

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



ISAAC W. CHOY  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Glenn Wakai, Chair;  
The Honorable Bennette E. Misalucha, Vice Chair;  
and Members of the Senate Committee on Energy, Economic Development, and  
Tourism

From: Isaac W. Choy, Director  
Department of Taxation

Date: Monday, March 14, 2022  
Time: 3:00 P.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 1809, H.D. 3, Relating to Taxation**

The Department of Taxation (Department) appreciates the intent of H.B. 1809, H.D. 3, and offers the following comments for the committee's consideration.

H.B. 1809, H.D. 3, 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 an unspecified number of cents per seventy-six thousand British thermal units of renewable fuels sold for distribution in Hawaii up to an unspecified individual cap; 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 unspecified 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. 3 has a defective effective date of July 1, 2100.

First, the Department notes that the House Committee on Consumer Protection & Commerce amended H.D. 1 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 House 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  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
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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 SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT,  
AND TOURISM  
ON  
HOUSE BILL NO. 1809, H.D. 3

**March 14, 2022**  
**3:00 p.m.**  
**Room 224 and Videoconference**

RELATING TO TAXATION

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

House Bill No. 1809, H.D. 3, 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 an unspecified amount of cents per 76,000 British thermal units (BTU) per calendar year up to an unspecified maximum annual amount 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 an annual aggregate cap of an unspecified amount 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

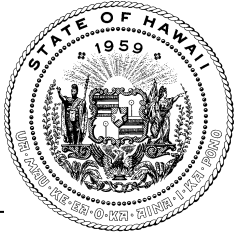
period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- 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  
**SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM**

Monday, March 14, 2022  
3:00 PM  
State Capitol, Conference 224 & Videoconference

### SUPPORT HB 1809 HD3 RELATING TO TAXATION.

Chair Wakai, Vice Chair Misalucha, and Members of the Committee, the Hawai'i State Energy Office (HSEO) supports HB 1809, HD3, which establishes a renewable fuels production tax credit.

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. HSEO managed the certification of the previous renewable fuels production tax credit.<sup>1</sup>

HB 1809, HD3, creates a ten-year credit period (compared to the five years under the previous tax credit), leaves blank the annual aggregated cap and the amount each taxpayer may claim per year (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 for more than a single ten-year credit period.<sup>2</sup> Those

<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](#).

<sup>2</sup> 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 11, refers to "beginning from the first taxable year in which a taxpayer begins renewable fuels production." This may be interpreted to reduce the number of years a taxpayer would be eligible for this credit if fuel production started prior to enactment of this measure, whether or not this credit or the previous credit had been claimed. A definition that referred to "beginning from the first taxable year in which a taxpayer receives a credit under this Act" may be one method to include existing fuel producers, if it is the Legislature's intent to do so, as the credit would be tied to this Act. A statement of legislative intent regarding eligibility would facilitate credit administration.

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 1809, HD3, 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 in British thermal units 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 lower heating value in 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 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 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 in the taxable year, the credit amount certified for the 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, HD3, 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, HD3. 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 a 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 certifying 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; 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.

March 14, 2022

Hawaii Senate  
Senate Committee on Energy, Economic Development, and Tourism  
Hawaii State Capitol  
415 South Beretania St.  
Honolulu, HI 96813

**RE: Hawaii House Bill 1809 HD3 – Renewable fuels production tax credit**

Dear Chair Wakai, Vice Chair Misalucha, and Members of the Committee:

The Pet Food Institute (PFI) appreciates the opportunity to provide comments regarding HB 1809 HD3.

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  
Senior Director of Advocacy and Government Relations  
Pet Food Institute



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

March 12, 2022

**TESTIMONY ON HB 1809, RELATING TO TAXATION**

**SUPPORT**

Senator Glenn Wakai, Chair  
Senator Bennette E. Misalucha, Vice Chair  
Committee on Energy, Economic Development and Tourism  
Hearing: March 14, 2022 at 10AM, Conf Room 224

Aloha Chair Wakai, Vice Chair Misalucha and Members of the Committee,

Pacific Biodiesel **supports HB 1809**, which establishes a renewable fuels production tax credit.

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

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

**Biodiesel is a 100% renewable advanced biofuel that is a crucially important firm renewable power source in Hawaii to back up other renewables on the grid. And, important now more than ever, Hawaii's locally produced biodiesel is supporting energy security in our island state and reducing reliance on imported fossil fuel.**

Biodiesel allows for an immediate reduction of greenhouse gas emissions. It is a direct replacement for petroleum diesel fuel and can be used right now in any diesel engine without modification, helping to reduce greenhouse gas emissions by 86% compared to petroleum diesel. The diesel engine is NOT the problem. Petroleum diesel FUEL – fossil fuel – used in efficient diesel engines is the problem.

