9) water; and (10) 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 $3 million in the aggregate, DBEDT shall discontinue certifying credits and notify the department of taxation.

If the amount of credits exceeds the taxpayer's income tax liability, the excess of credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a credit under this section shall be properly 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 comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

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 director of taxation and the director of 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.

In the case of a partnership, S corporation, estate, or trust, distribution and share of the tax credit for renewable fuels production shall be determined pursuant to section 704(b) (with respect to partner's distributive share) of the Internal Revenue Code.

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 DOTAX to prepare the necessary forms to claim the credit, and DOTAX may require the taxpayer to furnish information to validate a claim for the credit, and may adopt rules necessary to effectuate the purpose of the law pursuant to chapter 91.

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

Adds a new section to HRS chapter 235, to be titled the organic foods production tax credit. The credit shall be allowed to a qualified taxpayer, and the credit amount is 100% of the taxpayer's qualified expenses, up to a maximum of $10,000.

Defines "qualified taxpayer" as a producer, handler, or handling operation, as those terms are defined in section 6502 of title 7, United States Code: (1) that sells agricultural products meeting the standards and requirements of the Organic Foods Production Act; (2) that has applied for organic certification, in accordance with the requirements of the Organic Foods Production Act; and (3) whose gross income from the sale of organically produced agricultural products for the most recently reported fiscal year totals no more than $50,000.

Defines "qualified expenses" as expenses incurred by a qualified taxpayer to produce organically produced agricultural products, including expenses incurred to obtain organic certification from the United State Department of Agriculture, pursuant to the Organic Foods Production Act. "Qualified expenses" include: (1) application fees; (2) inspection costs; (3) fees related to equivalency agreement/arrangement requirements, travel/per diem for inspectors, user fees, sales assessments, and postage; and (4) costs for any equipment, materials, or supplies necessary for organic certification or production of agricultural products, in accordance with the qualified taxpayer's organic system plan and the organic production and handling requirements of the National Organic Program, codified at 7 Code of Federal Regulations part 205, subpart C, including but not limited to certified organic seed, cover crops, or animal feed. "Qualified expenses" shall not include any amount refunded or to be refunded to the taxpayer by the United States Department of Agriculture's organic certification cost-share program or any other similar financial assistance program.

Requires DOTAX 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 taxpayer’s tax return.

Allows DOTAX to assess and collect a fee to offset the cost of certifying tax credit claims. Fees collected will be deposited into the tax administration special fund.

If the amount of credits exceeds the taxpayer’s income tax liability, the excess of credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a credit under this section shall be properly 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 comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

The total amount of credits allowed shall not exceed $5 million for all qualified taxpayers in any taxable year; however, any taxpayer who is not eligible to claim the credit in a taxable year due to the $5,000,000 cap having been exceeded for that taxable year shall be eligible to claim the credit in the subsequent taxable year.

EFFECTIVE DATE: July 1, 2050; applies to taxable years beginning after December 31, 2016. The renewable fuels production tax credit sunsets on 12/31/2021.

STAFF COMMENTS:

Renewable Fuels Production Income Tax Credit: Act 289, SLH 2000, established an investment tax credit to encourage the construction of an ethanol production facility in the state. 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 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 years is that unbridled tax incentives, where there is no accountability or limits on how much in credits can be claimed, are irresponsible as the cost of these credits goes far beyond what was ever intended. Instead, lawmakers should consider repealing the ethanol facility 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.

Ethanol was the panacea of yesterday; lawmakers have since 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. It may make sense to encourage development of other alternative fuels that will not have these issues, but doing it in open-ended fashion by way of a tax credit is an invitation to abuse.

An appropriation of taxpayer dollars for such untried and unproven technologies would be far more accountable than the tax credit as such technologies would have undergone the scrutiny of lawmakers. Providing a tax incentive is an indicator that lawmakers are unwilling to do the hard research and unwilling to impose strict discipline in the expenditure of hard-earned tax dollars. The tax incentive approach represents nothing more than a hope and a wish that some breakthrough will be made, no matter how inefficient it may be, that some alternative to fossil fuel will be found. In the meantime, those tax dollars will be wasted on some unproven folly. If this were an appropriation, taxpayers would then know who to hold accountable for the waste of those tax dollars.

Organic Foods Production Tax Credit: This credit appears to be an entirely new idea, that has not previously been heard this session. The credit appears to be structured similarly to the high technology business investment tax credit, formerly in HRS section 235-110.9.

