

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
P.O. BOX 259  
HONOLULU, HAWAII 96809  
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To: The Honorable Aaron Ling Johanson, Chair;  
The Honorable Lisa Kitagawa, Vice Chair;  
and Members of the House Committee on Consumer Protection & Commerce

From: Isaac W. Choy, Director  
Department of Taxation

Date: Tuesday, February 15, 2022  
Time: 2:00 P.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 1809, H.D. 1, Relating to Taxation**

The Department of Taxation (Department) appreciates the intent of H.B. 1809, H.D. 1, and offers the following comments for the committee's consideration.

H.B. 1809, H.D. 1, reinstates and modifies the Renewable Fuels Production Tax Credit (RFPTC), which was previously codified at section 235-110.31, Hawaii Revised Statutes (HRS), before its duly scheduled repeal on December 31, 2021. The credit is equal to 20 cents per seventy-six thousand British thermal units of renewable fuels sold for distribution in Hawaii; provided that the taxpayer's production of renewable fuels is not less than fifteen billion British thermal units of renewable fuels per calendar year. The Hawaii State Energy Office (HSEO) is responsible for certifying the credit and for administering the \$6,000,000 annual aggregate cap for all eligible taxpayers. Taxpayers must also provide written notice to the Department and to HSEO of their intention to begin production of renewable fuels prior to production of any renewable fuels in a calendar year. H.D. 1 has a defective effective date of July 1, 2100.

First, the Department notes that the Committee on Energy & Environmental Protection amended the previous version of this measure to defect the effective date and designate HSEO as the certifying agency for this credit, rather than the Department of Business, Economic Development, and Tourism. This version also requires HSEO to certify that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels. The Department defers to HSEO on its ability to certify the credit and administer the cap, but requests that this certification requirement be maintained. The Department does not have the necessary subject-matter expertise to certify this credit.

Second, the Department notes that the measure describes the credit as having a "ten-year credit period," much like the previous version of the credit had a five-year credit period. This

limitation applies per taxpayer, thus, a taxpayer could form a new entity and qualify for a new ten-year credit period. One way to address this would be to include a provision as follows:

Each taxpayer, together with all of its related entities (as determined under Internal Revenue Code section 267(b)) and all business entities under common control (as determined under Internal Revenue Code sections 414(b), 414(c), and 1563(a)), shall not be eligible for more than a single ten-year credit period.

Finally, if a functional effective date is to be inserted, the Department suggests that this credit be made applicable to taxable years beginning after December 31, 2022. These types of credits are intended to incentivize a taxpayer's behavior; thus, providing this tax credit for tax year 2022 would provide a windfall for activity that occurred prior to the credit's enactment.

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

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
ON  
HOUSE BILL NO. 1809, H.D. 1

**February 15, 2022**  
**2:00 p.m.**  
**Room 329 and Videoconference**

RELATING TO TAXATION

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1809, H.D. 1, adds a new section to Chapter 235, HRS, to reinstate and modify the Renewable Fuels Production Tax Credit (RFPTC) that was originally repealed on December 31, 2021. For each taxpayer that produces renewable fuels, the RFPTC would be equal to 20 cents per 76,000 British thermal units (BTUs) per calendar year up to a maximum of \$3,000,000 annually over a ten-year period, provided that the taxpayer's production of renewable fuels is not less than fifteen billion BTUs per calendar year. The bill also establishes a \$6,000,000 annual aggregate cap for the RFPTC.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this

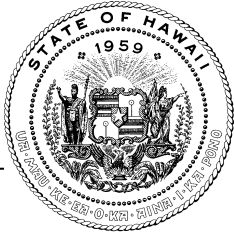
period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.



# HAWAII STATE ENERGY OFFICE STATE OF HAWAII

DAVID Y. IGE  
GOVERNOR

SCOTT J. GLENN  
CHIEF ENERGY OFFICER

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Testimony of  
**SCOTT J. GLENN, Chief Energy Officer**

before the  
**HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE**

Tuesday, February 15, 2022  
2:00 PM

State Capitol, Conference Room 329 & Videoconference

**SUPPORT  
HB 1809 HD1  
RELATING TO TAXATION.**

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee, the Hawai'i State Energy Office (HSEO) supports HB 1809 HD1, which establishes a renewable fuels production tax credit.

HSEO appreciates the previous Committee adopting the recommendation made to assign HSEO, rather than the Department of Business Economic Development and Tourism, to administer the verification and certification process. HSEO managed the certification of the previous renewable fuels production tax credit.<sup>1</sup>

Renewable fuels provide local jobs and economic benefits in energy and agriculture, while contributing to Hawai'i's economic diversification and the potential for greater production of food, cosmetics, and other value-added products.

