# DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377


FEB 1 2 2008

Statement of
**THEODORE E. LIU**
**Director**
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE**
**ON**
**ECONOMIC DEVELOPMENT AND TAXATION**
Tuesday, February 12 2008
9:25 a.m.
State Capitol, Conference Room 224

in consideration of
**SB2766,SD1**
**RELATING TO ETHANOL FACILITY TAX CREDIT.**

Chair Fukunaga, Vice Chair Espero, and Members of the Committee.

The Department of Business, Economic Development, and Tourism supports the intent of SB2766, SD1, which would provide a tax credit for E-85 fueling facilities, insofar as it does not replace the priorities outlined in the Administration's supplemental budget. We defer to the Department of Taxation with respect to revenue impacts and implementation.

The current obstacle to the establishment of E-85 fueling stations in Hawaii is most likely the situation with Underwriters Laboratory certification of E-85 dispensing equipment.[1] Certification requirements were just completed in October of 2007 and dispenser certification is expected later this year. At that time, we will see if there are any private sector parties interested in providing E-85 fuel at retail in Hawaii. It is possible that once the dispenser certification issue has been resolved, fueling facilities will be put into service, and that a tax credit of this magnitude will not be necessary.

Thank you for the opportunity to provide these comments.

[1] http://www.ul.com/regulators/e85.cfm

**LINDA LINGLE**
GOVERNOR

**JAMES R. AIONA, JR.**
LT. GOVERNOR

**KURT KAWAFUCHI**
DIRECTOR OF TAXATION

**SANDRA L. YAHIRO**
DEPUTY DIRECTOR

STATE OF HAWAII
**DEPARTMENT OF TAXATION**
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

# SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TAXATION
# TESTIMONY REGARDING SB 2766 SD 1
# RELATING TO ETHANOL

**TESTIFIER:** **KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**
**DATE:** **FEBRUARY 12, 2008**
**TIME:** **9:25AM**
**ROOM:** **224**

---

This legislation provides an income tax credit for installation of E-85 fueling facilities.

The Committee on Energy & Environment requested that the Department provide this committee with additional language for this measure to make it a technically correct tax credit.

The Department of Taxation (Department) takes **no position** on this legislation and offers the following language:

**"§235- E-85 fueling facilities; income tax credit.** (a) Any owner of a retail station as defined in section 486H-1, that files a net income tax return for a taxable year may claim a tax credit for the actual cost of the installation of E-85 fueling facilities. This credit shall be available for E-85 fueling facilities installed and placed in service in the State after December 31, 2008.

(b) The credit allowed under this section shall be claimed against net income tax liability for the taxable year. For the purpose of this tax credit, "net income tax" liability means net income tax liability reduced by all other credits allowed to the taxpayer under this chapter.

(c) If the tax credit claimed by the taxpayer under this section exceeds the amount of income tax payments due from the taxpayer, the excess of credit may be carried forward until exhausted.

(d) Every claim, including amended claims, for the tax credit under this section shall be filed on or before the end of the twelfth month following the close of the taxable year for which the tax credit may be claimed. Failure to meet the filing requirements of this subsection shall constitute a waiver of the right to claim the tax credit.

(e) The director of taxation shall prepare any forms that may be necessary to claim a credit under this section. The director may also require the taxpayer to furnish information to ascertain the validity of the claims for credits made under this section.

(f) As used in this section:

"Actual cost of the installation" means [PLEASE INSERT A DEFINITION].

"E-85" means a petroleum product that is a blend of denatured ethanol and gasoline that contains eighty-five per cent ethanol by volume or at a minimum seventy-five per cent ethanol by volume and which complies with the American Society for Testing and Materials specification D 5798-99, as amended."

This legislation will result in the following revenue loss:

**FY2010 (loss): $198,000**
**FY2011 (loss): $204,000**

The net income of gas stations from 2002 was collected, and inflated to 2009 prices. Using this and the average corporate tax rate, the tax liability for gas stations for FY2010 was estimated. Assuming the credit is nonrefundable, non-carryover-able, for 100% of qualified expenditures, the credit will most likely cover all liability for these companies.