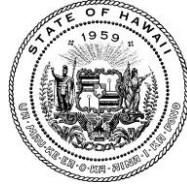


JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 2574, Relating to Renewable Fuel.

BEFORE THE:

Senate Committees on Agriculture and Environment, and Energy, Economic Development, and Tourism

DATE: Wednesday, February 14, 2024

TIME: 1:46 p.m.

LOCATION: State Capitol, Room 224

Chairs Gabbard and DeCoite, Vice-Chairs Richards and Wakai, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding S.B. 2574 for your consideration.

S.B. 2574 amends chapter 235, Hawaii Revised Statutes, (HRS), by creating a new Renewable Fuels Import Tax Credit (RFITC). The bill also makes significant changes to the existing Renewable Fuels Production Tax Credit (RFPTC) in section 235-110.32, HRS.

The amount of the new RFITC is set at an unspecified number of cents per gallon of renewable fuel costs incurred by a taxpayer, with a provision requiring that 1) lifecycle greenhouse gas emissions are at least an undetermined percent below that of fossil fuels, and 2) the renewable fuel is consumed in the State. The credit has a separate amount for sustainable aviation fuel, set at one hundred cents (\$1) per gallon of fuel consumed by flights originating from and within the State. Only one taxpayer may claim the credit for any specific purchase of renewable fuel. "Lifecycle greenhouse gas emissions," "renewable fuels," and "sustainable aviation fuel" would all have the

same meaning as those terms are defined in section 235-110.32, HRS.

The new RFITC would require taxpayers to complete and file an independent, third-party certified statement with the Hawaii State Energy Office (HSEO), detailing information including the type and quantity of fuel used, the credit amounts sought, and taxpayer's numbers of employees and locations throughout the State, as well as the lifecycle greenhouse gas emissions for each type of fuel and the lifecycle greenhouse gas emissions that the taxpayer reported to the U.S. Department of the Treasury, if those amounts are different. The statement must be filed no later than sixty days from the close of the calendar year; within sixty days of that deadline, HSEO must acknowledge receipt of the statement and issue a certificate to the taxpayer detailing the amount of renewable fuels imported and sold, the amount of credit that the taxpayer is entitled to claim under for the previous calendar year, and the cumulative amount of the tax credit during the previous calendar year. The taxpayer will file this certificate when they file their income tax return with the Department; the Director of Taxation is empowered to audit and adjust the certification for correctness, if necessary.

The bill also sets an annual aggregate cap of \$50,000,000 on the new tax credit, with a provision that if the value of credits claimed exceeds the cap for all eligible taxpayers in any given calendar year, the \$50,000,000 shall be allocated proportionally to each eligible taxpayer. To the extent this proportional allocation reduces the amount of a taxpayer's credit, the taxpayer may carry the amount of that reduction forward to be used as a credit in the next subsequent calendar year, but not thereafter. Although the credit is generally nonrefundable, taxpayers may elect to make the credit refundable if all of their income is from a public retirement system or a pension, and thus not subject to income tax, or if the taxpayer's adjusted gross income is \$20,000 or less (or \$40,000 or less if married filing jointly).

S.B. 2574 also makes significant changes to the RFPTC by amending section 235-110.32, HRS, to: increase the credit amount from 20 cents to 35 cents per 76,000 British thermal units (BTUs) of renewable fuels produced and sold for distribution in the State; restrict the credit only to fuels with lifecycle greenhouse gas emissions at least an unspecified percentage below that of fossil fuels; add an additional \$1 to the credit amount per gallon of renewable fuels produced from locally-sourced renewable feedstock; and extend both the taxpayer and the HSEO's certification deadlines from 30 days to 60 days after the close of the calendar year and taxpayer's submission due date, respectively. The bill also eliminates the \$3,500,000 cap that may be claimed by a taxpayer in a taxable year and increases the aggregate cap from \$20,000,000 to \$100,000,000. The bill also provides that if a taxpayer's credit is reduced because of the aggregate cap, the taxpayer may claim a credit for the amount reduced in the subsequent year. Any credits carried forward and claimed in the subsequent year will be subject to the aggregate cap for that subsequent year and subject to proportional

allocation if required to meet the annual maximum. The bill also expands the RFPTC's definition of renewable feedstocks and renewable fuels, and adds new definitions for "lifecycle greenhouse gas emissions," "locally-sourced renewable feedstock," and "sustainable aviation fuel."

S.B. 2574 applies to taxable years beginning after December 31, 2024, with the new RFITC in section 2 being repealed on January 1, 2036.

First, the Department notes that as currently drafted, both of these income tax credits would have a refundable option. The Department generally prefers that credits be made nonrefundable, as nonrefundable credits are less susceptible to waste, fraud, and abuse.

Next, with respect to both the new RFITC in section 2 and the changes to the RFPTC in section 3, the Department defers to HSEO regarding its ability to certify these credits under the provisions set forth by this measure. However, the Department respectfully requests that these certification requirements be maintained. The Department does not have the subject-matter expertise in renewable energy necessary to certify these credits, nor does it have the administrative capability to track the aggregate caps.

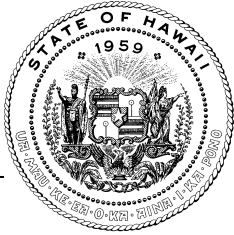
Relatedly, with respect to the RFPTC, the Department notes that section 235-110.32(g), HRS, on page 17 of the bill, deletes the provision that "[i]n no instance shall the total dollar amount of certificates issued exceed \$20,000,000 per calendar year." It is unclear whether the deletion of this provision is intended to require that the Department, instead of the HSEO, be responsible for administering the aggregate cap.

Because it would be difficult for the Department to administer the aggregate cap, the Department requests that section 235-110.32(g) be amended to reinstate language that the total dollar amount of certificates issues shall not exceed the aggregate cap: "In no instance shall the total dollar amount of certificates issued exceed \$100,000,000 per calendar year." The Department also requests that similar language be added to subsection (f) of the new HRS section that establishes the RFITC, on page 6, line 18 to page 7, line 12, as follows: "In no instance shall the total dollar amount of certificates issued exceed \$50,000,000 per calendar year."

Additionally, the Department suggests adding language to section 235-110.32(g), HRS, and subsection (f) of the new HRS section that if a taxpayer is authorized to claim

a credit in the subsequent year because the aggregate cap was reached, that the HSEO will provide a certificate to the taxpayer in the subsequent year, reporting the amount of credit that was carried forward and that the taxpayer may claim, and that the taxpayer shall file the certificate with the taxpayer's tax return.

Thank you for the opportunity to provide comments on this measure.



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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM**

Wednesday, February 14, 2024
1:46 PM
State Capitol, Conference Room 224 & Videoconference

Providing Comments on
SB 2574

RELATING TO RENEWABLE FUEL.

Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and members of the Committees, the Hawai'i State Energy Office (HSEO) offers comments on SB 2574, that (1) establishes a tax credit of up to \$50 million per year for the import of renewable fuel; (2) increases the overall funding available for the renewable fuels production tax credit from \$20 million to \$100 million dollars; (3) modifies the existing renewable fuels production tax credit to allow an increased credit for sustainable aviation fuel; and (4) makes several other changes to the existing renewable fuels production tax credit.

HSEO appreciates the intent of this bill to promote the use of non-petroleum fuels but is concerned about the cost implications generated by this proposal and priorities and challenges associated with post-Maui wildfire recovery efforts.

HSEO also notes that changing the filing and certification deadlines from 30 calendar days to 60 calendar days puts the date for process completion out to the second of May, which is beyond the State tax return deadline of the 20th day of the fourth month following the close of the tax year. HSEO defers to the Department of Budget and Finance on the fiscal implications of this bill.

Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

S.B. NO. 2574, RELATING TO RENEWABLE FUEL.

BEFORE THE:

SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND ON
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

DATE: Wednesday, February 14, 2024 **TIME:** 1:46 p.m.

LOCATION: State Capitol, Room 224 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Janine R. Udoi, Deputy Attorney General

Chairs Gabbard and DeCoite and Members of the Committees:

The Department of Attorney General provides the following comments regarding this bill.

This bill proposes to: (1) establish an income tax credit for the import of renewable fuel, sunseting on December 31, 2035; and (2) update the renewable fuels production tax credit established by section 235-110.32, Hawaii Revised Statutes.

Taxpayers who produce renewable fuel may claim an income tax credit for fuels with lifecycle greenhouse gas emissions of an unspecified percent below that of fossil fuels. Page 4, lines 3 through 7. Taxpayers are provided an additional credit value of \$1 per gallon for renewable fuels produced from locally-sourced renewable feedstock. Page 13, lines 16 through 18 (emphasis added). "Locally-sourced renewable feedstock" is defined as "renewable feedstock that is grown, produced, or processed within five hundred miles of the delivery of fuel into the vehicle, vessel, or fuel storage tank of the end user." Page 23, lines 5 through 8.

Similarly, taxpayers who produce sustainable aviation fuel within the State, that is produced and sold for consumption for flights originating from and within the State, may also take an additional credit value equal to \$1 per gallon. Page 13, lines 19 through 21; page 14, lines 1 through 2.

This bill could be subject to challenge as violating the Commerce Clause of the United States Constitution, which provides that Congress shall have the power to "regulate Commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3. "Though phrased as a grant of regulatory power to Congress, the Clause has long been understood to have a 'negative' aspect that denies the States the power unjustifiably to discriminate against or burden the interstate flow of articles in commerce." *Or. Waste Sys., Inc. v. Dep't of Env'tl. Quality*, 511 U.S. 93, 98 (1994). This negative aspect of the Commerce Clause is known as the Dormant Commerce Clause; this doctrine prohibits states from "advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state," *Fort Gratiot Sanitary Landfill, Inc. v. Mich. Dep't of Nat. Res.*, 504 U.S. 353, 359 (1992) (internal brackets omitted), to address "economic protectionism," i.e., "regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors." *Dep't of Revenue of Ky. v. Davis*, 553 U.S. 328, 337 (2008).

A tax credit may violate the Dormant Commerce Clause if it is "facially discriminatory, discriminatory in effect, or discriminatory in purpose." See *DIRECTV v. Utah State Tax Comm'n*, 364 P.3d 1036, 1040 (Utah 2015). For example, in *Bacchus Imports Ltd. v. Dias*, 468 U.S. 263 (1984), the United States Supreme Court struck down an exemption from the liquor tax for sales of okolehau and fruit wine brewed in Hawaii from locally grown products upon finding that the exemption bestowed a commercial advantage on locally produced products; see also *New Energy Co. of Ind. v. Limbach*, 486 U.S. 269 (1988) (holding that ethanol tax credit for each gallon of ethanol sold, but only if ethanol produced in Ohio, violated Dormant Commerce Clause).

Similar to the situation in *Bacchus Imports*, the proposed tax credit may be challenged under the Commerce Clause because it could be construed by a court as bestowing a commercial advantage on products using "locally-sourced renewable feedstock" insofar as the credit encourages and incentivizes the purchase and use of such products versus products manufactured with the same ingredients grown outside of the State.

Based on the foregoing, we respectfully ask that these concerns be addressed. Accordingly, we recommend deleting the wording on page 13, lines 16 through 18, and page 23, lines 5 through 8, that reference “locally-sourced renewable feedstock.” Additionally, we also recommend deleting the wording on page 13, lines 19 through 21, and page 14, lines 1 through 2, providing taxpayers who produce sustainable aviation fuel within the State an additional \$1 per gallon tax credit. These changes would resolve the Department’s constitutional concerns.

Thank you for the opportunity to provide comments.



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February 14, 2024

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

TESTIMONY ON SB 2574
RELATING TO RENEWABLE FUEL

Conference Room 224 & Videoconference
1:46 PM

Aloha Chairs Gabbard and DeCoite, Vice-Chairs Ricahrds and Wakai, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 2574, which establishes a tax credit for the import of renewable fuel and updates the renewable fuels production tax credit.

Renewable energy production using biofuels can play a critical role in helping Hawai'i reach the goal of one hundred percent renewable energy by 2045, help to diversify Hawai'i's economy and agricultural sector, reduce greenhouse gas emissions, and reduce our dependence on imported oil.

HFB supports the production of dedicated energy crops, crop residues, and agricultural wastes into economically and environmentally sustainable biofuels and value-added by-products such as livestock feed.