HB 1809, HD1 creates a ten-year credit period (compared to the five years under the previous tax credit), sets the annual aggregated cap at six million dollars (compared to three million under the previous tax credit), and sets a facility's minimum production requirement at 15 billion British thermal units per year (compared to 2.5 billion

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<sup>1</sup> The renewable fuels production tax credit, HRS 235-110.31, effective for the five year period between January 1, 2017 and December 31, 2021, was established by [Act 202, Session Laws of Hawaii \(SLH\) 2016](#), amended by [Act 142, SLH 2017](#), and further amended by [Act 143, SLH 2018](#).

previously). Those three changes are not expected to affect the administration of the verification and certification process.

There are, however, three other differences between the most recent iteration of the credit and that proposed by HB 1801, HD1, that HSEO would recommend for the Committee's consideration because it affects the verification and certification process.

HSEO recommends re-wording paragraph (f) to add a requirement and timeline for the taxpayer to provide information necessary for the verification of the fuel production claim, in a manner similar to previous requirements:

(f) Not later than thirty days following the close of each calendar year during the credit period, the taxpayer claiming a credit under this section shall complete and file an independent, third-party certified statement, at the taxpayer's sole expense, with the chief energy officer of the Hawaii state energy office. The statement shall be in the form prescribed by the chief energy officer of the Hawaii state energy office and shall include the following information:

- (1) For each type of qualified fuel claimed:
  - (A) The type of fuel produced;
  - (B) The volume of fuel produced;
  - (C) The volume of fuel sold;
  - (D) The lower heating value of the fuel in British thermal units using the lower heating value of fuel produced and sold during the previous calendar year;
  - (E) The feedstock used;
  - (F) The lifecycle greenhouse gas emissions of the fuel produced and sold; and
  - (G) The lifecycle greenhouse gas emissions of the fossil fuel displaced by the qualified fuel.
- (2) The dollar amount of renewable fuel production credit claimed by the taxpayer for qualified fuel produced and sold during the calendar year, not

- to exceed the amount per taxpayer established in paragraph (a).
- (3) The cumulative amount of renewable fuels production tax credits received by the taxpayer during prior years during the credit period.
  - (4) The number of employees of the facility and each employee's state of residency.
  - (5) The projected number of British thermal units of renewable fuels production for the succeeding year.
  - (6) Whether a renewable fuels production tax credit is anticipated to be claimed in the succeeding year.

HSEO also recommends re-wording paragraph (b) to establish a timeline for the review and of the information provided, so that if the claim is timely, complete, and accurate, the taxpayer may receive the certificate to file with the taxpayer's tax return:

- (b) Within thirty calendar days after the due date of the statements required under subsection (f), the Hawaii state energy office shall:
- (1) Acknowledge receipt of the statements in writing;
  - (2) Total all renewable fuels production that the Hawaii state energy office certifies as eligible for the tax credit for the calendar year;
  - (3) In the event that the verified credit claims under this section exceed \$6,000,000 for all eligible taxpayers in any given calendar year, the \$6,000,000 shall be divided between all eligible taxpayers for that year in proportion to the lower heating value of renewable fuels produced by all eligible taxpayers. Upon reaching \$6,000,000 in the aggregate, the Hawaii state energy office shall immediately notify the department of taxation. In no instance shall the total dollar amount of certificates issued exceed \$6,000,000 per year;

- (4) Issue a certificate to the taxpayer verifying the amount of renewable fuels produced and sold, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation.
- (5) Notwithstanding the Hawaii state energy office's certification authority under this section, the director of taxation may audit and adjust the certification to conform to the facts.
- (6) Notwithstanding any other law to the contrary, the verification and certification information compiled by the Hawaii state energy office shall be available for public inspection and dissemination under chapter 92F.

HB 1809 HD1 also includes a new requirement for HSEO certify that that the renewable fuels produced have "life cycle emissions substantially below that of fossil fuels" (page 2, lines 17-19).

Neither the process nor effect of such a determination (or failure of a particular fuel to demonstrate such) are currently defined in HB1809, HD1. Although HSEO's proposed revision to paragraph (f)(1)(F) and (G) specifies greenhouse gas emissions, the current language is not specific to greenhouse gas emissions. The current language also does not appear to make fuel that fails such a certification ineligible for the credit.

If the eligibility for the tax credit is to include a life cycle greenhouse gas emissions analysis of the renewable fuels, comparison to the greenhouse gas emissions of specific fossil fuels, and determination of whether the renewable fuels "have life cycle emissions substantially below that of fossil fuels," it would also be helpful to include definitions and criteria to be used in such a determination, and an indication of the effect of the assessment, if any, on the eligibility of the taxpayer for the tax credit.