Biodiesel has one of lowest carbon footprints of any fuel. Last summer, a California Air Resources Board (CARB) report\* shared findings that **total greenhouse gas (GHG) reductions from biomass-based diesel were 3x the total reductions from electric vehicles**. In Hawaii, where the carbon intensity of our electricity grid is significantly higher than the US average, the assumption

would be an even greater GHG reduction with the use of 100% biodiesel compared to EVs charged by an electricity grid that's currently only 30% powered by renewables.

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

The further we move towards our goal of 100% renewable, the more critical liquid biofuel sources will be. At Pacific Biodiesel’s refinery on Hawaii Island, we produce 5.5 million gallons per year of premium distilled biodiesel – the equivalent of 220 MWh per DAY of 100% renewable energy for Hawaii. But building up the supply is a long process. We must accelerate implementation and support additional local production now to meet expanding demand in the future.

Mahalo,



Robert King  
Founder and President  
Pacific Biodiesel Technologies, LLC

\*Biobased Diesel Daily, 5/15/21: <https://www.biobased-diesel.com/post/biobased-diesel-outperforms-electric-vehicles-3-to-1-in-california-ghg-reductions>



To: The Senate Committee on Energy, Economic Development and Tourism  
From: Sherry Pollack, Co-Founder, 350Hawaii.org  
Date: Monday, March 14, 2022, 3pm

**In support of HB1809 HD3**

Aloha Chair Wakai, Vice Chair Misalucha, and 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 HD3**.

**HB1809 HD3** 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

# 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 3

INTRODUCED BY: House Committee on Finance

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 in HD 2) 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 in HD 2) 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 HD 2) 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: 3/11/2022



# Environmental Caucus of The Democratic Party of Hawai'i

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## Energy & Climate Action Committee

Monday, March 14, 2022, 3:00 pm

Senate Committee on Energy, Economic Development, Tourism, and Technology  
HOUSE BILL 1809 – RELATING TO TAXATION

**Position: Support, with comments and amendment**

Me ke Aloha, Chair Wakai, Vice-Chair Misalucha, and Members of the Committee on Energy, Economic Development, Tourism, and Technology:

The Energy and Climate Action Committee stands firm in its support of this initiative, while recognizing complexities in implementation. We strongly encourage further discussion to resolve any difficulties in moving this important bill forward.

The HB1809 tax credit for producers of renewable energy 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.

We see some important caveats, however. 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 this bill eliminate them. Life cycle emissions analysis is absolutely essential to 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. In transition, certain biomass sources with low life-cycle emissions can be accepted. Therefore we support the inclusion at Section 1 §235- (b)(4) (page 2, lines 17-19) "emissions that are at least 75% below the lowest fossil fuel life cycle greenhouse gas emissions for equivalent British thermal units". We also continue to firmly support amending section (k) definition of renewable feedstocks (see page7, line 18) to read that "biomass crops" specifically exclude trees or wood products: "biomass crops other than trees or wood products".

We recognize and appreciate the complexities of interagency project review, as noted in previous testimony, and encourage moving forward with agencies collaborating toward refining their respective roles. We also appreciate the complexities of tax laws and encourage continued cooperation between agencies in identifying reconciliation of unresolved details in the implementation of this bill.

The Energy and Climate Action Committee strongly supports this bill with the noted amendment on biomass crops.

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



**Testimony to the Committee on Energy, Economic Development and Tourism  
Monday, March 14, 2022 3:00 PM  
VIA Video Conference and Conference Room 224, Hawaii State Capitol  
HB 1809 HD3**

Chair Wakai, Vice Chair Misalucha, and members of the committee,

Hawaii Clean Power Alliance (HCPA) **supports** with recommended amendments HB 1809 HD3, 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 consider amendments:

- (1) do not require the Hawaii State energy office to recertify the life cycle analysis of GHG as it is redundant to the Public Utilities Commission purview and mandates.
- (2) Amend to remove requirements that individual data be released that may violate privacy issues regarding the release of confidential and proprietary information.
- (3) Amend to include a refundable tax credit in order reduce the state tax liability and incentivize more development in Hawaii by new producers
- (4) include bioenergy in the definition of "renewable fuels" to ensure innovative renewable technologies be included.

Thank you for the opportunity to testify.