Finding viable uses for agricultural lands that will encourage sustainability in our environment and that produce positive economic cash flow for Hawaii is a critical need. Locally grown biofuel feedstocks offer significant benefits for our farmers. These crops can thrive on marginal land, improving soil health and reducing erosion. They require less water and fertilizer than traditional row crops. By creating a demand for these crops, the renewable fuels industry can revitalize rural communities, create new jobs, and diversify farm income streams. Growing biofuel feedstocks locally helps to create new agricultural jobs, encourages food production, and does not compete with food crops when using oil seed cover crops. HFB believes these feedstocks will be able to provide a quality biofuel product and usable byproducts (such as animal feed) to help support Hawaii's sustainability goals and agricultural, ranching, and dairy sectors of the local economy.

Thank you for the opportunity to comment on this measure.



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February 13, 2024

TESTIMONY ON SB 2574, RELATING TO RENEWABLE FUEL

SUPPORT WITH AMENDMENTS

Senator Mike Gabbard, Chair
Senator Herbert M. "Tim" Richards, III, Vice Chair
Committee on Agriculture and Environment

Senator Lynn DeCoite, Chair
Senator Glenn Wakai, Vice Chair
Committee on Energy, Economic Development, and Tourism

Aloha Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and Members of the Committee,

Pacific Biodiesel supports SB 2574 with suggested amendments, and a related bill, SB 3360 SD1, which update the renewable fuels production tax credit.

The bill before you today, SB 2574, has two distinct parts: (1) it updates the existing renewable fuels PRODUCTION tax credit, and (2) it creates a new tax credit for IMPORTING renewable fuels.

- (1) **For the PRODUCTION tax credit part of SB 2574 starting at Section 3, we request it be amended to match the language in SB 3360 SD1.** (See Attached Bill with suggested amendments).
 - (a) SB 3360 SD1 passed out of EET last week. The Committee on Energy, Economic Development, and Tourism (EET) passed SB 2260 SD1 at its hearing on February 6, 2024.
 - (b) Passing consistent Senate Bills avoids complications later in the session. Both SB 2574 and SB 3360 SD1 seek to amend Section 235-110.32, Hawaii Revised Statutes.
 - (c) We believe that increased incentives must be justified by increased benefits to the State. Therefore, we recommend amending SB 2574 to include language from SB 3360 SD1 that creates a tiered system of tax credits that incentivizes:
 - 1) renewable fuels produced from renewable feedstock **locally grown or recycled in the State of Hawaii** and 2) renewable fuels produced with lifecycle greenhouse gas emissions at least **75% below that of fossil fuels**.
 - Amend Subsection 235-110.32(a), Hawaii Revised Statutes, to provide an additional credit value of \$1.00 per gallon for renewable fuels produced with lifecycle greenhouse gas emissions at least 75 per cent below that of fossil fuels.

- Amend Subsection 235-110.32(d), Hawaii Revised Statutes, to require the Hawaii state energy office to determine whether the lifecycle greenhouse gas emissions for each type of qualified fuel produced is 75 per cent lower than that of fossil fuels.
- (d) A 20-year plan ensures that Hawaii’s firm energy needs can be met with firm renewable energy by 2045. To ensure sustainable inventories of locally sourced firm renewable energy for electric utility companies' renewable portfolio standards, long term planning that includes incentives, are essential for investment and development of locally sourced firm, renewable energy production. With twenty years remaining to reach the mandate that one hundred percent of our electricity be generated by renewable sources of energy by 2045, **we must update the renewable fuels production tax credit with a 20-year plan to ensure that our firm energy needs can be met with renewable firm energy by 2045.**
- Amend Subsection 235-110.32(o), Hawaii Revised Statutes, to define the credit period as twenty consecutive years instead of ten consecutive years.

(2) **For the IMPORT tax credit part of SB 2574 starting at Section 2, we request it be amended to match the incentive for the PRODUCTION tax credit and to ensure that increased incentives are justified by increased benefits to the State.** (See Attached Bill with suggested amendments).

- Amend proposed new Subsection 235-___ (a)(1), Hawaii Revised Statutes, to provide a credit value of \$1.00 per gallon for renewable fuels imported with lifecycle greenhouse gas emissions at least 75 per cent below that of fossil fuels.
- Amend proposed new Subsection 235-___ (a)(2), Hawaii Revised Statutes, to provide an additional credit value of \$1.00 per gallon for 2nd Generation renewable fuels imported.

New investments are needed to incentivize existing producers to increase production of firm renewable energy and to encourage new producers to begin production. The production tax credit gives a very important incentive to invest further in firm renewable fuel production in Hawaii. Past investments in the renewable fuels production tax credit succeeded in promoting local investments in cleaner fuels and moving us closer to energy independence and security. Continuing this credit sends the correct signal for new and continued investments in this firm renewable energy.

Hawaii’s utility companies rely on and need more of Pacific Biodiesel’s locally produced firm renewable energy. HRS section 269-92(a) requires each electric utility company that sells electricity for consumption in the State to establish a renewable portfolio standard of forty percent of its net electricity sales by December 31, 2030, seventy percent of its net electricity sales by December 31, 2040, and one hundred percent of its net electricity sales by December 31, 2045. In order for electric utility companies to meet the required renewable portfolio standards by 2045, an indispensable component of the electric utility companies' renewable portfolio standard must include sufficient locally sourced firm renewable energy sources to offset the intermittent nature of wind and solar power renewable energy.

Speaking for the liquid biofuels industry, it is well known that the cost to move from 70% to 100% renewables will be extremely expensive using any other technology. Biodiesel can cost effectively optimize battery sizing by providing firm renewable power, quickly dispatched at any time. Fast-start, efficient diesel engines – when fueled with clean biodiesel – are enabling higher penetration of intermittent PV and wind assets while maintaining grid stability.

Biodiesel allows for an immediate reduction of greenhouse gas emissions. Our biodiesel is a 100% renewable Advanced Biofuel that is a crucially important firm renewable power source in Hawaii to back up other renewables on the grid. And, more importantly now than ever, Hawaii’s locally produced biodiesel is supporting energy security in our island state and reducing reliance on imported fossil fuel. **It is a direct replacement for petroleum diesel fuel that can be used right now in any diesel engine without modification, helping to reduce greenhouse gas emissions by 86% compared to petroleum diesel.** The diesel engine is NOT the problem. Petroleum diesel FUEL – fossil fuel – used in efficient diesel engines is the problem. **Biodiesel has one of the lowest carbon footprints of any fuel.** A California Air Resources Board (CARB) report* shared findings that total greenhouse gas (GHG) reductions from biomass-based diesel were three times the total reductions from electric vehicles. In Hawaii, where the carbon intensity of our electricity grid is significantly higher than the US average, the assumption would be an even greater GHG reduction with the use of 100% biodiesel compared to EVs charged by an electricity grid that is currently only 30% powered by renewables.

Unfortunately, Hawaii is rushing to support electrification while ignoring the many environmental and economic benefits of biofuels. We cannot and should not sit back and wait for a 100% zero emission future. The State must get serious, soon, about requiring a lifecycle GHG reduction analysis on its “zero emission” strategies before Hawaii spends millions on electrification.

The further we move towards our goal of 100% renewable, the more critical firm energy like liquid biofuel sources will be. At Pacific Biodiesel’s refinery on Hawaii Island, we produce 6 million gallons per year of premium distilled biodiesel – the equivalent of 220 MWh per DAY of 100% renewable energy for Hawaii. **But, building up the supply is a long process. We must accelerate implementation and support additional local production now to meet expanding demand in the future and to ensure that our firm energy needs can be met with firm renewable energy by 2045.**

Mahalo,

James Forrest, General Counsel
Pacific Biodiesel Technologies, LLC

A BILL FOR AN ACT

RELATING TO FIRM RENEWABLE FUEL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii is at a
2 critical crossroad in the State's ongoing quest to reduce
3 greenhouse gas emissions. In 2021, Hawaii became the
4 first state in the nation to declare a climate emergency
5 and is now poised to lead by example in mitigating the
6 impacts of climate change through adaptive and preemptive
7 actions to transition toward a multi-sector decarbonized
8 economy. This is aligned with the ambitious Hawaii Clean
9 Energy Initiative, which seeks to achieve the nation's
10 first-ever one hundred per cent renewable portfolio
11 standards by the year 2045.

12 The legislature further acknowledged the necessity
13 to analyze pathways and develop recommendations to
14 achieve economy-wide decarbonization goals by adopting
15 Act 238, Sessions Laws of Hawaii 2022.

16 The legislature additionally finds that the State
17 has made progress in reducing greenhouse gas pathways by
18 adopting alternatives to fossil fuel for electrical power
19 generation and introducing alternatives for ground

S.B. NO.

1 transportation, including the use of electric
2 vehicles. Additionally, sustainable aviation fuel for
3 air transportation is another pathway that deserves more
4 robust exploration. Hawaii now has the opportunity to
5 accelerate its progress toward achieving net-zero or net-
6 negative targets as quickly as practicable, but no later
7 than 2045. As an island state heavily reliant on air
8 transportation, it is important for the legislature to
9 provide incentives within the airline industry to
10 encourage practices that lower carbon footprints.

11 The legislature acknowledges that total jet fuel
12 consumption in Hawaii is eighteen million barrels
13 (767,000,000 gallons) per year between civilian and
14 military consumption. To provide greater energy security
15 for the State, the legislature finds that Hawaii is
16 preparing to produce its own sustainable aviation fuel
17 (SAF) as well as other renewable fuels. Instead of
18 investing in imported crude oil or refined petroleum
19 products and perpetuating the State's dependence on
20 fossil fuels, local sustainable fuel production will
21 allow investment in the local economy and support job
22 creation.

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1 The legislature further acknowledges that while SAF
2 offers multiple benefits, the cost of SAF production is
3 several times that of conventional fuels. Thus, creating
4 a regulatory framework to support local SAF production is
5 critical. As with other states, Hawaii must look at
6 policies that will work in tandem with federal policies
7 to make SAF production sustainable within the State.

8 Accordingly, the purpose of this Act is to advance
9 Hawaii's commitment to reducing greenhouse gas emissions
10 by:

11 (1) Establishing a tax credit for the import of
12 renewable fuel; and

13 (2) Updating the renewable fuels production tax
14 credit.

15 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately
17 designated and to read as follows:

18 "§235- Renewable fuels import tax credit;
19 sustainable aviation fuel. (a) Any law to the contrary
20 notwithstanding, there shall be allowed to each taxpayer
21 subject to the taxes imposed by this chapter, a renewable
22 fuels import tax credit that shall be deducted from the
23 taxpayer's net income tax liability, if any, imposed by

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1 this chapter for the taxable year in which the credit is
2 properly claimed. The amount of the credit shall be:

3 (1) **\$1.00** per gallon of renewable fuel costs
4 incurred by a taxpayer; provided that the lifecycle
5 greenhouse gas emissions are at least **seventy-five** per
6 cent below that of fossil fuels and the renewable fuel is
7 consumed in the State; and

8 (2) **An additional credit value of \$1.00 per gallon**
9 **for 2nd Generation renewable fuels imported.**

10 (b) In the case of a partnership, S corporation,
11 estate, or trust, distribution and share of the renewable
12 fuels import tax credit shall be determined pursuant to
13 section 704(b) (with respect to a partner's distributive
14 share) of the Internal Revenue Code of 1986, as
15 amended. For a fiscal year taxpayer, the taxpayer shall
16 report the credit in the taxable year in which the
17 calendar year end is included.

18 (c) No later than sixty days following the close of
19 the calendar year, every taxpayer claiming a credit under
20 this section shall complete and file an independent,
21 third-party certified statement, at the taxpayer's sole

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1 expense, with and in the form prescribed by the Hawaii
2 state energy office, providing the following information:

3 (1) The type, quantity, and British thermal unit
4 value, using the lower heating value, of each qualified
5 fuel, broken down by the type of fuel, imported and sold
6 during the previous calendar year;

7 (2) The feedstock used to produce the imported
8 renewable fuel;

9 (3) The proposed total amount of credit to which
10 the taxpayer is entitled for each calendar year and the
11 cumulative amount of the tax credit the taxpayer received
12 the previous calendar year;

13 (4) The number of full-time employees and number of
14 part-time employees of the facility and those employees'
15 states of residency, totaled per state;

16 (5) The number and location of all renewable fuel
17 facilities within and outside of the State;

18 (6) The lifecycle greenhouse gas emissions in
19 kilograms of carbon dioxide equivalent per million
20 British thermal units for each type of qualified fuel
21 imported; and

22 (7) The lifecycle greenhouse gas emissions reported
23 to the United States Department of the Treasury, if
24 different than the emissions reported under paragraph

25 (6).