Finally, HSEO would need to be appropriately resourced to perform certifications. As a consequence of recent drastic budget reductions to personnel, HSEO adjusted the prioritization of staff responsibilities following the sunset of the tax credit on December 31, 2021. HSEO has requested an Energy Economics Specialist position in the FY23 Executive Supplemental Budget to serve as subject matter expert on energy economics and financing of energy systems. The planned duties and responsibilities of the position align with HSEO's role in administering the tax credits. The requested position would identify market gaps and innovation opportunities, collaborate with stakeholders, and facilitate public-private partnerships to develop projects, programs, and tools to encourage private and public exploration, research, and development of energy resources, distributed energy resources, and data analytics that will support the State's energy and decarbonization goals; evaluate, recommend, and participate in the development of incentives and programs that encourage resource development; and to assess and evaluate the effectiveness and continued necessity of existing energy related incentives, tax credits, and programs, and provide recommendations and proposed changes.

HSEO defers to the appropriate agencies on matters relating to tax administration and budget concerns.

HSEO's comments are guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy.

Thank you for the opportunity to testify.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Create Renewable Fuels Production Credit

BILL NUMBER: HB 1809 HD 1

INTRODUCED BY: House Committee on Energy & Environmental Protection

EXECUTIVE SUMMARY: Establishes a renewable fuels production tax credit. Our view is that a direct appropriation to buy or subsidize energy production would be far superior because (1) we know how much we are spending and (2) we know what we are buying.

SYNOPSIS: Adds a new section to HRS chapter 235 to establish a nonrefundable renewable fuels production tax credit. The credit shall be allowed to taxpayers producing qualifying renewable fuels provided the credit shall not be claimed for more than ten years beginning from the first taxable year in which a taxpayer begins renewable fuels production at a level of at least 15 billion British thermal units (BTU) of renewable fuels per calendar year.

The annual dollar amount of the credit shall be 20 cents per 76,000 BTUs of renewable fuels using the lower heating value sold for distribution in Hawaii; provided that the taxpayer's production of renewable fuels is not less than 15 billion BTUs of renewable fuels per year. Limits the amount of tax credit that may be claimed by a taxpayer to \$3 million per taxable year.

Defines "renewable fuels" as fuels produced from renewable feedstocks provided that the fuels shall be sold as a fuel, and meet the relevant ASTM International specifications for the particular fuel or other industry specifications, including but not limited to: (1) methanol, ethanol, or other alcohols; (2) hydrogen; (3) biodiesel or renewable diesel; (4) biogas; (5) other biofuels; or (6) renewable jet fuel or renewable gasoline.

Defines "renewable feedstocks" as (1) biomass crops; (2) agricultural residues; (3) oil crops, including but not limited to algae, canola, jatropha, palm, soybean, and sunflower; (4) sugar and starch crops, including but not limited to sugar cane and cassava; (5) other agricultural crops; (6) grease and waste cooking oil; (7) food wastes; (8) municipal solid wastes and industrial wastes; (9) water; and (10) animal residues and wastes that can be used to generate energy.

Requires the Hawaii state energy office to verify and certify each claim for the credit including the total amount of credit for each taxable year and the cumulative amount of tax credit during the credit period. The department shall issue a certificate to qualifying taxpayers who shall file the certificate with the department of taxation (DOTAX).

If in any year the annual amount of certified credits reaches \$6 million in the aggregate, DBEDT shall discontinue certifying credits and notify the department of taxation.

If the amount of credits exceeds the taxpayer's income tax liability, the excess of credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted. All claims for a credit under this section shall be properly filed on or before the

end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

Prior to production of any qualifying renewable fuels for the year, the taxpayer is to provide written notice of the taxpayer's intention to begin production of qualifying renewable fuels to DOTAX and Hawaii state energy office with information on the taxpayer, facility location, facility production capacity, anticipated production start date, and the taxpayer's contact information. The taxpayer shall also provide written notice to the director of taxation and the chief energy officer within 30 days following the start of production and include the production start date and expected renewable fuel production for the next year.

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

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

Directs the chief energy officer of the Hawaii state energy office, following each year in which a credit under this section has been claimed, to submit a written report to the governor and legislature regarding the production and sale of renewable fuels. The report shall include the number, location, and production of renewable fuels production facilities in the State and outside the State that have claimed a credit under this section; the total number of British thermal units of renewable fuels, broken down by type of fuel, produced and sold during the previous year; and the projected number of BTU of renewable fuels production for the succeeding year.

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

EFFECTIVE DATE: July 1, 2100.

STAFF COMMENTS: Act 202, SLH 2016, enacted a renewable energy credit with a five-year life. The credit sunset on December 31, 2021. This bill revives the credit with some modifications. First, the bill allows for a 10-year credit period where Act 202 provided for a five-year credit period. Second, the bill allows for an annual cap of \$6 million, where Act 202 provided for a cap of \$3 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: 1/30/2022

**HB-1809-HD-1**

Submitted on: 2/12/2022 8:32:08 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Robert Culbertson	Hawaii Forest Stewards	Comments	No

Comments:

Aloha! COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

Regarding HB 1809 HD1 Tax Credit (possibly for Hu Honua on Hawaii Island?)