As with any other targeted tax credit, this measure picks winners and losers in the marketplace. The winners are the qualified taxpayers, and the losers are the rest of us who need to pay for the cost of government and make up for the winners.

One troubling aspect of this tax credit is that there has been no hearing held on this proposed credit in either house yet. If the House allows entirely new matter to be introduced after first crossover, it limits the opportunity for discussion and public comment on the matter before the Senate; and vice versa.

These, along with numerous other proposals targeted at specific types of business activity, are truly an indictment of what everyone has known and acknowledged since before Hawaii became a state, that is, the climate imposed by government regulations and taxation makes it difficult to survive without some kind of subsidy such as tax credits from government. Once those subsidies disappear, so will the businesses. Instead of throwing out such breaks for special interests, lawmakers must endeavor to make Hawaii's business climate more welcoming and conducive to nurturing entrepreneurs.

Digested 3/19/2016

Derrick Kiyabu
Director, Beginning Farmer Training Program
The Kohala Center
PO Box 437462
Kamuela, HI 96743

3/20/16

RE: SB 2652 SD2 RE: RELATING TO TAXATION

POSITION: **Support**

Dear Honorable Senators Gabbard, Chun-Oakland, Kidani, Nishihara, Harimoto, Riviere, Shimabukuro, and Slom:

I encourage you to support SB 2652 SD2, relating to taxation. I am writing specifically in support of the "Organic Foods Production Tax Credit" within SB 2652 SD2.

For the last three years, I have been the director of The Kohala Center's Beginning Farmer Training Program, and have trained over 100 new farmers from all districts of Hawaii Island. An overwhelming majority of these new and aspiring farmers are interested in running small to mid-sized sustainable and organic farms. However, small-scale organic farmers face numerous challenges which include: high input costs (relative to conventional inputs), high costs of production (lack of mechanization, high labor needs), and often times low returns due to market price volatility of Organic produce. Despite the many social and environmental benefits Organic farmers face great economic challenges.

The latest issue of the journal Nature Plants (February 2016) contains an article titled "Organic agriculture in the twenty-first century" (Reganold and Watcher), has looked into four key sustainability metrics: profitability, environmental impact, economic viability, and social well-being. Reganold and Wtacher have found that while Organic farming systems produce lower yields, compared to conventional agriculture, they provide greater ecosystem services and social benefits. Additionally, they find that significant barriers exist to adopting sustainable and organic farming practices, and that a diversity of policy instruments are required to facilitate their development and implementation. SB 2652 is but one policy instrument that can assist Organic farmers achieve financial sustainability.

Thank you for your attention and consideration of this opinion

Sincerely,
Derrick Kiyabu
dkiyabu@kohalacenter.org

REACH
RENEWABLE ENERGY ACTION COALITION OF HAWAII
1110 University Avenue, Suite 402
Honolulu, Hawaii 96826
Tel: (808) 371-1475
www.REACHawaii.org

Testimony of ERIK KVAM
Director of Renewable Energy Action Coalition of Hawaii
e-mail: Erik.Kvam@REACHawaii.org

In SUPPORT of SB 2652 RELATING TO TAXATION

Before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Tuesday, March 22, 2016 8:30 a.m.

Aloha Chair Lee, Vice-Chair Lowen and members of the Committee.

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

REACH is in **SUPPORT** of **SB 2652**.

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 2652 –** creating a production tax credit of so-many cents per 76,000 BTUs of renewable fuels produced from sources indigenous to Hawaii -- to encourage the development of renewable fuel production from sources indigenous to

Hawaii. REACH **SUPPORTS SB2652**, so that Hawaii has the transportation fuels it needs when imported fuels stop flowing to Hawaii.

Thank you for providing this opportunity to testify.

PACIFIC BIODIESEL
TECHNOLOGIES

40 Hobron Avenue
Kahului, Hawaii 96732
(808) 877-3144
Fax (808) 877-5030
www.biodiesel.com

March 21, 2016

Testimony on Senate Bill 2652, SD2 HD1 Relating to Taxation
SUPPORT

Committee on Energy and Environmental Protection
Representative Chris Lee, Chair
Representative Nicole Lowen, Vice Chair
Hearing March 22, 2016 at 8:30 a.m., Conference Room 325

Dear Chair Lee, Vice Chair Lowen and Committee Members,

The management, investors and 70+ employees of the Pacific Biodiesel ohana thank you for hearing Senate Bill 2652 SD2 HD1 for consideration by the Committee on Energy and Environmental Protection. This bill is crucial to the expansion of the biofuels industry in Hawaii, especially since our state is so far behind in transportation renewable energy use. We testify in strong support of this measure, with a couple of suggested amendments.