S.B. NO.

1 (d) Within sixty calendar days after the due date
2 of the statement required under subsection (c), the
3 Hawaii state energy office shall:

4 (1) Acknowledge, in writing, receipt of the
5 statement; and

6 (2) Issue a certificate to the taxpayer reporting
7 the amount of renewable fuels imported and sold, the
8 amount of credit that the taxpayer is entitled to claim
9 under for the previous calendar year, and the cumulative
10 amount of the tax credit during the previous calendar
11 year.

12 (e) The taxpayer shall file the certificate issued
13 under subsection (d) with the taxpayer's tax return with
14 the department of taxation. The director of taxation may
15 audit and adjust the certification to conform to the
16 facts.

17 (f) The total amount of tax credits allowed under
18 this section shall not exceed \$50,000,000 for all
19 eligible taxpayers in any calendar year. In the event
20 that the credits claimed under this section exceed
21 \$50,000,000 for all eligible taxpayers in any given
22 calendar year, the \$50,000,000 shall be allocated
23 proportionally to each eligible taxpayer in proportion to
24 the amount of the taxpayer's credits under this section

S.B. NO.

1 for the calendar year. To the extent that the
2 application of the \$50,000,000 maximum reduces the amount
3 of a taxpayer's credit, the amount of the reduction shall
4 be available to the taxpayer to be used as a credit in
5 the next subsequent calendar year; provided that the
6 credit shall not be carried over for any calendar year
7 thereafter; provided further that the carryover credit
8 shall be subject to the \$50,000,000 annual maximum and
9 subject to proportional allocation, if required to meet
10 the annual maximum.

11 (g) Notwithstanding any other law to the contrary,
12 the information collected and compiled by the Hawaii
13 state energy office under subsections (c) and (d) for the
14 purposes of the renewable fuels import tax credit shall
15 be available for public inspection and dissemination,
16 subject to chapter 92F.

17 (h) If the credit under this section exceeds the
18 taxpayer's net income tax liability, the excess of the
19 credit over liability may be used as a credit against the
20 taxpayer's income tax liability in subsequent years until
21 exhausted, unless otherwise elected by the taxpayer
22 pursuant to subsections (i) or (j). All claims for a tax
23 credit under this section, including amended claims,

S.B. NO.

1 shall be properly filed on or before the end of the
2 twelfth month following the close of the taxable year for
3 which the credit may be claimed. Failure to comply with
4 the foregoing provision or to provide the certified
5 statement required under subsection (c) shall constitute
6 a waiver of the right to claim the credit.

7 (i) A taxpayer may elect to reduce the eligible tax
8 credit amount by thirty per cent. If the reduced amount
9 exceeds the amount of the income tax payments due from
10 the taxpayer, the excess of credit over payments due
11 shall be refunded to the taxpayer; provided that the tax
12 credit properly claimed by a taxpayer who has no income
13 tax liability shall be paid to the taxpayer; provided
14 further that no refunds or payments on account of the tax
15 credit allowed by this section shall be made for amounts
16 less than \$1.

17 (j) Notwithstanding subsection (i), an individual
18 taxpayer may elect to have any excess of the tax credit
19 over payments due refunded to the taxpayer if:

20 (1) All of the taxpayer's income is exempt from
21 taxation under section 235-7(a)(2) or (3); or

22 (2) The taxpayer's adjusted gross income is \$20,000
23 or less (or \$40,000 or less if filing a tax return as
24 married filing jointly);

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1 provided that tax credits properly claimed by a taxpayer
2 who has no income tax liability shall be paid to the
3 taxpayer; provided further that no refund on account of
4 the tax credit allowed by this section shall be made for
5 amounts less than \$1.

6 A married couple who does not file a joint tax
7 return shall only be entitled to make this election to
8 the extent that they would have been entitled to make the
9 election had they filed a joint tax return.

10 The election required by this subsection shall be
11 made in a manner prescribed by the director of taxation
12 on the taxpayer's return for the taxable year in which
13 the credit is claimed. An election once made shall be
14 irrevocable.

15 Not more than one taxpayer shall be allowed to claim
16 a tax credit for the same purchase of eligible renewable
17 fuel.

18 (k) Before the import of any renewable fuels for
19 the calendar year, the taxpayer shall provide written
20 notice of the taxpayer's intention to begin import of
21 renewable fuels. The written notice shall be provided to
22 the department of taxation and the Hawaii state energy
23 office and shall include information on the taxpayer,

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1 facility location, facility capacity, anticipated import
2 start date, and the taxpayer's contact
3 information. Notwithstanding any other law to the
4 contrary, the written notice described in this
5 subsection, including taxpayer and facility information,
6 shall be available for public inspection and
7 dissemination, subject to chapter 92F.

8 (l) The taxpayer shall provide written notice to
9 the director of taxation and the chief energy officer of
10 the Hawaii state energy office within thirty days
11 following the start of importation. The notice shall
12 include the import start date and expected renewable
13 fuels importation for the next twelve
14 months. Notwithstanding any other law to the contrary,
15 the written notice described in this subsection shall be
16 available for public inspection and dissemination,
17 subject to chapter 92F.

18 (m) Following each calendar year in which a credit
19 under this section has been claimed, the chief energy
20 officer of the Hawaii state energy office shall submit a
21 written report to the governor and legislature regarding
22 the importation and sale of renewable fuels. The report
23 shall include:

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1 (1) The number and location of renewable fuels
2 facilities in the State and outside the State that have
3 claimed a credit under this section;

4 (2) The total number of British thermal units of
5 renewable fuels, itemized by type of fuel imported and
6 sold during the previous calendar year; and

7 (3) The projected number of British thermal units
8 of renewable fuels imported for the succeeding year.

9 (n) The director of taxation:

10 (1) Shall prepare any forms that may be necessary
11 to claim a tax credit under this section;

12 (2) May require the taxpayer to furnish reasonable
13 information to ascertain the validity of the claim for
14 the tax credit made under this section; and

15 (3) May adopt rules pursuant to chapter 91
16 necessary to effectuate the purposes of this section.

17 (o) This section shall not apply to taxable years
18 beginning after December 31, 2035.

19 (p) As used in this section:

20 "Lifecycle greenhouse gas emissions" shall have the
21 same meaning as defined in section 235-110.32.

22 "Renewable fuels" shall have the same meaning as
23 defined in section 235-110.32.

24 "Sustainable aviation fuel" shall have the same
25 meaning as defined in section 235-110.32."

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1 SECTION 3. Section 235-110.32, Hawaii Revised
2 Statutes, is amended to read as follows:
3 "(a) Each year during the credit period, there
4 shall be allowed to each taxpayer subject to the taxes
5 imposed by this chapter a renewable fuels production tax
6 credit that shall be applied to the taxpayer's net income
7 tax liability, if any, imposed by this chapter for the
8 taxable year in which the credit is properly claimed.

9 For each taxpayer producing renewable fuels, the
10 annual dollar amount of the renewable fuels production
11 tax credit during the [~~ten-year~~] credit period shall [~~be~~]
12 include an amount equal to [~~20~~] 35 cents per seventy-six
13 thousand British thermal units of renewable fuels using
14 the lower heating value sold for distribution in the
15 State; provided that the taxpayer's production of
16 renewable fuels is not less than two billion five hundred
17 million British thermal units of renewable fuels per
18 calendar year; provided further that the amount of the
19 tax credit claimed under this section by a taxpayer shall

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1 not exceed [~~\$3,500,000~~] 75 per cent of the total amount
2 of tax credits allowed under this section per taxable
3 year; provided further that there shall be an additional
4 credit value of \$1.00 per gallon for renewable fuels
5 produced from renewable feedstock locally grown or
6 recycled in the State of Hawaii; provided further that
7 there shall be an additional credit value of \$1.00 per
8 gallon for renewable fuels produced with lifecycle
9 greenhouse gas emission at least 75 per cent below that
10 of fossil fuels; provided further that the tax credit
11 shall only be claimed for fuels with lifecycle emissions
12 below that of fossil fuels. No other tax credit may be
13 claimed under this chapter for the costs incurred to
14 produce the renewable fuels that are used to properly
15 claim a tax credit under this section for the taxable
16 year.

17 Each taxpayer, together with all of its related
18 entities as determined under section 267(b) of the
19 Internal Revenue Code and all business entities under

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1 common control, as determined under sections 414(b),
2 414(c), and 1563(a) of the Internal Revenue Code, shall
3 not be eligible for more than a single [~~ten-year~~] credit
4 period, provided that any taxpayer who previously claimed
5 credits under this chapter shall be reset for tax years
6 beginning after December 31, 2023.

7 (b) In the case of a partnership, S corporation,
8 estate, or trust, distribution and share of the renewable
9 fuels production tax credit shall be determined pursuant
10 to section 704(b) (with respect to a partner's
11 distributive share) of the Internal Revenue Code of 1986,
12 as amended. For a fiscal year taxpayer, the taxpayer
13 shall report the credit in the taxable year in which the
14 calendar year end is included.

15 (c) No later than thirty days following the close of
16 the calendar year, every taxpayer claiming a credit under
17 this section shall complete and file an independent,
18 third-party certified statement, at the taxpayer's sole

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1 expense, with and in the form prescribed by the Hawaii
2 state energy office, providing the following information:

3 (1) The type, quantity, and British thermal unit
4 value, using the lower heating value, of each
5 qualified fuel, broken down by the type of fuel,
6 produced and sold during the previous calendar
7 year;

8 (2) The feedstock used for each type of qualified
9 fuel;

10 (3) The proposed total amount of credit to which the
11 taxpayer is entitled for each calendar year and
12 the cumulative amount of the tax credit the
13 taxpayer received during the credit period;

14 (4) The number of full-time and number of part-time
15 employees of the facility and those employees'
16 states of residency, totaled per state;

17 (5) The number and location of all renewable fuel
18 production facilities within and outside of the
19 State; and

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1 (6) The lifecycle greenhouse gas emissions per
2 British thermal units for each type of qualified
3 fuel produced.

4 (d) Within [~~thirty~~] sixty calendar days after the
5 due date of the statement required under subsection (c),
6 the Hawaii state energy office shall:

7 (1) Acknowledge, in writing, receipt of the
8 statement;

9 (2) Issue a certificate to the taxpayer reporting
10 the amount of renewable fuels produced and sold,
11 the amount of credit that the taxpayer is
12 entitled to claim for the previous calendar
13 year, and the cumulative amount of the tax
14 credit during the credit period; and

15 (3) Provide the taxpayer with a determination of
16 whether the lifecycle greenhouse gas emissions
17 for each type of qualified fuel produced is
18 lower than that of fossil fuels and whether the
19 lifecycle greenhouse gas emissions for each type

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1 of qualified fuel produced is 75 per cent lower
2 than that of fossil fuels.

3 (e) The taxpayer shall file the certificate issued
4 under subsection (d) with the taxpayer's tax return with
5 the department of taxation. The director of taxation may
6 audit and adjust the certification to conform to the
7 facts.

8 (f) The total amount of tax credits allowed under
9 this section shall not exceed [~~\$20,000,000~~] \$ _____
10 for all eligible taxpayers in any calendar year. In the
11 event that the credit claims under this section exceed
12 [~~\$20,000,000~~] \$ _____ for all eligible taxpayers in
13 any given calendar year, the [~~\$20,000,000~~] \$ _____
14 shall be divided between all eligible taxpayers for that
15 year in proportion to the total amount of renewable fuels
16 produced by all eligible taxpayers. Upon reaching
17 [~~\$20,000,000~~] \$ _____ in the aggregate, the Hawaii
18 state energy office shall immediately discontinue issuing
19 certificates and notify the department of taxation. In

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1 no instance shall the total dollar amount of certificates
2 issued exceed [~~\$20,000,000~~] \$ _____ per calendar year.

3 (g) Notwithstanding any other law to the contrary,
4 the information collected and compiled by the Hawaii
5 state energy office under subsections (c) and (d) for the
6 purposes of the renewable fuels production tax credit
7 shall be available for public inspection and
8 dissemination, subject to chapter 92F.