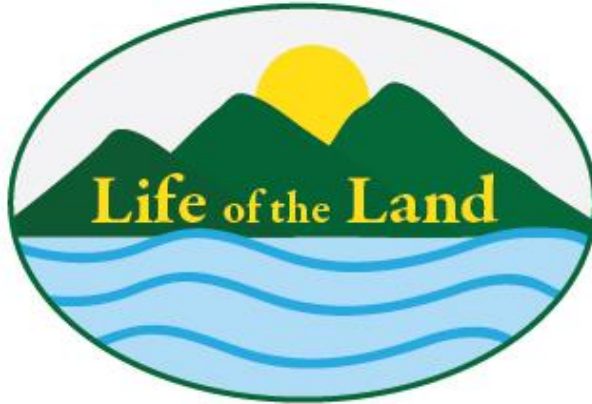
**Please amend the bill to read:**

"Renewable feedstocks" means agricultural products other than trees, including (1) Biomass crops ... (5) Other agricultural crops ...

Mahalo for your time today!

R A Culbertson

Honokaa



P.O. Box 37158, Honolulu, Hawai`i 96837-0158  
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

Tuesday, February 15, 2022

TIME: 2:00 p.m.

HB 1809 HD1 Tax Credit for Hu Honua et al

**SUPPORT IF AMENDED**

Aloha Chair Johanson, Vice Chair Kitagawa, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 52 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 1809 HD1 states: "Renewable feedstocks" means (1) Biomass crops ... (5) Other agricultural crops ... The fuels meet the relevant ASTM International specifications"

There are many ASTM standards for biomass, including ASTM E3066-20 and ASTM E1757-19 for converting "hardwoods, softwoods, herbaceous materials"

**Please amend the bill to read: "Renewable feedstocks" means agricultural products other than trees, including (1) Biomass crops ... (5) Other agricultural crops ...**

Mahalo  
Henry Curtis



40 Hobron Avenue  
Kahului, Hawaii 96732  
(808) 877-3144  
[www.biodiesel.com](http://www.biodiesel.com)

Hearing at 2:00pm February 15, 2022

IN SUPPORT OF HB1809

Committee on Consumer Protection & Commerce

Chair Johanson and Committee:

Pacific Biodiesel is in support of HB1809. This production tax credit gives a small but very important incentive to invest further in renewable fuel production in Hawaii.

The first five years of this production tax credit was successful. The cost to the State was minimal relative to the benefit. The biofuels industry is creating long-term family wage jobs here in Hawaii. In fact over 85% of the revenue generated by biofuels remains in the State.

Biodiesel is a 100% renewable advanced biofuel and is a crucially important "firm power" source to back up other renewables on the grid. The further we move towards our goal of 100% renewable, the more critical these liquid biofuel sources will be. Yet building up the supply is a long process. We must accelerate implementation now to meet the needs later.

Continuing this credit sends the correct signal for new investments in this area.

Mahalo,

A handwritten signature in black ink that reads "Robert O. King".

Robert King, President  
Pacific Biodiesel Technologies, LLC



To: The House Committee on Consumer Protection & Commerce Committee  
From: Sherry Pollack, 350Hawaii.org  
Date: Tuesday, February 15, 2022, 2pm

**In support of HB1809 HD1**

Aloha Chair Johanson, Vice Chair Kitigawa, and Consumer Protection & Commerce Committee members,

I am Co-Founder of the Hawaii chapter of 350.org, the largest international organization dedicated to fighting climate change. 350Hawaii.org is in **support of HB1809 HD1**.

**HB1809 HD1** establishes a renewable fuels production tax credit. 350Hawaii fully supports the HD1 amendment to this measure which specifies “Directing the Hawaii State Energy Office, rather than the Department of Business, Economic Development, and Tourism, to verify and certify certain information for taxpayers claiming the renewable fuels production tax credit, including certification that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels.”

The Climate Crisis is here now. Scientists have made clear that we must swiftly phase out fossil fuel use or face untold suffering. However, as we transition to renewable energy, we must ensure that the renewable energy sources used are truly climate-friendly if we are to advance our efforts towards emissions reductions. It is important to note that burning wood is also bad for climate. In fact, burning wood emits more carbon dioxide than burning fossil fuels. Likewise, palm oil not grown in Hawaii would be an environmentally harmful source of feedstock, as it is a major driver of deforestation, and therefore should also not be eligible for Hawaii tax credits.

Hawaii is ground zero for change in climate, from sea level rise to shifting weather patterns, which is why it’s even more important we do our part to fight it. We must do all we can to reduce our carbon footprint and become carbon negative as soon as possible. These efforts include providing incentives that support the decarbonization of our economy. Establishing a renewable fuels production tax credit is an effective means to do that.