**Testimony to  
The Committee on Energy, Economic Development and Tourism**

**Monday, March 14, 2022**

**3:00 PM**

**VIA Video Conference**

**Conference Room 224, Hawaii State Capitol**

**HB 1809 HD3**

Chair Wakai, Vice Chair Misalucha, and members of the committee,

Hawaii Gas supports **HB 1809 HD3**, 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 as follows:

Page 8, line 7, amend to read (7) Water, including wastewater; and

Hawaii Gas also provides these additional comments.

HB1809 HD3 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.~~

In addition, to address the data privacy concerns we ask the committee to consider the information to be collected and compiled by the Hawaii State Energy Office is highly confidential, commercial proprietary competitive information that should not be made public as it would harm competition and deter competitive producers from entering this market, which would ultimately be harmful to consumers and would not be in the public interest.

We also ask the committee to consider these concerns and accept the following amendments:

Page 3, line 5, strike

~~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.~~

Page 4, line 14, strike

~~Notwithstanding any other law to the contrary, the taxpayer and facility information shall be available for public inspection and dissemination under chapter 92F.~~

Page 5, line 1, strike

~~Notwithstanding any other law to the contrary, this production information compiled by the Hawaii state energy office shall be available for public inspection and dissemination under chapter 92F.~~

Page 7, line 10, add

(k) Notwithstanding any other provision in this section or any other law to the contrary, the information collected and compiled by the Hawaii state energy office under this section for the purposes of the renewable fuels production tax credit shall be kept confidential; provided that the Hawaii state energy office may make such information that is aggregated to prevent identification of a provider with the specific data furnished by that provider, available for public inspection and dissemination subject to chapter 92F and any applicable exceptions under section 94F-13, and further provided that:

- (1) The Hawaii state energy office shall be prohibited from:
  - a. Using the information furnished or obtained for any purpose other than the purposes for which it is supplied; and
  - b. Making any publication whereby the data furnished by any person can be identified.
- (2) The Hawaii state energy office shall:
  - a. Ensure the security and confidentiality of the information;
  - b. Protect against any anticipated threats or hazards to the security or integrity of the information; and



- c. Protect against unauthorized access to or use of the information that could result in personal or competitive harm to individuals or providers.

Lastly, we ask the legislature to 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.

On page 4, line 6, add a new subsection to (c) to read

**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 section ending in **"An election once made is irrevocable."**

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 HD3.

Thank you for the opportunity to testify.



**HB-1809-HD-3**

Submitted on: 3/13/2022 2:59:58 PM

Testimony for EET on 3/14/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Testifying for Climate Protectors Hawai'i	Support	Remotely Via Zoom

Comments:

To: The Honorable Senators Glenn Wakai, Chair, Bennette Misalucha, Vice Chair, and Energy, Economic Development and Tourism Committee members

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

RE: Hearing RELATING TO TAXATION, Monday, March 14, 2022, 3:00 pm

Aloha Chairs Wakai and Moriwaki, Vice Chairs Misalucha and Dela Cruz, and members of the Committees:

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 17-18, 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)



**LATE**

March 14, 2022

**TESTIMONY IN SUPPORT OF HOUSE BILL 1809, HD 3  
RELATING TO TAXATION**

Senate Committee on Energy, Economic Development, and Tourism  
The Honorable Glenn Wakai, Chair  
The Honorable Bennette E. Misalucha, Vice Chair

Monday, March 14, 2022  
VIA VIDEOCONFERENCE  
Conference Room 224  
State Capitol  
415 South Beretania Street

Chair Wakai, Vice Chair Misalucha, and members of the Committee,

Thank you for the opportunity to submit testimony in **support** of HB 1809, HD 3. My name is Eric Wright, President at Par Hawaii and am responsible for the safe operations of our refinery in Kapolei and energy assurance for our state.

Par Hawaii operates the only refinery in the State of Hawaii. Currently, more than 80% of the energy needs of the state are dependent upon petroleum products. This is a responsibility the Par Hawaii team takes very seriously. As the state transitions to more renewable energy sources, Par Hawaii will continue to evolve to meet the energy needs of the state.

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 value-added products. Reinstating this credit will be pivotal to generate more of these innovative clean energy alternatives. Projects require a significant amount of investment and may not produce an income tax liability for several of those years.

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 Hawai'i'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.

Mahalo for allowing Par Hawaii to share our perspectives in support of HB 1809, HD 3.

**HB-1809-HD-3**

Submitted on: 3/12/2022 3:42:15 PM

Testimony for EET on 3/14/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

All Taxes are Illegal per the Constitution!!

## HB 1809 HD 3 TESTIMONY

To: Senate Committee on Energy, Economic Development, and Tourism  
Hearing on March 14, 2022 at 3:00 p.m.