This bill supports the State of Hawaii's interest in becoming more energy self-sufficient, and does not add any additional burden to the state budget as it actually reduces the funding already designated for ethanol facility investment. If the bill is passed as a refundable credit, it will be one of the most important actions the Legislature can take to incentivize local renewable fuel production, support current and future local jobs and ensure the future energy security of our island communities. While we support the intent of the agricultural credits, we strongly suggest the removal of this specific credit to another bill that would be a more appropriate vehicle.

Pacific Biodiesel employs about 70 people in a wide range of positions from chemists to engineers, office and sales personnel to biodiesel facility operators and farmers, as well as numerous outside consultants, trucking and shipping operations. Employment represents over $3 million in wages paid in 2015 and continued operations generate over $20 million in revenue in 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. The local biofuels industry needs your help as federal support for biofuel continues to be inconsistent and short-term.

We ask you to please pass SB2652, SD2 HD1, with amendments, to support the continued efforts of renewable fuel producers throughout the State of Hawaii.

Mahalo,

Robert O. King

Robert King
President
bking@biodiesel.com

HAWAIʻI CENTER FOR FOOD SAFETY

House Committee on Energy & Environmental Protection

Hawai'i Center for Food Supports SB2652 HD1 Proposed Relating to Tax

Dear Chair Lee, Vice Chair Lowen, and Members of the Committee:

My name is Dr. Ashley Lukens and I am the Hawaiʻi Director for the Center for Food Safety (CFS). CFS is a nationwide public interest, sustainable agriculture nonprofit organization whose mission centers on furthering the public's right to know how their food is produced, through labeling and other means. We have over 750,000 farmer and consumer members across the country, including nearing 10,000 in Hawaiʻi. On behalf of CFS and our members, I thank you for the opportunity to speak to you today regarding this important bill.

CFS has been dedicated to addressing the human health and environmental impacts of our increased reliance on pesticide use in food production, both in the State of Hawaiʻi and nationally. We were instrumental in providing legal and communications support in the passage of numerous ordinances relating to pesticide use and disclosure, such as Kauaʻi's Bill 2491. Since 2014, as the inaugural director here in Hawaiʻi, I have worked closely with community members across the state, in all counties, and have played an instrumental role in the passage of Maui's moratorium on GE production until companies submit environmental and public health impact assessments.

I am writing in support of SB2652 SD2, relating to tax. Specifically, HCFS supports §235-B on organic foods production tax credit. Hawaiʻi desperately needs more local and safe food production, but high costs are deterring farmers from establishing and expanding organic farms. This measure would help local, organic farmers safely feed Hawaiʻi.

Organic food production costs are extremely higher than conventional food production due to many reasons. First, the cost of organic material, such as fertilizer, can be double that of conventional farming.[i] In addition to more expensive materials, organic operations are typically more labor intensive per output which limits economies of scales.[ii] Not only are more worker-hours costly but Hawaiʻi's agriculture wages are 35% higher than the US average.[iii]

Farmers are also struggling to find affordable land on these Hawaiian Islands that are overrun by residential and commercial development.[iv] Hawaiʻi's agriculture land costs are about four times higher than the US average.[v] This greatly inhibits local people from establishing farms in our states' limit space.

In a growing organic industry, it is important to be organic certified which bring certification costs that can be upwards of thousands of dollars.[vi] The US government intensely subsidizes conventional farming as opposed to the minimal subsidies allotted for organic farms. For

NATIONAL HEADQUARTERS
660 Pennsylvania Avenue, SE, Suite 302
Washington, D.C. 20003
T: 202-547-9359 F: 202-547-9429

CALIFORNIA OFFICE
303 Sacramento Street, 2nd Floor
San Francisco, CA 94111
T: 415-826-2770 F: 415-826-0507

PACIFIC NORTHWEST OFFICE
917 SW Oak Street, Suite 300
Portland, OR 97205
T: 971-271-7372 F: 971-271-7374

HAWAIʻI OFFICE
1132 Bishop Street, Suite 2107
Honolulu, Hawaii 96813
T: 808-681-7688

office@centerforfoodsafety.org centerforfoodsafety.org

example, in 2008, $7.8 billion was used for subsidies for conventional farming as compared to $15 million for organic and local food production.