Mahalo for the opportunity to testify on this very important legislation.

Sherry Pollack  
Co-Founder, 350Hawaii.org



**HB-1809-HD-1**

Submitted on: 2/13/2022 2:59:06 PM

Testimony for CPC on 2/15/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Climate Protectors Hawai'i	Support	No

Comments:

To: The Honorable Aaron Ling Johanson, Chair, the Honorable Lisa Kitagawa, Vice Chair, and members of the House Consumer Protection and Commerce Committee

From: Climate Protectors Hawai'i (by Ted Bohlen)

Re: Hearing HB1809 HD1 RELATING TO TAXATION.

Tuesday February 15, 2022, 2:00 p.m., by videoconference

Aloha Chair Johanson, Vice Chair Kitagawa, and members of the House Consumer Protection and Commerce Committee:

Position: **Climate Protectors Hawai'i SUPPORTS HB1809 HD1!**

In order to mitigate the impending harms of the climate emergency, **Hawai'i needs to develop renewable fuels that emit few if any greenhouse gases on a life-cycle basis.** By providing a tax credit, this bill will help incentivize needed renewable fuels development. The bill properly has the State energy office certify that the fuels produced have life-cycle emissions substantially below that of fossil fuels.

Please pass this bill!

Mahalo!

Climate Protectors Hawai'i (by Ted Bohlen)

**Subject:** strong no on HB 1809 HD1 Tax Credit for Hu Honua The bill is a LIE

My name is Mark Koppel. I am writing in STRONG OPPOSITION TO THE LYING BILL HB1809

Aloha Reps. Johanson and Rep. Kitagawa,

Biomass is not renewable AND YOU KNOW IT. Hu Honua LIES to the Hawaiian people.

When you burn Biomass, you release THOUSANDS AND THOUSANDS OF CO2 into the atmosphere. Plus pollute the Hakalau Aquifer. Plus pollute the ocean right down the cliff.

Hu Honua CLAIMS they will replant, BUT HAVE NEVER SHOWN A REPLANTING AGREEMENT. NEVER. KSBE will not allow the REPLANTING OF EUCALYPTUS.

Even if the trees were replanted, they take up to 20 years to begin to take in the CO2.

WHY ARE YOU SPREADING THESE LIES? Is it the same reason we've been reading about in the news?

When the investigation of Hu Honua starts YOU DON'T WANT TO BE ON THE WRONG SIDE.

Stop the lies.

BIOMASS IS NOT RENEWABLE AND YOU KNOW IT.

Hu Honua will never open.

All the best!

Mahalo!!!!!!!!!!!!

Mark Koppel  
Umauma

**HB-1809-HD-1**

Submitted on: 2/11/2022 3:06:09 PM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Douglas Perrine	Individual	Support	No

Comments:

I support this bill to encourage production of low-carbon fuels, with the caveat that I believe in section J, the definition of "renewable feedstocks" should be amended to add "cultivated marine or freshwater algae", as such algae may be viable sources of renewable jet fuel and other types of biofuels.

**HB-1809-HD-1**

Submitted on: 2/11/2022 4:02:49 PM

Testimony for CPC on 2/15/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Chase Livingston	Individual	Comments	No

Comments:

Aloha,

My name is Chase Livingston and I am a lifelong resident on 'Oahu. In addition to being a practicing attorney, I have studied energy (both renewable and otherwise) and climate for over a decade, including at both UC Berkeley and UH Manoa.

I write to express my cautious support **with amendments** of HB1809. It is imperative that we rapidly transition to a renewable and low-carbon energy system in order to address the impending climate crisis. We must, however, be smart about the energy sources that we choose to utilize. While there may be a place for biomass energy production in our renewable energy portfolio, it is critical to limit the approved renewable feedstocks to exclude trees (including both hardwoods and softwoods). Using trees, even those that have been planted specifically for the purpose of burning, is counter productive to our State's climate goals. Numerous studies have shown that using trees as biomass contributes to a large net carbon increase and is anything but sustainable. The short growth cycle for trees intended to be used as feedstocks means that both the tree-growing phase and the burning of the trees contribute significant carbon into the atmosphere. Obviously, the short period of time between planting and harvest/burning also precludes any carbon sequestration benefits that trees would otherwise provide.

Therefore, it is imperative that HB1809 be amended to read "Renewable feedstocks **means agricultural products other than trees, including** (1) Biomass crops . . . (5) other agricultural crops...."

Please make this simple change to the bill to prevent our State funds from supporting an antiquated 19th century technology (burning trees to power a turbine and produce energy) that will do far more harm than good to our State's efforts to achieve carbon neutrality and address the climate crisis.

I appreciate your consideration and encourage you to amend HB1809 to exclude trees from the approved renewable feedstocks.