9 (h) If the credit under this section exceeds the
10 taxpayer's net income tax liability, the excess of the
11 credit over liability may be used as a credit against the
12 taxpayer's net income tax liability in subsequent years
13 until exhausted, unless otherwise elected by the taxpayer
14 pursuant to subsections (i) or (j). All claims for a
15 credit under this section shall be properly filed on or
16 before the end of the twelfth month following the close
17 of the taxable year for which the credit may be claimed.
18 Failure to comply with the foregoing provision or to
19 provide the certified statement required under subsection

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1 (c) shall constitute a waiver of the right to claim the
2 credit.

3 (i) A taxpayer may elect to reduce the eligible
4 credit amount by thirty per cent and if this reduced
5 amount exceeds the amount of income tax payment due from
6 the taxpayer, the excess of the credit amount over
7 payments due shall be refunded to the taxpayer; provided
8 that tax credit amounts properly claimed by a taxpayer
9 who has no income tax liability shall be paid to the
10 taxpayer; provided further that no refund on account of
11 the tax credit allowed by this section shall be made for
12 amounts less than \$1.

13 The election required by this subsection shall be
14 made in a manner prescribed by the director on the
15 taxpayer's return for the taxable year in which the
16 credit is claimed. An election once made is irrevocable.

17 (j) Notwithstanding subsection (i), an individual
18 taxpayer may elect to have any excess of the credit over
19 payments due refunded to the taxpayer, if:

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1 (1) All of the taxpayer's income is exempt from
2 taxation under section 235-7(a)(2) or (3); or
3 (2) The taxpayer's adjusted gross income is \$20,000
4 or less (or \$40,000 or less if filing a tax
5 return as married filing jointly);
6 provided that tax credits properly claimed by a taxpayer
7 who has no income tax liability shall be paid to the
8 taxpayer; provided further that no refund on account of
9 the tax credit allowed by this section shall be made for
10 amounts less than \$1.

11 A married couple who does not file a joint tax return
12 shall only be entitled to make this election to the
13 extent that they would have been entitled to make the
14 election had they filed a joint tax return.

15 The election required by this subsection shall be
16 made in a manner prescribed by the director on the
17 taxpayer's return for the taxable year in which the
18 credit is claimed. An election once made is irrevocable.

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1 (k) Before the production of any renewable fuels for
2 the calendar year, the taxpayer shall provide written
3 notice of the taxpayer's intention to begin production of
4 renewable fuels. The written notice shall be provided to
5 the department of taxation and the Hawaii state energy
6 office and shall include information on the taxpayer,
7 facility location, facility production capacity,
8 anticipated production start date, and the taxpayer's
9 contact information. Notwithstanding any other law to
10 the contrary, the written notice described in this
11 subsection, including taxpayer and facility information,
12 shall be available for public inspection and
13 dissemination, subject to chapter 92F.

14 (1) The taxpayer shall provide written notice to the
15 director of taxation and the chief energy officer of the
16 Hawaii state energy office within thirty days following
17 the start of production. The notice shall include the
18 production start date and expected renewable fuels
19 production for the next twelve months. Notwithstanding

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1 any other law to the contrary, the written notice
2 described in this subsection shall be available for
3 public inspection and dissemination, subject to chapter
4 92F.

5 (m) Following each calendar year in which a credit
6 under this section has been claimed, the chief energy
7 officer of the Hawaii state energy office shall submit a
8 written report to the governor and legislature regarding
9 the production and sale of renewable fuels. The report
10 shall include:

11 (1) The number and location of renewable fuels
12 production facilities in the State and outside
13 the State that have claimed a credit under this
14 section;

15 (2) The total number of British thermal units of
16 renewable fuels, itemized by type of fuel
17 produced and sold during the previous calendar
18 year; and

S.B. NO.

1 (3) The projected number of British thermal units of
2 renewable fuels production for the succeeding
3 year.

4 (n) The director of taxation:

5 (1) Shall prepare any forms that may be necessary to
6 claim a tax credit under this section;

7 (2) May require the taxpayer to furnish reasonable
8 information to ascertain the validity of the
9 claim for the tax credit made under this
10 section; and

11 (3) May adopt rules pursuant to chapter 91 necessary
12 to effectuate the purposes of this section.

13 (o) As used in this section:

14 "Credit period" means a maximum period of [~~ten~~]
15 twenty consecutive years, beginning from the first
16 taxable year in which a taxpayer begins renewable fuels
17 production at a level of at least two billion five-
18 hundred million British thermal units of renewable fuels
19 per calendar year.

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1 "Lifecycle greenhouse gas emissions" means the
2 aggregate attributional core lifecycle greenhouse gas
3 emissions values utilizing the most recent version of
4 Argonne National Laboratory's GREET model, inclusive of
5 agricultural practices and carbon capture and
6 sequestration.

7 "Locally grown" means renewable feedstock that is
8 grown and/or produced and/or generated and/or collected
9 in the State of Hawaii.

10 "Net income tax liability" means income tax liability
11 reduced by all other credits allowed under this chapter.

12 "Renewable feedstocks" means:

- 13 (1) Biomass crops and other renewable organic
14 material, including but not limited to logs,
15 wood chips, wood pellets, and wood bark;
- 16 (2) Agricultural residue;
- 17 (3) Oil crops, including but not limited to algae,
18 canola, jatropha, palm, soybean, and sunflower;

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- 1 (4) Sugar and starch crops, including but not
2 limited to sugar cane and cassava;
3 (5) Other agricultural crops;
4 (6) Grease and waste cooking oil;
5 (7) Food wastes;
6 (8) Municipal solid wastes and industrial wastes;
7 (9) Water, including wastewater; and
8 (10) Animal residues and wastes,
9 that can be used to generate energy.

10 "Renewable fuels" means fuels produced from renewable
11 feedstocks; provided that the fuel:

- 12 (1) Is sold as a fuel in the State; and
13 (2) Meets the relevant ASTM International
14 specifications or other industry specifications
15 for the particular fuel, including but not
16 limited to:
17 (A) Methanol, ethanol, or other alcohols;
18 (B) Hydrogen;
19 (C) Biodiesel or renewable diesel;

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- 1 (D) Biogas;
- 2 (E) Other biofuels;
- 3 (F) Renewable jet fuel or renewable gasoline; or
- 4 (G) Logs, wood chips, wood pellets, or wood
- 5 bark.

6 SECTION 4. Statutory material to be repealed is
7 bracketed and stricken. New statutory material is
8 underscored.

9 SECTION 5. This Act shall take effect on January 1,
10 2060 and shall apply to taxable years beginning after
11 December 31, 2024.

INTRODUCED BY: _____

S.B. NO.

Report Title:

Description:

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

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February 14, 2024

**TESTIMONY IN STRONG SUPPORT OF SB 2574
RELATING TO RENEWABLE FUELS**

Senate Committee on Agriculture and Environment (AEN)
The Honorable Mike Gabbard, Chair
The Honorable Herbert M. Richards, III, Vice Chair

Senate Committee on Energy, Economic Development, and Tourism (EET)
The Honorable Lynn DeCoite, Chair
The Honorable Glenn Wakai, Vice Chair

February 14, 2024, 1:46PM
Conference Room 224
State Capitol 415 South Beretania Street

Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and members of the Committees,

Thank you for the opportunity to provide testimony in STRONG SUPPORT of SB 2574, Relating to Renewable Fuels.

Hawaii has made significant progress to decarbonize our economy over the past 15 years since the Hawaii Clean Energy Initiative launched in 2008. Yet, there is much work still to be done. Transportation emissions account for over 50% of Hawaii's GHG emissions.¹ Electrifying the vehicle fleet will reduce emissions as the electric grid becomes greener. However, there are limited options available to address emissions with trucks and other heavy vehicles. The aviation sector faces particular challenges.

States on the US West Coast have started to address these challenges by introducing incentives for the use of low carbon fuels. In California, as reported by the California Air Resources Board, over 50% of diesel demand is now met by Renewable Diesel (RD). RD is a low-carbon fuel produced by processing used cooking oil, animal fats and vegetable oils. Similarly, there are small but growing volumes of renewable fuels for the

¹ https://health.hawaii.gov/cab/files/2023/05/2005-2018-2019-Inventory_Final-Report_rev2.pdf (Pages 26-27 document Transportation sector emissions of 10.68 MT of CO2 equivalent in the most recent reporting period of 2019. Total net emissions were 19.42 MT CO2 equivalent.)

aviation sector. This product is called Sustainable Aviation Fuel (SAF), and it is produced in a similar process and from the same feedstocks as RD².

These liquid renewable fuels are critical to meeting Hawaii's clean energy goals. This was a key finding in the recent Act 238 Hawaii Decarbonization Pathway Study which calls for RD and SAF to be a significant part of Hawaii's fuel supply beginning later this decade.³ See the chart in Appendix A.

Further, liquid renewable fuels such as biodiesel and RD are critical to decarbonizing the electric grid. These fuels provide firming resources to complement wind and solar generation on the grid⁴.

The good news is that Hawaii companies are stepping up to meet the need for these fuels. However, the cost to produce these fuels is significantly higher than the cost of fossil fuels, and additional financial incentives are required to initiate and sustain the production of these fuels. States on the U.S. West Coast have had success in bringing renewable fuels to the market, but it has required state-level financial incentives of up to \$1.00-2.00 per gallon. Without action, these renewable fuels will be produced and delivered to other markets including the West Coast.

Together with Hawaiian Airlines and Pono Pacific, a Hawaii-based land conservation and management company, we have developed a proposal that will foster the production of renewable fuel in Hawaii. SB 2574 significantly expands the existing Hawaii renewable fuels production tax credit to provide the incentives needed to bring these fuels to market in Hawaii. They key revisions are as follows:

- Increases base credit amount from 20 cents to 35 cents.
- Adds \$1.00 per gallon credit for fuel produced from Hawaii-sourced feedstock, providing a boost to local agriculture.
- Adds \$1.00 per gallon credit for SAF, to account for the additional costs to produce SAF as compared to RD.
- Increases aggregate annual cap from \$20 million to \$100 million to reflect the significant volume of renewable fuel that is needed to meet Hawaii's clean energy goals.
- Provides a credit for imported renewable fuels at a lesser value than locally produced fuel.

² RD and SAF are produced from the same feedstocks as biodiesel but have superior properties including serving as drop-in replacements for traditional diesel and jet fuel.

³ <https://energy.hawaii.gov/what-we-do/clean-energy-vision/decarbonization-strategy/>

⁴ See for example page 8 of Hawaiian Electric's Integrated Grid Plan for Oahu which includes significant amounts of biofuels. https://hawaiipowered.com/igpreport/IGP_SupplementalResponse_Nov-14-2023.pdf



The production of RD and SAF also creates opportunities for agriculture in Hawaii. We and our partner, Pono Pacific, are working with several landowners in Hawaii to develop oil-yielding crops that produce feedstock for RD and SAF. We are particularly focused on “cover crops” that restore soil nutrients, reduce erosion and have other important benefits.

We are excited to advance this important initiative that will reinforce Hawaii’s commitment to a clean energy future. SB 2574 will ensure access to affordable, reliable, and renewable fuels for consumers and industry in the State of Hawaii.

Mahalo for allowing Par Hawaii to share our strong support for SB 2574.

