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
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Sylvia Luke, Chair;
The Honorable Kyle T. Yamashita, Vice Chair;
and Members of the House Committee on Finance

From: Isaac W. Choy, Director
Department of Taxation

Date: Friday, February 25, 2022
Time: 1:30 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 1809, H.D. 2, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of H.B. 1809, H.D. 2, and offers the following comments for the committee's consideration.

H.B. 1809, H.D. 2, 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. 2 has a defective effective date of July 1, 2100.

First, the Department notes that the Committee on Consumer Protection & Commerce amended the previous version of this measure to include the Department's suggested language to ensure that each taxpayer shall not be eligible for more than a single ten-year credit period. The Department appreciates this change and requests that it remain intact.

Second, the Department notes that the Committee on Energy & Environmental Protection amended the original 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.

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
HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAI'I
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAI'I 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 FINANCE
ON
HOUSE BILL NO. 1809, H.D. 2

February 25, 2022
1:30 p.m.
Room 308 and Videoconference

RELATING TO TAXATION

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

House Bill No. 1809, H.D. 2, 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 (BTU) 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 15 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

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-3807
Web: energy.hawaii.gov

Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
HOUSE COMMITTEE ON FINANCE

Friday, February 25, 2022
1:30 PM
State Capitol, Conference Room 308 & Videoconference

SUPPORT
HB 1809 HD2
RELATING TO TAXATION.

Chair Luke, Vice Chair Yamashita, and Members of the Committee, the Hawaiʻi State Energy Office (HSEO) supports and proposes modifications to HB 1809, HD2, which establishes a renewable fuels production tax credit.

HSEO appreciates the change made in HD1 of the bill 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.[1]

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

HB 1809, HD2, 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), sets a facility's minimum production requirement at 15 billion British thermal units per year (compared to 2.5 billion previously) and inserts language to ensure that each taxpayer shall not be eligible

[1] 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.

for more than a single ten-year credit period.[2] Those changes are not expected to affect the administration of the verification and certification process.

There are, however, differences between the most recent iteration of the credit and that proposed by HB 1801, HD2, that HSEO would recommend for the Committee's consideration because it affects the verification and certification process.

HSEO recommends re-wording paragraph (f), starting on page 5 of the bill, 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

[2] HSEO notes that page 1, line 13 refers to a "ten-year credit period" but the definition of "credit period" beginning on page 7, line 8, refers to "beginning from the first taxable year in which a taxpayer begins renewable fuels production," which could reduce the number of years a taxpayer is eligible for a credit under this section if fuel production started prior to the availability of the credit. Changing the definition to refer to "beginning form the first taxable year in which a taxpayer receives a credit under this section" would be one method to clarify the intent, and would be limited in time to the existence of "this section." Also, applicability may be affected by whether section numbering is the same or different from the previous credit.

(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), starting on page 2 of the bill, to establish a timeline for the review 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, HD2, also includes a new requirement for HSEO to certify 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, HD2. 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 significant 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.

To: The House Committee on Finance
From: Sherry Pollack, 350Hawaii.org
Date: Friday, February 25, 2022, 1:30pm

In support of HB1809 HD2

Aloha Chair Luke, Vice Chair Yamashita, and members of the Finance committee,

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 HD2.**

HB1809 HD2 establishes a renewable fuels production tax credit. 350Hawaii fully supports the 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-2
Submitted on: 2/24/2022 9:12:35 AM
Testimony for FIN on 2/25/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gene Harrington	Biotechnology Innovation Organization	Support	No

Comments:

BIO is the world's largest trade association representing biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. Our key areas of focus are health biotechnology, industrial and environmental biotechnology, and food and agriculture biotechnology. We are in strong support of HB 1809 and appreciate Hawaii's commitment to renewable energy.

pet food institute
Promoting long and healthy lives since 1958.

February 25, 2022

Hawaii House of Representatives
House Committee on Finance
Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

RE: Hawaii House Bill 1809, HD2 – Renewable fuels production tax credit

Dear Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Pet Food Institute (PFI) appreciates the opportunity to provide comments regarding HB 1809, HD2.

Established in 1958, PFI is the trade association and the voice of U.S. cat and dog food and treat manufacturers. Our members account for the vast majority of pet food and treats made in the United States and feed 180 million pets in U.S. households. Our members operate under regulations issued by the U.S. Food and Drug Administration and enforced by both federal and state officials. This means dog and cat owners throughout the United States and around the world benefit from science-based regulations that provide the safest animal food supply available globally.

PFI recognizes and supports responsible efforts to address climate change and utilize additional energy sources that reduce carbon emissions. However, we have serious concerns that government incentives and mandates promoting renewable fuel growth have created unintended consequences in supply and demand for animal- and plant-based oils and fats.

Renewable fuel tax credits and mandates for biodiesel create an unfair government-driven market advantage to the energy sector and a disadvantage to companies purchasing ingredients for pet food. Tax credits that favor fuel production over food production create market distortions, producing one problem in a heavy-handed attempt to address another. While other industries reap tax credits for their commodities' use in renewable fuel, the feed industry bears the brunt of this disadvantaged domestic supply, facing significant burdens of cost and sourcing for these critical ingredients. Our members have seen notable input price increases we believe are attributable in large part to the competition for grains by both food and fuel producers.