Mahalo,

Chase



**HB-1809-HD-1**

Submitted on: 2/13/2022 10:34:20 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dylan Ramos	Individual	Comments	No

Comments:

Aloha,

My name is Dylan Ramos, I currently live in Kaimuki, and have been involved with environmental groups and causes for nearly a decade. While I am in overall support of this bill, **please amend HB1809 by defining renewable feedstocks as agricultural products other than trees.** Biomass crops and the other examples listed in this bill have a lot of potential, but we will not achieve any carbon sequestration, emissions, climate, or clean energy goals if we support projects dependent on deforestation and wood burning, even if they involve eventual reforestation ([explanation here](#)). Thank you for strengthening this bill and incentivizing truly clean energy.

Mahalo,  
Dylan Ramos

**HB-1809-HD-1**

Submitted on: 2/13/2022 5:48:06 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Paul Bernstein	Individual	Comments	No

Comments:

Aloha Chair Johanson, Vice Chair Kitagawa, and members of the CPC committee:

The intention of HB1809 to support biofuels is good, but I think a carbon tax is a more effective instrument as it creates the same incentive and would not require any government expenditures. Subsidies have the problem of free ridership in that government pays entities to do something that they would've done even without the subsidy.

If, however, this bill goes forward, I recommend that it disallow the burning of trees or wood pellets as this fuel source is likely to actually increase greenhouse gas emissions.

Respectfully,

Paul Bernstein

**HB-1809-HD-1**

Submitted on: 2/13/2022 11:22:30 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Cara Oba	Individual	Comments	No

Comments:

Chair Johanson and members of the Consumer Protection and Commerce Committee, I generally support HB1809 HD1 and have a few comments:

- “Renewable feedstocks” should not include forest trees. Forests should stay as forests since they are our number one carbon sequestration tool per the Office of Planning's Conservation International Report. According to the EU’s Renewable Energy Directive, “raw materials used for biofuels cannot be obtained from areas that were converted from land with high carbon stocks (forests, wetlands) or with high biodiversity values (highly biodiverse grasslands, primary forests).” Forest trees represent multiple carbon stocks in one -- tree biomass, a contributor to litter and soil, and soil carbon stock. When we remove trees, we are removing all of those positive sequestration measures, removing important habitats and watershed supportive elements, and increasing unnecessary emissions. A big net negative. Ensure this is not allowed.
- “Renewable feedstocks” where trees are grown as crops \*might\* be acceptable if trees are grown on converted degraded lands assuming low existing sequestration rates on that land to start with. However, the trees themselves are not carbon positive from the outset. Studies show that trees grown for use as biomass start with a carbon debt and might not reach carbon neutrality until decades later (in a managed rotation system). Altogether, that with the fact that emissions of using trees as biomass exceed that of coal, it would be preferable to use that same degraded land towards other fast-growing agricultural fuel crops.
- Lastly, this bill should encourage actions such as remediating degraded land while still supporting local food systems. We do not want to shift folks from food to energy. Local food production should come before energy in land use consideration.

Thank you for allowing me to share my comments.



**HB-1809-HD-1**

Submitted on: 2/14/2022 9:21:53 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Edward Johnston	Individual	Comments	No

Comments:

As written this Bill would offer unfair advantage to some private business.

I'd suggest-- Amend this Bill to read: renewable feedstocks- agricultural products other than trees.

**HB-1809-HD-1**

Submitted on: 2/14/2022 11:54:42 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Elizabeth Hansen	Individual	Comments	No

Comments:

Aloha, please amend this bill to read "renewable feedstocks" means agricultural products other than trees including bio mass crops and other agricultural crops.

Your consideration is appreciated.

Elizabeth Hansen

registered voter

Hakalau HI 96710

**HB-1809-HD-1**

Submitted on: 2/14/2022 11:56:26 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Rodger Hansen	Individual	Comments	No

Comments:

Aloha, please amend this bill to read "renewable feedstocks" means agricultural products other than trees including bio mass crops and other agricultural crops.

Your consideration is appreciated.

Rodger Hansen

registered voter

Hakalau HI 96710



**LATE**

**Testimony to  
The Committee on Consumer Protection & Commerce**

**Tuesday, February 15, 2022  
2:00 PM  
VIA Video Conference  
Conference Room 329, Hawaii State Capitol**

**HB 1809 HD1**

Chair Johanson, Vice Chair Kitagawa, and members of the committee,

Hawaii Gas **supports HB 1809 HD1**, which establishes a renewable fuels production tax credit.

Hawaii Gas is a national leader in the production and distribution of renewable gas in a gas utility system and has committed to support the state's march towards carbon neutrality by 2045. Despite representing less than 1% of the greenhouse gases emitted into Hawaii's atmosphere, we agree that it's everyone's responsibility to do everything we can to make sure Hawaii meets that milestone.