Appendix A

Act 238 Hawaii Decarbonization Pathway Study

- December 2023 Act 238 Pathways to Decarbonization Study modeled 3 scenarios
- **Study finds that renewable liquid fuels are critical to Hawaii reaching its decarbonization goals**
- Recommends an expansion of renewable fuels production tax credit

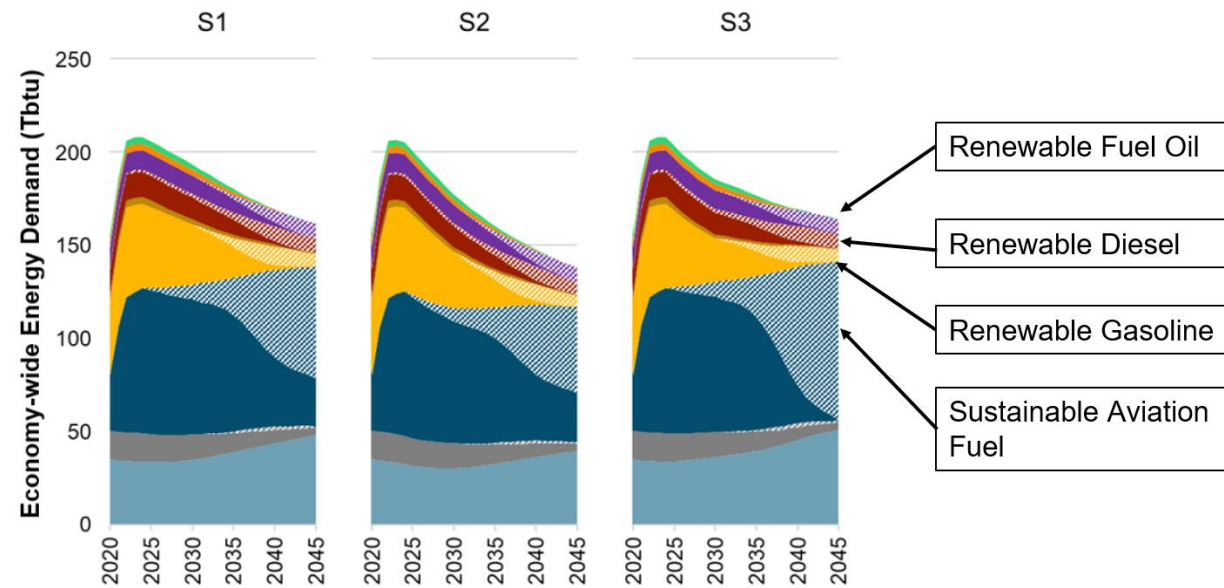


Figure 54 Economywide energy demand from 2020 through 2045 (excludes fuels combusted for electricity generation)



February 14, 2024

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Thank you for the opportunity to provide testimony in **STRONG SUPPORT** of SB 2574, Relating to Renewable Fuels.

Aviation emissions represent a very small part of overall global carbon emissions. Nonetheless, aviation represents a higher proportion of Hawaii's fossil fuel usage, given our unique dependence on air transportation and relatively limited utilization of road fuel. Within Hawaii, it is worth noting that aviation fuel usage is driven predominantly (estimated about 90%) by long-haul travel; with its short flight distances, the intrastate flying on which our community depends drives relatively little fuel consumption. In order to address the existential threat of human-caused climate change, airlines in the U.S. have all committed to reach net-zero in the decades to come.

At Hawaiian Airlines, we are committed to achieving net-zero carbon emissions by 2050. As Hawaii's airline, we see firsthand the impact of climate change on our home community, and feel a deep sense of urgency to take pragmatic action to address it. In 2023, we published our roadmap to net-zero, which highlights how we currently expect the various drivers of decarbonization will contribute to our 2050 net-zero goal. In line with the broader aviation industry, we view sustainable aviation fuel (SAF) as the most promising technology to advance aviation decarbonization. The U.S. airline industry has pledged to work with government leaders and other stakeholders to make 3 billion gallons of cost-competitive SAF available to U.S. aircraft operators in 2030. SAF is a proven, drop-in fuel, meaning that it is certified for use in existing aircraft engines, pipelines, and storage infrastructure, as long as it is blended up to 50% with conventional jet fuel. SAF can bring meaningful reductions in aviation carbon emissions, with lifecycle emissions intensity up to 50 to 80% lower than conventional jet fuel.

The reality is that while promising alternatives to jet engines lie beyond the horizon, the commercial aviation industry's excellent safety record relies on incremental adoption of new technology. The advantage of SAF is that it is already being used in today's aircraft and engines, which makes it one of the only credible means of reaching decarbonization goals between now and 2050.



The challenge with SAF is that it is not yet commercially viable, and it is not available at scale, and therefore incentives are needed to drive adoption in the near term. Objective economic analyses have demonstrated that the higher cost of SAF vs. jet fuel today is driven by two factors: (1) the maturity of manufacturing technologies, and (2) the lack of scale in production. Incentives and credits, therefore, are not a perpetual need but a bridge to get biofuel production to maturity and scale, when it can compete successfully against traditional petroleum-based fuels.

Other U.S. states, such as California, Oregon, Washington, Illinois and Minnesota, provide state-level incentives to advance SAF in their states. The State of Hawaii has established an ambitious target to achieve economy-wide net-zero emissions by 2045, and aviation emissions comprise about 50 percent of Hawaii's transportation emissions. If Hawaii wants to attract supply of SAF to address its aviation emissions, it will need incentives that are competitive with other U.S. states. As long as there is scarcity of supply, volume will go to the markets which provide the most value.

At Hawaiian Airlines, we are actively sourcing SAF in those U.S. West Coast markets that provide incentives, investing in technologies to scale SAF, and working to advance SAF here in Hawaii. In 2023, we entered into a long-term offtake agreement with biofuel company Gevo for 50 million gallons of SAF delivered over five years in California, starting in 2029. We also made a strategic investment in United Airlines Ventures Sustainable Flight Fund, an investment fund focused on investing in technologies to scale SAF. And here in Hawaii, back in 2022, we established a partnership with Par Hawaii to explore the viability of locally produced SAF. As part of our partnership with Par Hawaii, we engaged outside consultants to evaluate the different policy options to support SAF in Hawaii. We are also one of the founding members of a broad coalition of organizations from diverse sectors who believe that it is important to advance the dialogue around renewable fuels in Hawaii.

SB 2574 proposes a strategic set of tax incentives tailored to incentivize both the local production and import of renewable fuels, including SAF, into Hawaii. These incentives will empower us to cultivate energy independence, foster economic growth, address aviation decarbonization through the expansion of SAF in Hawaii, and create a sustainable future for our islands.

Highlights of the bill include:

- Credit for both locally produced and imported renewable fuels, with higher values for local production; while local production benefits our economy through economic development and job creation, given the land constraints in our islands, imported renewable fuels must also be part of the solution
- Additional value if the feedstock is locally sourced; again, given land constraints in Hawaii, we expect imported feedstock to play a significant role in our state's decarbonization, however this incremental incentive for local feedstock is intended to spur economic activity in the agricultural sector in Hawaii and lead to new, green jobs for our state
- Additional value for SAF in order to 'level the playing field' between SAF and other renewable fuels; SAF is currently inherently less profitable for producers than renewable diesel (RD), and therefore this additional value for SAF is needed in order to ensure some production volume is allocated to SAF; the intent is not to give SAF an advantage, but instead to close the relative margin gap between SAF and RD
- A lifecycle greenhouse gas emissions intensity reduction threshold that must be met in order to qualify for the tax credit



- An increase in the annual cap for local production of renewable fuels to \$100 million and imported renewable fuels to \$50 million; these levels should support meaningful volumes of renewable fuels to contribute to Hawaii's decarbonization targets
- Removal of restrictive cap per producer and modification of first come / first serve mechanism to a pro-rated concept to enable more equitable distribution of the credit among multiple producers/importers; in order to make meaningful progress on decarbonizing our economy, we believe it is important that producers with large production capacities have access to the tax credit, while at the same time, it's important to ensure that smaller producers have access to the credit to grow and diversify the biofuels market in Hawaii; we believe these proposed changes enable that, however we are open to other mechanisms which achieve the same outcome

We believe state-level tax credits, in combination with existing federal incentives, will be the most effective mechanism to drive meaningful volumes of renewable fuels in Hawaii in the near term. We acknowledge that the cost is significant, but it represents a realistic estimate of what is needed to drive decarbonization in our economy, and particularly in aviation, which has been deemed a 'hard to decarbonize' sector. Offset against this cost are: (1) the benefits to the state's economy from developing an industry and creating jobs in biofuel and feedstock production, and (2) major steps forward in reaching our state's carbon reduction goals.

We have demonstrated in recent years that we are willing and able to use our buying power as an airline to drive adoption of sustainable aviation fuels – committing to purchase millions of gallons of SAF up to a decade into the future. Where cost-competitive SAF can be supplied, airlines will choose SAF over conventional jet fuel. It is vitally important to us to be able to make these investments in our home state as well. The proposed legislation provides the necessary support to drive adoption of sustainable fuels in Hawaii and drive meaningful progress toward the state's decarbonization goals. We believe this is not only a major step forward in combating climate change, but also a benefit to our energy independence, agricultural and industrial jobs, and a more balanced, diversified state economy.

Mahalo,

Alanna James
Managing Director, Sustainability Initiatives
Hawaiian Airlines



February 14, 2024

**TESTIMONY IN STRONG SUPPORT OF SB 2574
RELATING TO RENEWABLE FUELS**

Senate Committee on Agriculture and Environment (AEN)
The Honorable Mike Gabbard, Chair
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Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and members of the Committees,

Thank you for the opportunity to provide testimony in **STRONG SUPPORT** of SB 2574, Relating to Renewable Fuels.

Hawaii has made significant progress to decarbonize our economy over the past 15 years since the Hawaii Clean Energy Initiative launched in 2008. Yet, there is much work still to be done. Transportation emissions account for over 50% of Hawaii's GHG emissions.¹ Electrifying the vehicle fleet will reduce emissions as the electric grid becomes greener. However, there are limited options available to address emissions with trucks and other heavy vehicles. The aviation sector faces particular challenges.

States on the US West Coast have started to address these challenges by introducing incentives for the use of low carbon fuels. In California, as reported by the California Air Resources Board, over 50% of diesel demand is now met by Renewable Diesel (RD). RD is a low-carbon fuel produced by processing used cooking oil, animal fats and vegetable oils. Similarly, there are small but growing volumes of renewable fuels for the

¹ https://health.hawaii.gov/cab/files/2023/05/2005-2018-2019-Inventory_Final-Report_rev2.pdf (Pages 26-27 document Transportation sector emissions of 10.68 MT of CO2 equivalent in the most recent reporting period of 2019. Total net emissions were 19.42 MT CO2 equivalent.)

aviation sector. This product is called Sustainable Aviation Fuel (SAF), and it is produced in a similar process and from the same feedstocks as RD².

These liquid renewable fuels are critical to meeting Hawaii's clean energy goals. This was a key finding in the recent Act 238 Hawaii Decarbonization Pathway Study which calls for RD and SAF to be a significant part of Hawaii's fuel supply beginning later this decade.³ See the chart in Appendix A.

Further, liquid renewable fuels such as biodiesel and RD are critical to decarbonizing the electric grid. These fuels provide firming resources to complement wind and solar generation on the grid⁴.

The good news is that Hawaii companies are stepping up to meet the need for these fuels. However, the cost to produce these fuels is significantly higher than the cost of fossil fuels, and additional financial incentives are required to initiate and sustain the production of these fuels. States on the U.S. West Coast have had success in bringing renewable fuels to the market, but it has required state-level financial incentives of up to \$1.00-2.00 per gallon. Without action, these renewable fuels will be produced and delivered to other markets including the West Coast.

Together with Hawaiian Airlines and Pono Pacific, a Hawaii-based land conservation and management company, we have developed a proposal that will foster the production of renewable fuel in Hawaii. SB 2574 significantly expands the existing Hawaii renewable fuels production tax credit to provide the incentives needed to bring these fuels to market in Hawaii. The key revisions are as follows:

- Increases base credit amount from 20 cents to 35 cents.
- Adds \$1.00 per gallon credit for fuel produced from Hawaii-sourced feedstock, providing a boost to local agriculture.
- Adds \$1.00 per gallon credit for SAF, to account for the additional costs to produce SAF as compared to RD.
- Increases aggregate annual cap from \$20 million to \$100 million to reflect the significant volume of renewable fuel that is needed to meet Hawaii's clean energy goals.
- Provides a credit for imported renewable fuels at a lesser value than locally produced fuel.

² RD and SAF are produced from the same feedstocks as biodiesel but have superior properties including serving as drop-in replacements for traditional diesel and jet fuel.

³ <https://energy.hawaii.gov/what-we-do/clean-energy-vision/decarbonization-strategy/>

⁴ See for example page 8 of Hawaiian Electric's Integrated Grid Plan for Oahu which includes significant amounts of biofuels. https://hawaiipowered.com/igpreport/IGP_SupplementalResponse_Nov-14-2023.pdf



The production of RD and SAF also creates opportunities for agriculture in Hawaii. We and our partner, Pono Pacific, are working with several landowners in Hawaii to develop oil-yielding crops that produce feedstock for RD and SAF. We are particularly focused on “cover crops” that restore soil nutrients, reduce erosion and have other important benefits.

We are excited to advance this important initiative that will reinforce Hawaii’s commitment to a clean energy future. SB 2574 will ensure access to affordable, reliable, and renewable fuels for consumers and industry in the State of Hawaii.