Renewable fuel demand, particularly renewable diesel, has spiked the price for animal- and plant-based oils and fats to two times their current market value, thus drastically increasing the cost of critical ingredients that pet food makers source for the nutrition and palatability of cat and dog food. Pet food makers rely on the essential fatty acids, found in oils and fat, to formulate foods that deliver nutrients that perform key functions in dog and cat immune and visual systems, as well as supporting a healthy skin and coat. Our members' commitment to long and healthy lives for pets means that they rely on access to dozens of animal- and plant-based oil and fat ingredients. This access is threatened by increased competition for animal protein by-products, grains and grain by-products as a result of tax incentives and mandates.

PFI's members report facing an unprecedented increase in the price of plant-origin ingredients, such as soybean oil, that we believe is attributable to the competition for grains from renewable fuel producers. Our members also reported dwindling access to these ingredients in 2021. While the U.S. historically was able to meet domestic soybean oil needs, our country alarmingly became a net importer of soybean oil in September and October of 2021, and food makers have been forced to import foreign soybean oil, which is more expensive due to heavy tariffs.

Left unchecked, these incentives and drivers for growth of demand for renewable fuels will continue to distort markets for food inputs, effectively making these critical pet food inputs inaccessible for many pet food makers and forcing companies to develop product formulations primarily based more on ingredient access than on ideal complete and balanced formulation considerations.

Now more than ever, it is important to people in the U.S. and around the world to find comfort and companionship with their pets. The human-animal bond is the documented occurrence of a positive connection established between you and your pet, that benefits both of you. In addition to providing companionship, numerous studies have documented the positive effects of the human-animal bond, which provides profound mental, social and physical health benefits for both owners and their companion animals. For example, studies indicate that sharing your life with a dog or cat can help reduce blood pressure and reduce levels of stress, and data indicate that animals can play a role in managing depression.

The last two years have been very challenging, and 2022 will continue to present significant sourcing challenges for pet food makers. Now is not the time to favor the energy sector and disadvantage the feed industry by increasing ingredient costs, risking supply shortages, and adding another layer of stress to pet food makers, pet parents and the pets they love. **PFI respectfully requests that the committee reject tax incentives for biodiesel fuels that use or include animal- and plant-based oils and fats that are historically used in human and pet food.**

On behalf of PFI members, whose nearly 25,000 employees in 32 states provide safe food for the 180 million pets across the U.S., we thank you for the opportunity to share our views.

Sincerely,

Savonne Caughey

Savonne Caughey
Senior Director of Advocacy and Government Relations
Pet Food Institute

Environmental Caucus of The Democratic Party of Hawaiʻi

Energy & Climate Action Committee

Friday, February 25, 2022, 1:30 pm

House Committee on Finance
HOUSE BILL 1809 – RELATING TO TAXATION

Position: Support, with amendments

Me ke Aloha, Chair Luke, and Members of the Committee on Finance:

HB1809 allows a tax credit for producers of renewable energy, and is an important incentive to accelerate the production of renewable fuels and their incorporation into Hawaii's energy supply system. Hawaii needs to be on a crash agenda for eliminating greenhouse gas (GHG) emissions, sequestering atmospheric GHG, and replacing our energy supply systems with truly renewable sources.

Under present circumstances, we see some false solutions that actually increase GHG emissions being floated in the attempt to profit from this dire need. It is therefore essential that a bill such as this be amended to eliminate them. One such amendment would clarify that life cycle emissions be incorporated into claims for eligibility. It is simply a huge accounting fraud to include sources derived from major emission processes, such as hydrogen power or burning biomass, although as a transition, certain biomass sources can be accepted, as their life-cycle emissions are very low. It is essential that Section 1 specify at §235- (b)(4) (see page 2, lines 17-19) "emissions <u>that are at least 75% below the lowest fossil fuel life cycle greenhouse gas emissions for equivalent British thermal units</u>;"; and further that under (k)'s definition of renewable feedstocks (see page7, lines 14 and 15) that "biomass crops" specifically exclude trees or wood products: "biomass crops <u>other than trees or wood products</u>".

With these amendments, the Energy and Climate Action Committee enthusiastically supports this bill.

Mahalo for the opportunity to address this matter.

/s/ Charley Ice & Ted Bohlen, Co-Chairs, Energy and Climate Action Committee
Environmental Caucus of the Democratic Party

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 2

INTRODUCED BY: House Committee on Consumer Protection & Commerce

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.

Provides that 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.

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

If in any year the annual amount of certified credits reaches $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: 2/23/2022

Testimony to the Committee on Finance

Tuesday, February 1, 2022
1:30 PM
VIA Video Conference and Conference Room 308, Hawaii State Capitol
HB 1809 SD2

Chair Luke, Vice Chair Yamashita, and members of the committee,

Hawaii Clean Power Alliance (HCPA) supports the intent of HB 1809 HD1, which establishes a renewable fuels production tax credit and offers the following comments.