Renewable feedstocks are key components to creating renewable natural gas, hydrogen, and other renewable biofuels, all of which are important fuel replacements for fossil fuels.

Tax incentives have proven to be an effective tool in encouraging the development of innovative new technologies, just as seen in the burgeoning solar and wind industry decades ago. These incentives also provide a method for ratepayers to be provided lower costs for new technologies that have not had time to mature and scale. Hawaii recognized the impact of this concept when it created a production tax credit six years ago, which unfortunately sunset on December 31, 2021. It was during this time that Hawaii Gas developed a unique project in partnership with the City and County of Honolulu to take gas emissions from the wastewater treatment process, which were previously being released into the atmosphere, and capture it to create renewable natural gas. This project was equivalent to taking up to 400 cars off the road every year. This project was among the first in the country to inject that gas into the pipeline.

Establishing this credit will be pivotal to generate more of these innovative clean energy alternatives.



We ask the committee to consider the following amendments to the bill:

- Add "wastewater" in the definition of a renewable source;
- Include a "refundable tax credit" amendment similar to the section in the renewable energy investment tax credit (HRS § 235-12.5) because new developers may not have a state tax appetite for many years, allowing the credits to benefit the ratepayers;
- Increase the maximum cap per project in recognition of the large investment necessary to produce renewable fuels;
- Increase the state cap to encourage more producers to create the fuel that will replace fossil fuels.

Hawaii Gas also provides these additional comments.

HB1809 HD1 has inserted an amendment (b) The Hawaii state energy office shall:

(4) Certify that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels.

We understand the legislative intent of this amendment and agree that the analysis is laudable and important.

We would like to call attention to the fact that life cycle greenhouse gas emission analysis (LCA GHG) of a project (including the fuel supply) and the effect of the State's reliance on fossil fuels is mandated by statute to be part of the Public Utilities Commission decision making process. The LCA GHG analysis, impact of this analysis, and the resulting decision and order by the Commission is a matter of public record.

Requiring the Hawaii State Energy Office to recertify this annually is redundant and superfluous, potentially resulting in higher prices for ratepayers as well as a chilling impact on producers' investments.

Due to the redundancy, we respectfully request consideration of this committee to delete Subsection (b) (4).

(b) The Hawaii state energy office shall:

(4) Certify that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels.



We appreciate the benefits this legislation will bring to allow Hawaii to benefit from affordable energy while sustaining our reliability and resiliency, so critical to Hawaii's infrastructure especially in times of natural disasters.

We respectfully request the committee to include these amendments and pass HB 1809 HD1.

Thank you for the opportunity to testify.

**LATE**

**HB-1809-HD-1**

Submitted on: 2/14/2022 2:08:02 PM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Dave Mulinix	Our Revolution Hawaii	Support	No

Comments:

**Aloha Committee,**

**On behalf of Our Revolution Hawaii's 5,000 members and supporters statewide we stank in strong support of HB1809 Renewable Fuels Production Tax Credit.**

**Mahalo for you kind attention**

**Dave Mulinix, Cofounder & Organizer**

**Our Revolution Hawaii**



**LATE**

**Testimony to the Committee on Consumer Protection & Commerce**

**Tuesday, February 15, 2022**

**2:00 PM**

**VIA Video Conference**

**Conference Room 329, Hawaii State Capitol**

**HB 1809 HD1**

Chair Johanson, Vice Chair Kitagawa, and members of the committee,

Hawaii Clean Power Alliance (HCPA) supports HB 1809 HD1, which establishes a renewable fuels production tax credit.

Hawaii Clean Power Alliance is a nonprofit alliance organized to advance and sustain the development of clean energy in Hawaii. Our goal is to support the state's policy goal of 100 percent renewable energy by 2045. We advocate for utility-scale renewable energy, which is critical to meeting the state's clean energy and carbon reduction goals.

Tax credits have proven essential in building momentum and scale in the development and distribution of diverse renewable fuel sources. Grid stability is essential to resiliency, and it's clear that Hawaii's grid depends on a variety of sources - including solar, wind, and other fuels - to deliver that stability to ratepayers. These tax credits provide incentives for the production of a diverse renewable fuel supply, which in turn brings more renewable energy and fuel options to our grid.

These types of renewable fuels, such as hydrogen, can be used to transform the electric grid into zero emissions grid and power zero emissions vehicles. This type of fuel is innovative but also costly. The recently passed Federal Infrastructure Legislation recognizes the importance of grid resiliency as well as hydrogen. Hawaii is known for its clean energy initiatives and this bill can attract many developers to the islands to showcase industry leadership. Renewable fuels can spur innovation, economic development and many well paying-jobs. We therefore request consideration of the committee to increase the cap for individual taxpayers, increase the state cap for the credit, and consider a discounted refund clause in order to incentivize more development in Hawaii.