From: John Kawamoto

Position: Oppose

This bill encourages the use of agricultural crops to produce bioenergy. Some forms of bioenergy can play a useful role in mitigating climate change, but land should not be dedicated for generating bioenergy because land is more urgently needed for food production and carbon storage.

Bioenergy production is an inefficient use of land. While photosynthesis efficiently converts sunshine into food, it is an inefficient way to turn solar radiation into non-food bioenergy. It takes a lot of land to yield a relatively small amount of bioenergy.

Roughly three-fourths of the world's vegetated land is being used to meet people's need for food and forest products, and the demand is continually rising. Much of the remainder of the vegetated land contains natural ecosystems that keep carbon out of the atmosphere, protect freshwater supplies, and preserve biodiversity. Diverting any land to bioenergy means sacrificing much-needed food, timber, and carbon storage.

This bill may be well intended, but its perspective is too narrow. When looking at the broad, global picture, this bill is counterproductive when it comes to protecting the environment and mitigating climate change.

**HB-1809-HD-3**

Submitted on: 3/13/2022 3:29:58 PM

Testimony for EET on 3/14/2022 3:00:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Debra Gavelek	Individual	Support	Written Testimony Only

Comments:

Stop importing fuels. The recent crisis in the Ukraine and subsequent ban on Russian oil illustrates why we should be producing our own fuels. This bill helps us be independent of foreign energy and transportation issues. We should be making our own fuels! This bill gives farmers the incentive to grow energy crops. Thank you for the opportunity to share my opinion.

**HB-1809-HD-3**

Submitted on: 3/13/2022 4:25:46 PM

Testimony for EET on 3/14/2022 3:00:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
John Gavelek	Individual	Support	Written Testimony Only

Comments:

Due to the recent geopolitical issues, fuel costs are going sky high and there's nothing we can do about it. It's time to make our own energy and get off of fossil fuels. This bill will help with that effort. Please pass HB1809 HD3. Mahalo!

**LATE**

**HB-1809-HD-3**

Submitted on: 3/13/2022 4:52:07 PM

Testimony for EET on 3/14/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Michael Carion	Individual	Support	Written Testimony Only

Comments:

Please support all forms of alternative energy to stop our dependence on fossil fuels and lead toward energy independence.

**HB-1809-HD-3**

Submitted on: 3/13/2022 7:41:30 PM

Testimony for EET on 3/14/2022 3:00:00 PM



<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Joyce Barbarich	Individual	Support	Written Testimony Only

Comments:

Please approve HB1809 HD3. It will help get us free of fossil fuels and make Hawaii more self-sufficient. The crisis in the Ukraine and ban on Russian oil is an example of why we should produce our own fuels. Hawaii needs a diversified portfolio of renewable energy sources - not just solar and wind, which don't work in inclement weather. This bill will also create local jobs, keep more money in the local economy, and move Hawaii into a sustainable future.



**HB-1809-HD-3**

Submitted on: 3/13/2022 8:45:43 PM

Testimony for EET on 3/14/2022 3:00:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Cat Mikkelsen	Individual	Support	Written Testimony Only

Comments:

Oh come on. There should be no question that there is a tax credit for this. Creating renewable resources is one of the most valuable things that we could do right now. We need to encourage a diversified portfolio of all sorts of different renewable energy sources.

Stop importing fuels.

Guard against crazy fuel prices

Encourage more use of renewable fuels right here on the islands.

Thank you.

**LATE**

**HB-1809-HD-3**

Submitted on: 3/14/2022 9:08:23 AM  
Testimony for EET on 3/14/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jessie Chambers	Individual	Support	Written Testimony Only

Comments:

We need to give farmers incentive to grow renewable energy crops.

**LATE**

**HB-1809-HD-3**

Submitted on: 3/14/2022 10:21:52 AM

Testimony for EET on 3/14/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Leland Fausak	Individual	Support	Written Testimony Only

Comments:

HECO predicts the cost of energy on Hawaii Island to rise by 20%! Hawaii would not be in this predicament if we had already moved to renewable fuels.

Please stop our addiction to fossil fuels and imported fuels: As an island state, we should be promoting the production of fuel within our state and for our state.

**LATE**

**HB-1809-HD-3**

Submitted on: 3/14/2022 10:24:18 AM  
Testimony for EET on 3/14/2022 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Julie Ziemelis	Individual	Support	Written Testimony Only

Comments:

With the passage of this legislation we can move forward on a sustainable future for Hawaii.  
Three important reasons I am supporting this bill:

Gets us working with sustainable energy options that get us off of fossil fuels: As an island state, we should be promoting the production of fuel within our state and for our state

With the crisis in Russia, we can see that we need to stop importing fuels.

We need a diversified portfolio of renewable energy sources - not just solar and wind.