Mahalo for allowing Par Hawaii to share our strong support for SB 2574.

Appendix A

Act 238 Hawaii Decarbonization Pathway Study

- December 2023 Act 238 Pathways to Decarbonization Study modeled 3 scenarios
- **Study finds that renewable liquid fuels are critical to Hawaii reaching its decarbonization goals**
- Recommends an expansion of renewable fuels production tax credit

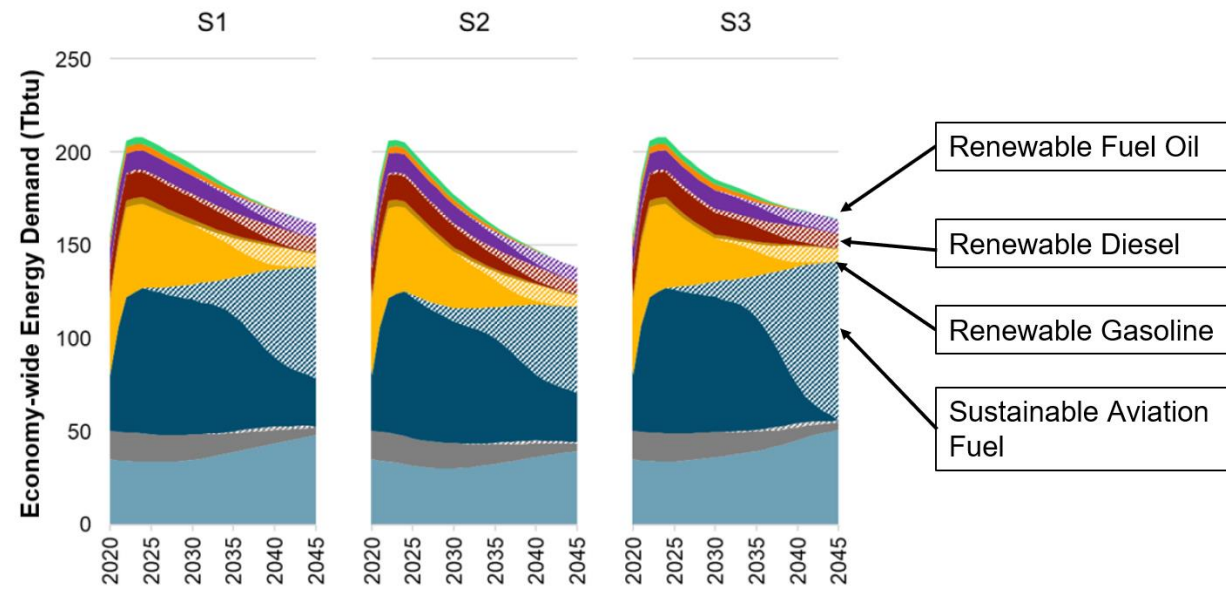


Figure 54 Economywide energy demand from 2020 through 2045 (excludes fuels combusted for electricity generation)



February 13, 2024

**TESTIMONY IN SUPPORT OF SB 2574
RELATING TO RENEWABLE FUEL**

Senate Committee on Agriculture and Environment (AEN)
The Honorable Mike Gabbard, Chair
The Honorable Herbert M. "Tim" Richards III, Vice Chair

Senate Committee on Energy, Economic Development and Tourism (EET)
The Honorable Lynn DeCoite, Chair
The Honorable Glenn Wakai, Vice Chair

February 14, 2024, 1:46PM
Conference Room 224
State Capitol 415 South Beretania Street

Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and members of the Committees,

Thank you for the opportunity to provide testimony in STRONG SUPPORT of SB 2574, Relating to Renewable Fuel. We believe that the proposed legislation presents a win-win opportunity for our state, our environment, and our agricultural sector.

Pono Pacific is the state leader in land management with over 20+ years of experience across the Hawaiian Islands with an emphasis on conservation lands, agriculture, and renewable energy. Pono Pacific has partnered with Par to develop a supply of locally grown feedstocks for biofuel production. Locally grown feedstocks will provide farmers with a viable economic commodity to supply the refinery and help put idle lands to work. SB 2574 will help Hawaii farmers compete against imported feedstocks by providing an additional credit of \$1 per gallon for renewable fuels produced from locally sourced renewable feedstocks.

Finding viable uses for agriculture lands that will encourage sustainability in our environment and that produce positive economic cash flow for Hawaii is a critical need. Locally grown biofuel feedstocks offer significant benefits for our farmers and ranchers. These crops can thrive on marginal land, improving soil health and reduce erosion. They



require less water and fertilizer than traditional row crops. By creating a demand for these crops, the renewable fuels industry can revitalize rural communities, create new jobs, and diversify farm income streams.

Par Hawaii has publicly committed to spend significant capital retrofitting its Kapolei refinery to produce renewable fuels, including sustainable aviation fuel (SAF). Transitioning to SAF, derived from renewable sources like energy crops, presents a crucial step towards decarbonizing air travel. SAF can bring meaningful reductions in aviation carbon emissions, with lifecycle emissions intensity up to 50 to 80% lower than conventional jet fuel. Investing in local SAF production is not just economically sound, it's an environmental imperative.

Hawaii needs to be competitive with other states that have already adopted tax credits for SAF and other renewable fuels and provide local production and consumption with the necessary advantages to succeed, especially as the industry is just starting to get off the ground. Initially to be competitive, local SAF production will need government support.

Growing biofuel feedstocks locally helps to create new agricultural jobs, encourage food production through infrastructure synergies, and does not compete with food crops when using oil seed cover crops. Pono Pacific believes these feedstocks will be able to provide a quality biofuel product and usable byproducts (such as animal feed) to help support Hawaii's sustainability goals, and agricultural, ranching and dairy sectors of the local economy.

The production and distribution of SAF is not just about farms; it is about building a robust green energy infrastructure within our state. From biofuel refineries to logistics companies, the entire chain creates high-paying jobs, attracts investment, and boosts Hawaii's overall economic output. Investing in local SAF production positions us as a leader in the burgeoning clean aviation fuel market, attracting further investment and innovation.

Renewable fuels face a financial hurdle and cost more to produce than conventional alternatives. This bill proposes a strategic set of tax incentives tailored to incentivize local renewable fuel production and imports of renewable fuels into Hawaii. These incentives will empower us to cultivate energy independence, foster economic growth, and create a sustainable future for our islands. Incentives and credits, therefore, are not a perpetual need but a bridge to get biofuel production to maturity and scale when it can compete successfully against traditional petroleum-based fuels.



The proposed tax incentives for local renewable fuel production are not just an economic stimulus package; they represent a strategic investment in Hawaii's future. By supporting our farmers, fostering clean energy innovation, and building a more sustainable aviation industry, we can secure a brighter future for generations to come.

Importantly, the proposed tax incentives, and specifically the additional \$1 credit for renewable fuels produced from locally grown renewable feedstock, does not run afoul of the Commerce Clause. Hawaii's biofuel tax credit aligns with the Biden administration's goals for clean energy transition and climate change mitigation, potentially paving the way for collaboration and federal support. The pertinent legal question is whether promoting energy security through biofuels produced from locally grown sustainable feedstock is a "legitimate public purpose." Unlike most states, Hawaii's geographic isolation significantly amplifies its vulnerability to fuel price fluctuations and supply disruptions. This unique dependency on imported fossil fuels necessitates innovative solutions tailored to its specific context.

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, the legal test is not whether the law "allow[s] for companies outside of Hawaii to be qualified." Under the U.S. Supreme Court's legal test, 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 Hawaii taxpayers over other taxpayers in interstate commerce. *Id.* at 138 (quoting *Hughes v. Oklahoma*, 441 U.S. 322, 336 (1979)). The substantial local benefits of the tax credit (energy security, environmental protection, economic development) clearly outweigh the minimal burden on interstate commerce.

The unique combination of Hawaii's energy vulnerability, limited renewable options, and the minimal impact of the tax credit on interstate commerce, coupled with its substantial local benefits and alignment with national goals, provides a compelling case for upholding its legality under the Commerce Clause. Recognizing and supporting Hawaii's innovative approach to energy security paves the way for a more sustainable energy future for the nation as a whole.



We urge you to pass this legislation and unlock the immense potential of locally produced SAF. Together, we can build a cleaner, more prosperous future for all. Thank you for your time and consideration.

Mahalo,

Chris Bennett
Vice President of Sustainable Energy Solutions
Pono Pacific Land Management, LLC

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX; Tax Credit for Importing Renewable Fuel or Sustainable Aviation Fuel

BILL NUMBER: HB 2296, SB 2574

INTRODUCED BY: HB by LOWEN, COCHRAN, EVSLIN, GATES, LA CHICA, MARTEN, PERRUSO, TODD, WOODSON; SB by LEE

EXECUTIVE SUMMARY: Establishes a tax credit for the import of renewable fuel. Updates the renewable fuels production tax credit.

SYNOPSIS: Adds a new section to chapter 235, HRS, to establish the renewable fuels import tax credit.

The amount of the credit is ___ cents per gallon for a taxpayer importing renewable fuel where the lifecycle greenhouse gas emissions are at least ___% below that of fossil fuels and the renewable fuel is consumed in the State. For a taxpayer importing sustainable aviation fuel, the credit is \$1.00 per gallon.

No later than 60 days following the close of the taxable year, a taxpayer intending to claim this credit is to submit relevant information to the Hawaii State Energy Office and obtain certification from that office. That certification is to be filed with the taxpayer's income tax return.

A \$50 million aggregate cap is established for the credit.

The taxpayer is to provide written notice of intention to begin import of renewable fuels to the Department of Taxation and the Energy Office prior to the start of importation.

The taxpayer is to provide another written notice to the Department of Taxation and the Energy Office within 30 days following the start of importation.

Information received by the Energy Office is to be made publicly available.

The credit is nonrefundable but may be carried forward until exhausted. A taxpayer is also given an election to make the credit refundable by giving up 30% of it. A taxpayer all of whose income is exempt under section 235-7(a)(2) or (3) (relating to pensions) or a taxpayer whose adjusted gross income is \$20,000 or less (\$40,000 if married filing jointly) may make the refundable election at no cost.

All claims for the credit are to be filed on or before the end of the twelfth month following the close of the taxable year, or the credit is waived.

Defines "Lifecycle greenhouse gas emissions," "Renewable fuels," and "Sustainable aviation fuel" by cross-reference to section 235-110.32.

Amends section 235-110.32, HRS, to raise the credit from 20 to 35 cents per 76,000 BTU of renewable fuels produced and sold for distribution in the State. Removes the \$3.5 million aggregate cap on the credit but specifies that fuels are to have lifecycle greenhouse gas emissions at least ___% below that of fossil fuels. Adds a \$1 per gallon credit for renewable fuels produced from locally sourced renewable feedstock. Adds a \$1 per gallon credit for production of sustainable aviation fuel within the State and produced and sold for consumption by flights originating from and within the State. Increases the time within which the Hawaii State Energy Office is given to respond to a request for certification from 30 to 60 days. Raises the aggregate credit cap from \$20 million to \$100 million.

Makes other technical changes.

EFFECTIVE DATE: July 1, 2024, applicable to taxable years beginning after December 31, 2024; provided that section 2 shall repeal on January 1, 2036.

STAFF COMMENTS: Act 202, SLH 2016, enacted a renewable energy production credit with a five-year life. The credit sunset on December 31, 2021. The credit was revived by Act 16, SLH 2022 with an aggregate cap of \$20 million.

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 encourage alternative energy production through the appropriation of a specific number of taxpayer dollars. The State could directly purchase energy, or it could give a subsidy to developers. Then, 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.

Digested: 1/26/2024



Legislative Testimony of S. Derek Phelps
Senate Agriculture and Environment Committee
Senate Committee on Energy, Economic
Development, and Tourism
February 14, 2024
Senate Bill No. 2574 (Introduced by Senator Chris Lee, 26)

Good afternoon, Senators Gabbard and DeCoite, and distinguished members of the Committees. My name is Derek Phelps. I am Head of Policy & Governmental Affairs for Twelve. It is my pleasure to appear before you to testify in support of SB2574, sponsored by Senator Lee, which, among other things, would establish a \$1.00 per gallon income tax credit for sustainable aviation fuel (SAF) that is imported into Hawaii for use on intrastate flights and other flights that take off from airports in Hawaii.