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.

The public utility has recently announced a request for proposals for firm renewable energy for 500-700 megawatts on Oahu. Oahu currently generates a total firm fossil fuel capacity of 1,794.5 MW (almost 70% of total generation). This is an important step replacing fossil fuels, however we request the state consider policy that can help place renewable fuels on a level playing field with the tax credits afforded to fossil fuels and solar and wind.

We therefore request consideration of the committee to increase the cap for individual taxpayers, increase the state cap for the credit, and consider an option for the taxpayer to exercise a discounted refund clause similar to HRS § 235-12.5 (g) and (h) to incentivize more development in Hawaii. This will also potentially lower the state tax liability.

HCPA also notes that in the latest version, HB 1809 HD2, includes an amendment that has HSEO 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. If the intent is in reference to a project's life cycle greenhouse gas emission analysis (LCA GHG), we note that is mandated by statute under the purview of the PUC, who has staff to analyze this 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 and for HSEO to also certify this annually, is not only costly to the state and the developer, but it is redundant and unnecessary. This is also likely cause producers to reconsider the viability of their project with this increased cost and result in increased costs to ratepayers and be detrimental to the purpose of the legislation and progress towards the 2045 goals.

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

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

Thank you for the opportunity to testify.

<u>HB-1809-HD-2</u>
Submitted on: 2/24/2022 12:38:40 PM
Testimony for FIN on 2/25/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ted Bohlen	Climate Protectors Hawai‘i	Comments	Yes

Comments:

To: The Honorable Sylvia Luke, Chair and Members of the House Committee on Finance

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

Re: Hearing **HB1809 HD2 RELATING TO TAXATION**

Hearing: Friday, February 25, 2022, 1:30 p.m., CR 308 and by videoconference

Aloha Chair Luke and Members of the House Committee on Finance:

The Climate Protectors Hawai‘i is a group focused on reversing the climate crisis and encouraging Hawai‘i to lead the world towards a safe and sustainable climate and future. The Climate Protectors Hawai‘i **SUPPORTS** the renewable tax credits in HB1809 HD2, but **COMMENTS that two amendments are required to prevent tax credits for renewables that increase greenhouse gas emissions, such as burning wood.**

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. Please amend the bill as follows:

- on page 2, lines 17-19, it should read "Certify that the renewable fuels produced have life cycle **greenhouse gas** emissions **[**~~substantially below that of fossil fuels~~**] that are at least 75% below the lowest fossil fuel life cycle greenhouse gas emissions for equivalent British thermal units;"** and
- on page 7, lines 14-15, it should read: **"**Renewable feedstocks” means (1) Biomass crops **other than trees or wood**..."

By providing a tax credit, this bill will help incentivize needed renewable fuels development. Please pass this bill with the two important amendments above!

Mahalo!

Climate Protectors Hawai‘i (by Ted Bohlen)

Testimony to
The Committee on Finance

Tuesday, February 25, 2022
1:30 PM
VIA Video Conference
Conference Room 308, Hawaii State Capitol

HB 1809 HD2

Chair Luke, Vice Chair Yamashita, and members of the committee,

Hawaii Gas **supports** **HB 1809 HD2,** which reinstates 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 renewable 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.

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

HAWAI'I GAS
THE CLEAN ENERGY COMPANY

Projects like these require a significant amount of investment and may not produce an income tax liability for several of those years. If there are no state taxes due, the production tax credits can be taken in subsequent years. The net result is that the taxpayer may not receive the benefit of this tax incentive in the early years of production, therefore, the result of the tax credit would not be effective, nor able to be passed onto the ratepayers in the form of discounted rates.

If the legislature would consider including an amendment which would allow the taxpayer to elect to reduce the eligible credit by 30% if taken as a refund when there is no tax liability, it could create a benefit for the state and the ratepayers. A discounted refund will reduce the state funding liability by 30%, and the project would be able to immediately pass on the credit to the ratepayer.

We ask the committee to consider including an amendment to the bill similar to HRS § 235-12.5 subsections (g) – (h) of the renewable energy investment tax credit:

A taxpayer may elect to reduce the eligible credit amount by thirty per cent and if this reduced amount exceeds the amount of income tax payment due from the taxpayer…

up to the end of section (h) ending in
(2) The total cost of the tax credit to the State during the taxable year by:
(A) Technology type; and
(B) Taxpayer type.

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

- Add "wastewater" in the definition of a renewable source;
- Increase the state cap to encourage more producers to create the fuel that will replace fossil fuels.

-Delete section (b) (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).

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 HD2 with these amendments.

Thank you for the opportunity to testify.

HB-1809-HD-2
Submitted on: 2/23/2022 5:35:45 PM
Testimony for FIN on 2/25/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

Taxes are a violation of the Consitution. NO TAXES!!!

HB-1809-HD-2
Submitted on: 2/24/2022 9:14:40 PM
Testimony for FIN on 2/25/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Paul Bernstein	Individual	Comments	No

Comments:

Aloha Chair Luke, Vice Chair Yamashita, and members of the Finance Committee:

I'm writing to express my concerns about HB1809. 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