Although these financial concerns about organic farming are daunting, the benefits of pesticide-free food production far out-weigh the cons. Assisting organic farmers to initiative and grow their business would benefit our environment, economy, and social well-being. More organic farms would fight climate change, increase local jobs, and improve local human health but to do this, financial assistance is needed due to the reasons above.

Thank you for the opportunity to testify, and I am happy to answer any follow up questions or provide additional analysis.

Respectfully,

Ashley Lukens
Director, Hawai'i Center for Food Safety

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[i] Miller, E. (2013). What Are The Challenges of Organic Farming? *Hawai'i Tribune-Herald.* http://hawaiitribune-herald.com/sections/news/local-news/what-are-challenges-organic-farming.html?qt-popular_quick_tab=1

[ii] Food and Agriculture Organization of the United Nations. (2016). Organic FAQ. http://www.fao.org/organicag/oa-faq/oa-faq5/en/

[iii] Cox, L. (2012). Why Local Agricultural Products Cost So Much. CTHAR. http://www.ctahr.hawaii.edu/sustainag/news/articles/V10-Cox-AgCosts.pdf

[iv]Echardt, J. (2011). Affordable ag land, money, knowledge: Ingredients for cultivating Hawaii's food future. *The Hawai'i Independent.* http://hawaiiindependent.net/story/farmers-problems

[v] Cox, L. (2012). Why Local Agricultural Products Cost So Much. CTHAR. http://www.ctahr.hawaii.edu/sustainag/news/articles/V10-Cox-AgCosts.pdf

[vi] United States Department of Agriculture. (2016). FAQ: Becoming a Certified Operation. https://www.ams.usda.gov/services/organic-certification/faq-becoming-certified

From:	mailinglist@capitol.hawaii.gov
Sent:	Friday, March 18, 2016 9:12 PM
To:	EEPtestimony
Cc:	pamelaboyar@gmail.com
Subject:	Submitted testimony for SB2652 on Mar 22, 2016 08:30AM

SB2652
Submitted on: 3/18/2016
Testimony for EEP on Mar 22, 2016 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Boyar	Farm Lovers Farmers Markets	Support	No

Comments: This bill will be great encouragement to all the regenerative farmers to get certified. Their are so many up and coming farmers on Oahu that need financial incentives to help them compete with cheap mainland imports. We fully support this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Email: communications@ulupono.com

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Tuesday, March 22, 2016 — 8:30 a.m. — Room 325

Ulupono Initiative Strongly Supports SB 2652 SD 2 with Amendments, Relating to Taxation

Dear Chair Lee, Vice Chair Lowen, 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 produced food; increase affordable, clean, renewable energy; and reduce waste. We believe that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono strongly supports SB 2652 SD 2, which establishes a renewable fuels production tax credit, because it aligns with our goal of increasing the production of clean, renewable energy in Hawai'i.

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 two amendments:

1. On page 4, line 21, 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.

2. On page 6, line 10, the aggregate limit should be increased to $18 million. In truth, any aggregate limit will make biofuels production facilities much more difficult to finance since the developer can never be sure his/her project will be completed in time to receive the credit – before the aggregate limit is reached. This means developers will not be able to include such benefits in their financing decisions. Nevertheless, understanding that the committee would prefer to have a limit to reduce the risk of an unexpectedly large tax credit claim, an $18 million limit seems reasonable. This would then allow up to three 30 million gallon per year facilities in Hawaiʻi if amendment #1 above was also adopted. That would be 90 million gallons per year in aggregate or about double the amount of imported ethanol. This would also allow for production facilities on more than one island – for example, one 30 million gallon per year facility on three different islands.

Furthermore, we also request that on page 4, line 14, the production tax credit remain equal to 20 cents per seventy six thousand British thermal units throughout the remaining legislative process. We feel that is a reasonable figure that would incentivize production while limiting impact to the State's budget.

We strongly believe that this bill has the potential to open the door for significant renewable energy growth in Hawaiʻi.

As Hawaiʻi's energy issues become more complex and challenging, we appreciate this committee's efforts to look at policies that support renewable energy production.

Ulupono has no comments on Part III of this bill.

Thank you for this opportunity to testify.