Twelve, founded in 2015 as a high-tech start-up, has developed a breakthrough technology that transforms CO₂ into useful hydrocarbon products such as polymers, ethylene, and fuels, alleviating the need to extract additional fossil fuels from the ground.

We are currently focused on the production of power-to-liquid SAF, which we refer to as E-Jet[®].¹ That is because the airline industry predicts it will need 8 billion gallons of SAF per year by 2030.

Twelve has partnerships for the sale of its produced SAF with commercial air carriers such as Alaska Airlines, which is poised to merge with Hawaiian

¹ More information on our E-Jet fuel can be found on our website at <https://www.twelve.co/ejet>.

Airlines, and we have completed demonstration projects with the Department of Defense and NASA.

We are currently building our first AirPlant™, a demonstration project designed to prove the scalability of our technology, in Washington State. We broke ground on that facility last summer on a 14-acre brownfield parcel. We currently expect to begin producing SAF at that facility later this year.

We are enormously supportive of this bill because, if enacted, it will send a clear signal that Hawaii wants to promote the importation and in-state uplift of SAF. Without such an incentive, given the state's location, it is difficult to foresee SAF being imported from elsewhere (i.e., from other states or countries) for use in aircraft that take off from Hawaiian airports.

That said, there is one aspect of the SAF import tax credit that we believe would benefit from a revision. Subsection (p) of the proposed credit would accord SAF the same meaning provided in section 235-110-32. That section, which would also be amended by the bill, would define SAF in its own subsection (p) to mean "ASTM International D7566-compliant renewable aviation turbine fuel blendstock that achieves at least _____ per cent reduction in aggregate attributional core lifecycle greenhouse gas emissions." While this definition would undoubtedly include the power-to-liquid SAF that Twelve will start producing later this year, subsection (p) of section 235-110-32, as amended by SB 2574, would also list SAF in a new paragraph (H) as a type of fuel encompassed within the definition of "renewable fuels." In view of this and the fact that the term "renewable fuels" is already defined to mean fuels produced from renewable feedstocks, we recommend that the following new paragraph be added to the section 235-110-32(p) definition of "renewable feedstocks":

Gaseous carbon oxides that are derived from biomass or captured directly from the ambient air;

This language would serve to clarify that Twelve's E-Jet fuel is both a renewable fuel and SAF under the definitions of those terms, which would help us to serve the goals of this legislation.

In closing, we wish to underscore our strong support for this measure and urge its passage with the revision we have suggested.

Thank you very much.



**Hawai'i
Renewable Fuels
Coalition**

**Coalition members in
alphabetical order:**

Airlines for America

Haleakala Ranch

Hawaii Farm Bureau

**Hawaii Fueling Facilities
Corp**

Hawaiian Airlines

ITOCHU Corporation

Japan Airlines

Kuilima Farms

Meadow Gold Hawaii

Par Hawaii

Pono Pacific

United Steelworkers

February 14, 2024

**TESTIMONY IN SUPPORT OF SB 2574
RELATING TO RENEWABLE FUELS**

Senate Committee on Agriculture and Environment (AEN)
The Honorable Mike Gabbard, Chair
The Honorable Herbert M. "Tim" Richards, III, Vice Chair

Senate Committee on Energy, Economic Development, and Tourism (EET)
The Honorable Lynn DeCoite, Chair
The Honorable Glenn Wakai, Vice Chair

February 14, 2024, 1:46PM

Conference Room 224

Hawaii State Capitol 415 South Beretania Street

Chairs Gabbard and DeCoite, Vice Chairs Richards and Wakai, and members of the Committees,

Thank you for the opportunity to provide testimony in **STRONG SUPPORT** of SB 2574, Relating to Renewable Fuels.

Hawaii has made significant progress to decarbonize our economy over the past 15 years since the Hawaii Clean Energy Initiative launched in 2008. As a state, we have witnessed a steady increase in the adoption of solar energy over the years to help reduce our dependence on fossil fuels. And while alternative pathways for reducing on-road transportation-sourced emissions are becoming increasingly available, there are few viable, near-term options for reducing aviation emissions which is a disproportionately important source of our transportation emissions, given Hawaii's geography and unique dependence on air service for our economy and connection to the world.

Hawaii stands at a critical juncture in its clean energy journey. We are poised for a pivotal leap forward: **local production of reliable, resilient, and renewable fuels** for power generation, heavy duty road transportation, marine fuel, and aviation. This shift toward renewable fuels holds the key to diversifying our energy portfolio, ensuring grid stability, advancing transportation decarbonization, and propelling us toward our audacious 100% renewable energy and economy wide net-zero carbon goals by 2045.

Liquid renewable fuels, which are not dependent upon weather conditions, will round out Hawaii's renewable energy portfolio and supplement intermittent energy provided by photovoltaic panels. This will enable our state to have a more reliable



Hawai'i Renewable Fuels Coalition

Coalition members in alphabetical order:

Airlines for America

Haleakala Ranch

Hawaii Farm Bureau

Hawaii Fueling Facilities
Corp

Hawaiian Airlines

ITOCHU Corporation

Japan Airlines

Kuilima Farms

Meadow Gold Hawaii

Par Hawaii

Pono Pacific

United Steelworkers

energy supply to meet the needs of communities across our islands and move the state closer to its goal of using 100% renewable energy by 2045.

Sustainable aviation fuel (SAF) is widely viewed as the most promising technology to advance aviation decarbonization. The U.S. airline industry has pledged to work with government leaders and other stakeholders to make 3 billion gallons of cost-competitive SAF available to U.S. aircraft operators in 2030. SAF is a drop-in fuel, meaning that it works with existing aircraft engines, pipelines, and storage infrastructure, as long as it is blended up to 50% with conventional jet fuel, and work is underway to approve uses up to 100% SAF. SAF can bring meaningful reductions in aviation carbon emissions, reducing lifecycle emissions intensity of fuel up to 80% compared to conventional jet fuel today, with future pathways having potential for 100% reductions.

The reality is that while promising alternatives to jet engines lie beyond the horizon, the commercial aviation industry's excellent safety record relies on incremental adoption of new technology, improving overall fuel efficiency by more than 135 percent between 1978 and year-end 2019. The advantage of SAF is that it is already being used in today's aircraft and engines, which makes it one of the only credible means of reaching decarbonization goals between now and 2050.

However, renewable fuels face a financial hurdle and cost more to produce than conventional alternatives. This bill proposes a strategic set of tax incentives tailored to incentivize local renewable fuel production and imports of renewable fuels into Hawaii. These incentives will empower us to cultivate energy independence, foster economic growth, and create a sustainable future for our islands. Objective economic analyses have demonstrated that the higher cost of SAF vs. jet fuel today is driven by two factors: (1) the maturity of manufacturing technologies, and (2) the lack of scale in production. Incentives and credits, therefore, are not a perpetual need but a bridge to get biofuel production to maturity and scale, when it can compete successfully against traditional petroleum-based fuels.

In the global race for renewable fuel production, attracting investment hinges on competitive incentives. Other states, like Washington, which offers a robust up to \$2-per-gallon tax credit for SAF, are setting the bar. To secure our place in this critical market, we must offer comparable or even more compelling incentives. Highlights of SB 2574 include:

- Credit for both locally produced and imported renewable fuels, with higher values for local production; while local production benefits our economy through economic development and job creation, given the land constraints in our islands, imported renewable fuels must also be part of the solution



**Hawai'i
Renewable Fuels
Coalition**

**Coalition members in
alphabetical order:**

Airlines for America

Haleakala Ranch

Hawaii Farm Bureau

**Hawaii Fueling Facilities
Corp**

Hawaiian Airlines

ITOCHU Corporation

Japan Airlines

Kuilima Farms

Meadow Gold Hawaii

Par Hawaii

Pono Pacific

United Steelworkers

- Additional value if the feedstock is locally sourced; this is intended to spur economic activity in the agricultural sector and lead to new, green jobs for our state
- Additional value for SAF compared to other renewable fuels in order to 'level the playing field' between SAF and other renewable fuels; SAF is less profitable for producers than other renewable fuels, and therefore this additional value is needed in order to ensure some production volume is allocated to SAF
- A lifecycle greenhouse gas emissions intensity reduction threshold that must be met in order to qualify for the tax credit
- Increase annual cap for local production of renewable fuels to \$100 million and imported renewable fuels to \$50 million; these levels should support meaningful volumes of renewable fuels to contribute to Hawaii's decarbonization targets
- Removal of restrictive cap per producer and modification of first come / first serve mechanism to a pro-rated concept to enable more equitable distribution of the credit among multiple producers/importers

We believe state-level tax credits, in combination with existing federal incentives, will be the most effective mechanism to drive meaningful volumes of renewable fuels in Hawaii in the near term. We acknowledge that the cost is significant, but it represents a realistic estimate of what is needed to drive decarbonization in our economy, and particularly in aviation, which has been deemed a 'hard to decarbonize' sector. Offset against this cost are: (1) the benefits to the state's economy from developing an industry and creating jobs in biofuel and feedstock production, and (2) major steps forward in reaching our state's carbon reduction goals.

Investing in local renewable fuel production is not just an economic decision; it's a defining moment for our future. By embracing this opportunity and empowering this bill, we can secure energy independence, boost our economy, and pave the way for a cleaner, brighter future for generations to come. As we see increasingly clear impacts of climate change on our community, the urgency has never been greater to invest in sustainable fuel alternatives – reducing our carbon emissions, increasing our resilience and energy independence, and creating jobs.

Mahalo,

Hawaii Renewable Fuels Coalition

THE SENATE & HOUSE OF REPRESENTATIVES
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024

Senate Committees EET & AEN

TESTIMONY ON SENATE BILL NO. 2574

Position: **Support**

To the Honorable Senator Lynn DeCoite, Chair; Senator Glenn Wakai, Vice Chair; Honorable Senator Mike Gabbard, Chair; Honorable Senator Herbert “Tim” Richards, Vice Chair and Members of the Committees:

HBETO Supports of this measure.

The Hawaii Bioeconomy Trade Organization (HBETO) is a 501 (c) (6) non-profit trade organization whose mission is to grow a sustainable bioeconomy for Hawai'i. HBETO works to educate and collaborate private and public actions for a better bioeconomy across Hawai'i. To put it into more detail, HBETO is dedicated to the advancement of integrated biologically-based systems which produce products and services to re-use waste and make renewable fuel, local food, and value-added products in Hawaii. This trade organization seeks to develop beneficial collaborations which innovate re-use of existing infrastructure and industrial systems to reduce lifecycle greenhouse gases relative to imported petroleum energy and food products, support the state's economic development through use of agricultural land for agribusiness activities, improve resident as well as visitor quality of life, integrate and support Hawaii's visitor industry through meaningful eco-tourism, and apply science and data-based best practices to re-use waste as well as restore agricultural land, watersheds, and indigenous ecosystems. Recognizing that no industry survives in isolation, HBETO works to find constructive and proactive paths for green fuels and local food development and consumption that include reasonable compensation mechanisms for the contributions made to the supply chain by local businesses sharing these common business interests. HBETO engages in state-level business, legislative, and regulatory forums with the explicit intent of collaborating with all stakeholders willing to work cooperatively toward food and fuel's intersection with the State of Hawaii's clean energy future.

Sincerely,



Carl J. Campagna
Executive Director



February 13, 2024

Senate Committee on Agriculture and Environment

The Honorable Mike Gabbard, Chair

The Honorable Herbert M. Richards, III, Vice Chair

Senate Committee on Energy, Economic Development, and Tourism

The Honorable Lynn DeCoite, Chair

The Honorable Glenn Wakai, Vice Chair

February 14, 2024, 1:46pm

Conference Room 224

State Capitol - 415 South Beretania Street

TESTIMONY IN SUPPORT OF SB 2574, RELATING TO RENEWABLE FUELS

Chair Gabbard and Chair DeCoite, Vice Chair Richards and Vice Chair Wakai, and members of the Committees,

Thank you for the opportunity to provide testimony in **SUPPORT of SB 2574, Relating to Renewable Fuels.**

The passage of this bill will directly support Maui Land & Pineapple Company's (MLP) renewed mission to maximize the productive use of land to enable a thriving future for residents. We support the necessary transition to renewable energy statewide and have actively participated in generating alternative energy resources on Maui.