HCPA also notes that in the latest version, HB 1809 HD1, an amendment has been added as follows:

(b) The Hawaii state energy office shall:



(4) Certify that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels.

We fully agree that the analysis is laudable and important as the state moves forward to meet the 2045 goals.

A project's life cycle greenhouse gas emission analysis (LCA GHG) is mandated by statute to be under the purview of the PUC and is already a part of the public record as part of a project's proceedings and decision making. Requiring the producers to also provide this annual and costly analysis is not only redundant and unnecessary, but it is also likely to force producers to reconsider the viability of their project and/or result in increased costs to ratepayers, both of which could be detrimental to the purpose of the legislation and progress towards the 2045 goals.

In light of these concerns, we respectfully request this committee to delete Subsection (b) (4).

(b) The Hawaii state energy office shall:

~~(4) Certify that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels.~~

We ask the committee to pass this bill with the amendments requested.

**LATE**

**HB-1809-HD-1**

Submitted on: 2/14/2022 2:13:34 PM

Testimony for CPC on 2/15/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cailyn Schmidt	Aloha Tree Alliance	Comments	No

Comments:

Aloha,

My name is Cailyn Schmidt and I am representing the Aloha Tree Alliance, a local 501(c)3 nonprofit organization with the mission to initiate and support environmental projects and internships that advance resilient forest ecosystems and food security for Hawai'i. Prior to my role with the Aloha Tree Alliance, I extensively studied conservation and resource management at UC Berkeley.

I am writing to amend HB1809 to exclude trees from the approved renewable feedstocks. Using trees as biomass fuel is counterproductive to our State's climate goals. Studies show that using trees as a biomass increases net carbon in the atmosphere. The carbon sequestration benefits that trees otherwise would provide are negated in the quick grow-harvest-burn cycle from using trees as a biomass fuel.

Therefore, it is imperative that HB1809 be amended to read "Renewable feedstocks **means agricultural products other than trees, including** (1) Biomass crops . . . (5) other agricultural crops...."

Please make this simple change to the bill to protect our State's efforts to achieve carbon neutrality and address the climate crisis. State funds should not be used to support an outdated 19th century technology (burning trees to power a turbine and produce energy) that will increase the amount of carbon in the atmosphere, and lead the state away from achieving its carbon neutrality climate goals.

I appreciate your consideration and encourage you to amend HB1809 to exclude trees from the approved renewable feedstocks.

Mahalo,

Cailyn Schmidt

**LATE**

**HB-1809-HD-1**

Submitted on: 2/15/2022 5:10:08 AM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Christopher Dean	Recycle Hawaii and Clean the Pacific	Support	Yes

Comments:

We support this bill with amendments. In section 1. Subsection 4. Page 2., line 17., it states: "Certify that the renewable fuels produced have life cycle emissions substantially below that of fossil fuels." It is not clear that the energy used to make these biofuels is non-carbon emitting. Currently, hydrogen gas is not a clean renewable energy source, because virtually all of the hydrogen available was cracked from methane gas, a potent greenhouse gas. Hydrogen has the potential to be a carbonless form fuel, but it needs to be sourced from water, not methane and the energy used to separate the hydrogen from oxygen needs to come from solar or wind. The same is true for all biofuels. If the energy used to make the fuel is carbon intensive, the fuel is not a low carbon fuel.

Furthermore, this legislation needs to clearly state that the energy to produce biofuels can not be from biomass electricity generators that use forest products; timber, logs, pellets or any part of a tree that was cut for the purpose of burning in a biomass energy plant. Biomass is a bigger carbon emitter than even coal, plus, it removes trees that could be absorbing carbon, making it doubly destructive to the chemical balance of our atmosphere. Replanting trees does not eliminate the carbon emitted from burning wood. That's because land that has been cleared is a carbon emitter, even up to 20 years after replanting. At twenty years after replanting, the amount of carbon a tree sequesters is equal to the amount of carbon the land releases, so even then, the offset has not begun. Then, just as the ratio of carbon sequestration to carbon emissions begins to switch towards our favor, the forest is once again cut down for use in the biomass plant. That means that in practice, no biomass plant will ever be carbon neutral. It's a carbon disaster, worse than coal.

--

**LATE**

**HB-1809-HD-1**

Submitted on: 2/14/2022 6:04:07 PM

Testimony for CPC on 2/15/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Diane Ware	Individual	Comments	No

Comments:

Dear Committee Chair and Members,

I strongly oppose including the use and burning of trees, especially hardwoods and native species as renewable biomass and then giving a tax break for doing so.

Please amend the bill to read

"Renewable feedstocks" means agricultural products other than trees, including (1) Biomass crops ... (5) Other agricultural crops ...

Thank you ,

Diane Ware, 99-7815 Kapoha Pl. 96785