Respectfully,

Murray Clay
Managing Partner

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

March 22, 2016
8:30 A.M.
CONFERENCE ROOM 325

SENATE BILL NO. 2652 SD2, PROPOSED HD1
RELATING TO TAXATION

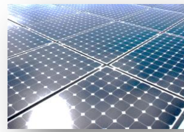
Chairperson Lee and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2652, SD 2, Proposed HD 1. This bill establishes a renewable fuels production tax credit, repeals the ethanol facility tax credit, and establishes a tax credit for farmers, ranchers, and producers seeking to obtain organic certification. The Department of Agriculture offers a comment on the tax credit for expenses related to obtaining organic certification.

In the State's efforts to move towards food self-sufficiency, the Department has consistently supported all forms of agricultural production in Hawaii. With this in mind, we would be supportive of benefits that would be made available to all forms of organic and conventional agricultural production.

Thank you for the opportunity to submit our testimony.

blue planet FOUNDATION



LATE

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
March 22, 2016, 8:30 A.M.
Room 325
(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF SB 2652 Proposed HD1

Aloha Chair Lee, Vice Chair Lowen, and Committee members:

Blue Planet Foundation supports SB 2652, which broadens support for biofuel production beyond ethanol. This policy—providing a renewables fuels facility tax credit to incentivize the needed development and construction of such facilities—can boost Hawai'i 's portfolio of renewable energy resources.

Biofuels will likely play a major role in Hawai'i's clean energy future—particularly as a substitute for petroleum-based transportation fuels. While much of our work has been focused on renewable energy and reducing electricity use, transportation in Hawai'i (cars, trucks, ships, and planes) accounts for approximately two-thirds of the oil consumed. In 2014, Hawai'i cars and trucks burned nearly 500 million gallons of gasoline and diesel fuel. For a typical car, that's enough fuel to cover the distance equivalent to over 21,000 round trips to the moon. Currently, almost all of that travel burns imported fossil fuels. Transportation fuels in Hawai'i can be made from renewable resources, such as biomass in various forms, algae, and waste products. With SB 2652, Hawai'i can set a clear course for a steady, incremental transition to renewable fuels including local and sustainable fuels created from renewable feedstocks.

Tax incentives have proven to be an extraordinarily effective mechanism to develop a local renewable energy industry; the rooftop solar industry has grown to become an important part of the state's construction industry and is serving as a backstop in the electricity industry to ensure that consumers have options for clean energy. Tax incentive policies for renewable transportation fuels can serve the same purpose for transportation energy.

Blue Planet also asks legislators to also consider a policy to require that a certain percentage (5% - 10%) of diesel fuel sold in Hawai'i be biodiesel. One of Hawai'i's current entrepreneurial success stories is biodiesel created from locally recycled cooking grease and oils. This fuel 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. Blue Planet supports a mandate to blend biodiesel with all locally sold diesel fuel. This

info@blueplanetfoundation.org
55 Merchant Street 17th Floor • Honolulu, Hawai'i 96813 • 808-954-6142 • blueplanetfoundation.org

smart step will help to continue the momentum for a local industry to supply local clean energy for our transportation energy needs.

In addition, we ask legislators to consider adopting a test to ensure that renewable feedstocks are sustainable. To this end, we believe it would be appropriate to adopt the language used in HB 1689, which requires qualifying fuels to use feedstocks that are not transported vast distances using fossil fuels (or alternatively, requires those fuels to demonstrate that they contribute to Hawai‘i ’s public interest in clean, secure energy):

"Renewable fuels" means fuels produced from renewable feedstocks; provided that:

(1) The fuels shall be sold as a fuel; ~~and~~

(2) The fuels meet the relevant ASTM International specifications for the particular fuel or other industry specifications for liquid or gaseous fuels, including but not limited to:

(A) Methanol, ethanol, or other alcohols;

(B) Hydrogen;

(C) Biodiesel or renewable diesel;

(D) Biogas;

(E) Other biofuels; or

(F) Renewable jet fuel or renewable gasoline; and~~.~~

(3) If the fuels are created from a renewable feedstock transported more than five hundred miles using a fossil fuel, such fuels shall become qualifying renewable fuels only upon a showing to the state energy office of the department of business, economic development, and tourism that the renewable feedstock serves a legitimate public purpose for Hawaii. For the purpose of this showing, the state energy office of the department of business, economic development, and tourism shall consider the impact of such fossil fuel transportation on the State's energy security and contribution to greenhouse gas emissions.