For over a century, MLP has built a legacy of authentic innovation through conservation, agriculture, community building, and land management. MLP is dedicated to the thoughtful stewardship of over 22,000 acres of land along with approximately 260,000 square feet of commercial properties. Today, MLP envisions a future where Maui residents thrive in more resilient communities with additional housing opportunities, food and water security, economic sustainability, and renewed connections of people and place.

Hawai'i has made significant progress to decarbonize our economy over the past 15 years since the Hawai'i Clean Energy Initiative launched in 2008. As a state, we have witnessed a steady increase in the adoption of solar energy over the years to help reduce our dependence on fossil fuels.

We believe state-level tax credits, in combination with existing federal incentives, will help to drive the continued transition to renewable energy in Hawai'i in the near term.

Mahalo,

A handwritten signature in black ink, appearing to read 'RR', is positioned below the word 'Mahalo'.

Race Randle

CEO, Maui Land & Pineapple Company

race@mauland.com



Airlines for America®
We Connect the World

February 22, 2024

**TESTIMONY ON SB 2574
RELATING TO RENEWABLE FUEL**

COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Senator Mike Gabbard
Senator Tim Richards, III

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
Senator Lynn DeCoite, Chair
Senator Glenn Wakai, Vice Chair

Conference Room 224
State Capitol
415 South Beretania Street

Dear Senators Gabbard, Richards, DeCoite, Wakai, and Members of the Committees:

Thank you for the opportunity to provide comments in support of SB 2574, Relating to Renewable Fuel. Airlines for America® (A4A) is the principal trade and service organization of the U.S. airline industry¹. A4A and its members have a strong climate change record and are committed to working across the aviation industry and with government leaders in a positive partnership to achieve net-zero carbon emissions by 2050, which parallels the Biden administration's goal to achieve net-zero greenhouse gas emissions in the aviation sector by 2050.

Airlines, governments and other aviation stakeholders have recognized that achieving net-zero aviation emissions by 2050 will require a very rapid transition from conventional (fossil) jet fuel to sustainable aviation fuel (SAF). SAF is a drop-in fuel, meaning that it works with existing aircraft engines, pipelines, and storage infrastructure, as long as it is blended up to 50% with conventional jet fuel and qualified to the relevant ASTM standards for alternative jet fuel. Work is underway to approve uses up to 100% SAF. SAF can bring meaningful reductions in aviation carbon emissions, reducing lifecycle emissions intensity of fuel up to 80% compared to conventional jet fuel today, with future pathways having potential for 100% reductions.

The primary impediment to rapid scale up of SAF production capacity remains the relative cost to jet fuel buyers of SAF compared to conventional jet fuel, and the relative cost of production of

¹ A4A's members are: Alaska Airlines, Inc.; American Airlines Group Inc.; Atlas Air, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Hawaiian Airlines, Inc.; JetBlue Airways Corp.; Southwest Airlines Co.; United Airlines Holdings, Inc.; and United Parcel Service Co. Air Canada, Inc. is an associate member.

SAF compared to Renewable Diesel (RD)². SAF is typically produced at the same production facilities as RD, but because the production economics of RD are more favorable, RD production volumes are substantially higher. Incentives such as tax credits that provide more value to SAF are one way to increase SAF production and use. Conversely, tax credits that provide more value to RD than SAF will further inhibit SAF production.

Achieving this rapid transition to SAF requires industry and government to work in partnership, at both the federal and state levels, to expand SAF production capacity across the country. A4A and our members strongly support tax incentives – in particular the SAF Blenders Tax Credit (BTC) – needed to catalyze SAF production. The Biden administration also strongly advocated for the enactment of these kinds of incentives, and we are thankful for the critical support the administration provided to ensure enactment of the SAF-BTC and Clean Fuels Production Credit (CFPC) – as well as other tax incentives like the Clean Hydrogen Credit – that will provide support vital to successfully engendering exponential growth in domestic SAF production through 2030.

Ensuring the sustainability and environmental integrity of feedstocks and the production technology pathways is critical to the continued recognition and acceptance of SAF to achieve the carbon emissions reduction ambitions of aviation. We support establishing strong and robust sustainability and technical requirements based on objective criteria and the latest scientific research. A4A and its members are feedstock and technology neutral for SAF production, we firmly believe that any production pathway that can meet robust technical and sustainability requirements should be eligible for incentive programs, such as this proposal.

A4A and our member airlines value our partnership with the State of Hawai'i and believe there is a unique opportunity to jointly develop a market for cost competitive SAF. We believe SB 2574 is a great way to jump start that process, and we appreciate the leadership role the state intends to play in this space.. Please do not hesitate to contact us if you have any questions.

Sincerely,



Sean Williams
Vice President, State and Local Government Affairs
swilliams@airlines.org

² Note that Renewable Diesel and Biodiesel are not the same fuels. Neither Renewable Diesel or Biodiesel can be used in aircraft. However, SAF, RD, and Biodiesel can utilize same or similar feedstocks.



February 13, 2024

House Committee on Energy and Environmental Protection (EEP)
The Honorable Nicole E. Lowen, Chair
The Honorable Elle Cochran, Vice Chair
January 30, 2024, 9:00am
House Conference Room
325 State Capitol 415 South Beretania Street

Chair Lowen and Vice Chair Cochran, and members of the Committee,

Thank you for the opportunity to provide testimony in support of HB 2296, Relating to Renewable Fuels.

The United Steelworkers represents Energy workers in the PAR Kapolei refinery. Our members have been foundational to the local economy of Hawaii not only through the challenging work they do to meet today's energy demands, but also by their partnership with PAR in providing good paying jobs to the local economy.

We are committed to providing the communities we live in with the reliable, affordable and environmentally responsible energy needed to drive the economy. Our hard earned safety culture has led the industry internationally, and is the benchmark going forward in diversifying our world's energy portfolio. Manufacturing fuels in the United States is the safest, most reliable and environmentally responsible in the world and if we are to integrate new sources of energy into our economy, we need the support of our government officials to invite and maintain these emerging technologies.

In order to meet the energy needs of the future and continue global flourishing, Local Government, Industry and Labor will need to work together to diversify our energy needs in the best possible way for all of us.

Scott Campbell
President USW Local 12-591
47 Alder Ln
Mt Vernon, WA 98273
Cell: 360-224-1190

United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers
International Union

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Testimony of
ALASKA AIRLINES

before the
**JOINT SENATE COMMITTEE ON AGRICULTURE AND THE ENVIRONMENT &
ENERGY, ECONOMIC DEVELOPMENT AND TOURISM**

Wednesday, February 14, 2024, 1:46 p.m.
Hawai'i State Capitol, Room 224

in consideration of
SB2574
RELATING TO RENEWABLE FUELS

Aloha Chair Gabbard, Chair DeCoite, Vice Chair Richards, Vice Chair Wakai and Members of the Joint Committee,

We are writing to express our strong support for [Senate Bill 2574](#), with particular emphasis on implementing an import tax credit for renewable fuels and increasing the current renewable fuels production tax credit.

At Alaska Airlines, we are committed to reaching our goal of achieving net zero carbon emissions by 2040. We have concrete milestones, including near-term targets for 2025, to maintain carbon-neutral growth from our 2019 baseline. These targets reflect our dedication to being the most fuel-efficient U.S. airline and to halving the climate emissions from our ground service equipment. Our commitment extends beyond our flights: we lead an industry-recognized recycling program, are transitioning to more sustainable packaging for inflight service, and are balancing our water use with ecological investments.

Senate Bill 2574 is a critical piece of legislation that will support our efforts to meet our goals by providing financial mechanisms that make sustainable aviation fuels accessible and economically viable.

The introduction of a tax credit for importing renewable fuels marks a pivotal step towards reducing Hawai'i's reliance on fossil fuels. For air carriers like Alaska Airlines, this policy significantly **lowers economic barriers to acquiring cost-competitive sustainable**

aviation fuel (SAF), aligning with our commitment to environmental stewardship. The enhancement of the current production tax credit for renewable fuels is equally critical, incentivizing investment in local renewable fuel production.

This increased cap ensures that the incentives are sufficiently attractive to foster significant growth in the renewable fuel sector, thus aiding in the creation of a robust, self-sustaining industry in Hawai'i. Moreover, this increase in tax credit not only **supports the development of a local industry but also promotes energy independence and job creation within the state.**

Focusing specifically on SAF recognizes the unique challenges and opportunities in the aviation sector. As an airline operating in Hawai'i, having access to competitively priced, locally produced SAF is crucial for us to meet our environmental and sustainability goals. These tax incentives synergize economic and environmental objectives, reducing the cost gap between renewable fuels and traditional fossil fuels and accelerating the adoption of cleaner energy sources.

This proposed legislation aligns with our sustainability goals, as well as those of the broader aviation industry. The enactment of this bill is crucial as it will significantly strengthen our efforts to achieve and possibly exceed Hawai'i's environmental goals. Moreover, it positions Hawai'i as a leader in sustainable aviation, a vital move in an industry where joint efforts are essential for meaningful environmental advancement.

Therefore, we strongly urge the committee to pass this bill, paving the way for substantial environmental improvements and economic opportunities. It is not just beneficial; it is essential for propelling Hawai'i and the entire aviation industry toward a greener, more innovative future.

Mahalo for the opportunity to testify on this measure.

SB-2574

Submitted on: 2/12/2024 1:32:57 PM

Testimony for AEN on 2/14/2024 1:46:00 PM

Submitted By	Organization	Testifier Position	Testify
Ikaika Hussey	Individual	Support	In Person

Comments:

Committee on Agriculture and the Environment

Sen. Lynn Decoite, Chair

Sen. Glenn Wakai, Vice-Chair

Sen. Carol Fukunaga

Sen. Donna Mercado Kim

Sen. Kurt Fevella

Committee on Energy, Economic Development and Tourism

Sen. Mike Gabbard, Chair

Sen. Tim Richards III, Vice-Chair

Sen. Lynn Decoite

Sen. Karl Rhoads

Sen. Brenton Awa

Re: SB 2574

Dear Members of the Committees,

Thank you for the opportunity to testify in favor of SB 2574, relating to renewable fuel.

I'm writing to you in my professional capacity as VP of Development for Shake Energy Collaborative. We're a unique energy developer because our role is to partner with communities

in developing locally-owned energy projects. Our first project is on Molokai, where we are working with Hoahu Energy Cooperative Molokai and Mana Pacific to develop Hawaii's first community-owned solar project. Our second project is in Waianae, where we are developing a second community-owned solar farm with Waianae Sustainability Cooperative.

Our third project under development is a 50 million gallon-per-year plant to produce sustainable aviation fuel using carbon dioxide pulled from the atmosphere. In this chemical process, green hydrogen from the electrolysis of water is combined with atmospheric CO₂ to create carbon-neutral jet fuel. The entire process is powered by solar power, so the only feedstocks necessary are things which we have in abundance here: air, sun, and water.

An expansion of the renewable fuels credit structure to encompass SAF will help to make projects such as ours more competitive against fossil fuels. This is important in terms of our climate goals, but also our shared ambition to make Hawaii more affordable for local people. Fossil fuels are Hawaii's single-largest import, consuming \$836 million of our hard-earned money each year. Infrastructure projects aren't cheap. But for the cost of roughly 3 years of imports, we could construct a facility which could render Hawaii fuel-independent. I for one would prefer that our islands develop the ability to create our own carbon-neutral fuels using our natural gifts rather than importing oil from petrol states, with all of the unsavory global instabilities that come along with those carbon emissions.

Dormant Commerce Clause

I'd like to address myself briefly to comments raised by the Office of the Attorney General in their testimony on the House companion to this measure. They have raised the issue of the "Dormant Commerce Clause", wherein this measure might be seen as infringing on interstate commerce. In order to accommodate these concerns, your Committees might consider substituting a carbon-intensity test for credit pricing. Carbon-intensity is used in other jurisdictions, particularly among the West Coast LCFS states, to provide incentives for fuels with a lower total carbon burden. Using this mechanism, fuels using locally-produced crops or directly-captured CO₂ would score quite favorably.

Direct Pay and Transferability

In 2022, the US Congress passed and President Biden signed into law the Inflation Reduction Act, which among many other things, allows for clean energy projects to transfer or receive direct payment of their tax credits under a limited set of prescribed circumstances. It would be advantageous to the local business community for the Senate and House to explore applying a similar mechanism to this state-level credit, with the involvement of DOTAX.

Sincerely

Ikaika M. Hussey

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