This test, focusing on whether a transported feedstock serves the legitimate public purpose of enhancing Hawai‘i ’s energy security and reducing greenhouse gas emissions, would address the question of how a tax incentive satisfies the commerce clause of the U.S. constitution.[1]

Please advance SB 2652 to foster a diverse biofuel production infrastructure in Hawai‘i .

Thank you for the opportunity to testify.

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[1] The U.S. Supreme Court has stated: “As long as a State does not needlessly obstruct interstate trade or attempt to ‘place itself in a position of economic isolation,’ it retains broad regulatory authority to protect the health and safety of its citizens and the integrity of its natural resources.” *Maine v. Taylor*, 477 U.S. 131, 151 (1986) (quoting *Baldwin* v. *G.A.F. Seelig, Inc.*, 294 U.S. 511, 527 (1935)). Based on this principle, a tax credit is valid if it "serves a legitimate local purpose” and this purpose could not be served as well by other available means, even if it the tax credit favors Hawai‘i taxpayers over other taxpayers in interstate commerce. *Id.* at 138 (quoting *Hughes v. Oklahoma*, 441 U.S. 322, 336 (1979)).

LATE

March 21, 2016

SB 2652

Testimony By: Paul Tower, President
Hawaii Renewable Resources, LLC
Aiea, Hawaii

Purpose of Bill: Establish renewable fuels facility tax credit.

Hawaii Renewable Resources, LLC is in strong support of SB 2652 for renewable fuels facility tax credit. The bill is an important step in meeting our state renewable energy goals.

HAWAI'I GAS
THE CLEAN ENERGY COMPANY

LATE

Testimony to the House Committee on Energy & Environmental Protection
Tuesday, March 22, 2016 8:30 am
Conference Room 325, State Capitol
RE: Senate Bill 2652 SD2

Chair Lee, Vice Chair Lowen and Members of the Committee on Energy & Environmental Protection:

Hawaii Gas supports SB 2652 SD2, which establishes a five-year renewable fuels production tax credit and repeals the ethanol facility tax credit; allows qualifying taxpayers to claim an income tax credit equal to 20 cents per seventy-six thousand British thermal units of renewable fuel, capped at $3,000,000 per taxable year; caps the credit at $3,000,000 per year in aggregate; requires DBEDT to certify all tax credits and submit a report regarding the production and sale of renewable fuels to the governor and legislature each year; and directs DOTAX to create forms for the tax credit.

As written, the term through December 2021 allows enough time to establish a production facility, the credit is of value and the Bill includes a range of renewable fuels such as hydrogen and biogas providing the following potential benefits:

1. Biofuels can provide firm power to complement the intermittency of wind and solar resources.
2. Biofuels can help displace the oil now used to produce synthetic natural gas.
3. Biofuels can be used in the surface transportation (ground and marine) sectors to reduce the 500 million gallons of diesel and gasoline used each year in Hawaii today.
4. Biofuels diversify our fuel mix, which reduces risk and increases system reliability.

Thank you for the opportunity to testify.

P.O. Box 3000, Honolulu, Hawaii 96802 www.hawaiigas.com

LATE

Testimony of the
Hawaii Energy Policy Forum
Before the
House Committee on Energy & Environmental Protection
March 22, 2016 at 8:30 am in Conference Room 325

In **SUPPORT** of **SB 2652 HD1 (proposed),** Relating to Taxation

Chair Lee, Vice-Chair Lowen, and Members of the Committee,

The Hawaii Energy Policy Forum ("HEPF"), created in 2002, is comprised of over 40 representatives from Hawaii's electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. Our vision, mission, and comprehensive "10 Point Action Plan" serve as a guide to move Hawaii toward its preferred energy goals. It is for that reason that we support the fuels-related provisions of SB 2652 HD1.

Sections 2 and 3 of SB 2652 HD1 (proposed) repeal the current ethanol facility tax credit, which would have allowed up to $12 million per year for up to eight years for local ethanol production facilities, and replaces it with a renewable fuel production tax credit with a maximum cap of $3 million per year for five years.

Renewable fuels can be used in vehicles as well as in power generation equipment and therefore will play an important role in Hawaii's ability to reach its 100% renewable energy future.

Therefore, the Forum supports Sections 2 and 3 of SB 2652 HD1.

Section 4 of the bill establishes an organic foods production tax credit. We defer to others on that portion of the bill.

Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies.

2424 Maile Way • Saunders Hall 723 • Honolulu, HI 96822 • Telephone (808) 956-4237 • Fax (808) 956-6870