DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM 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

Statement of
RICHARD C. LIM
Interim Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Tuesday, February 9, 2011
9:00 AM
State Capitol, Conference Room 325

in consideration of
HB 563
RELATING TO TRANSPORTATION ENERGY INITIATIVES.

Chair Morita, Vice Chair Coffman, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) has serious concerns about HB 563, which would repeal the ethanol facility incentive.

We greatly prefer the approach taken in House Bill 788, which would modify the incentive to be available to other types of biofuels.

The production of biofuels in Hawaii has the potential to support agricultural activity, particularly in rural areas; provide synergies with food and feed production; support the maintenance of agricultural infrastructure; reduce imports; improve our energy security; and provide a measure of economic diversification.

Hawaii has received significant attention in this important area from the US Department of Energy, the US Department of Agriculture, the US Navy, and a number of investors and corporations. There are several biofuel projects in the pilot, design, and permitting phase.

Although most of those projects will not make use of this incentive, the elimination of this incentive could send a negative message and thereby jeopardize the completion or expansion of those projects. In the longer term, abrupt changes in direction and repeal of important energy incentives such as this could reduce Hawaii's attractiveness to investors and supporting agencies and organizations, due to perceived inconsistency and lack of credibility.

One of Hawaii's strengths in the energy area is our clear and consistent support for clean energy policies.

We would like to point out that the structure of this incentive requires the project to be built and operating before the incentive can be claimed. Therefore, the economic benefits and jobs are created first, and the facility has to be operational, before the facility is eligible for the incentive.

This particular incentive has attracted significant positive attention without cost to the State. And there will be no costs until something gets built.

We respectfully request that the Committee hold this measure.

Thank you for the opportunity to offer these comments.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

FREDERICK D. PABLO
INTERIM DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING HB 563 RELATING TO TAXATION

WRITTEN TESTIMONY ONLY

TESTIFIER: FREDERICK D. PABLO, INTERIM DIRECTOR OF TAXATION (OR DESIGNEE)
COMMITTEE: EEP
DATE: FEBRUARY 8, 2011
TIME: 9AM

POSITION: COMMENTS

This measure repeals the ethanol facility tax credit effective May 1, 2011.

The Department of Taxation (Department) **suggests that this bill be held in favor of other legislation that is intended to expand the ethanol facilities tax credit** so that it may be utilized by more taxpayers.

The Department understands that the current ethanol facilities tax credit is underutilized. For the past few years, the Legislature has considered numerous efforts to expand the existing credit for additional biofuel varieties e.g., HB 788. The Department believes the efforts to expand the existing credit, and thus assisting with reducing Hawaii's dependency on fossil fuels, is more worthwhile.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Sunset ethanol facility tax credit

BILL NUMBER: HB 563

INTRODUCED BY: Chong, M. Lee, B. Oshiro, Say, Yamashita

BRIEF SUMMARY: Repeals HRS section 235-110.3, the ethanol facility income tax credit.

Allows a taxpayer to claim the ethanol facility tax credit for investments made on a qualifying ethanol facility prior to May 1, 2011; provided that the claim credit is properly 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.

EFFECTIVE DATE: May 1, 2011

STAFF COMMENTS: While the proposed measure would repeal the ethanol facility tax credit on May 1, 2011, in order to claim the credit a facility must be in operation and its level of production must be at least 75% of its nameplate capacity. Inasmuch as it appears that there will be no ethanol production facilities in operation by May 1, 2011, it is doubtful that this credit will be claimed before its repeal date.

Digested 2/7/11

HB 563

RELATING TO TAXATION

JOEL K. MATSUNAGA
CHIEF OPERATING OFFICER & EXECUTIVE VP
HAWAII BIOENERGY, LLC

FEBRUARY 8, 2011

Chair Morita, Vice Chair Coffman and Members of the House Committee on Energy & Environmental Protection:

I am Joel Matsunaga, testifying on behalf of Hawaii BioEnergy on HB 563, "Relating to Taxation."

SUMMARY

Hawaii BioEnergy ("HBE") opposes HB 563 which limits the ethanol facility tax credit by allowing taxpayers to claim the tax credit only for investments made prior to May 1, 2011. Maintaining a facility credit to help offset capital costs will lower the barriers to entry for prospective producers as well as help to jumpstart the nascent renewable fuels industry in Hawaii; however, HBE asserts that the credit would be more effective in expanding the state's bio-based economy if the revised statute was expanded to apply to biofuels more broadly.

HAWAII BENEFITS FROM LOCAL BIOFUELS PRODUCTION

Hawaii BioEnergy is a local company dedicated to strengthening the state's energy future through sustainable biofuel production from locally grown feedstocks. Among its partners are three of the larger land owners in Hawaii. HBE and its partners would like to use significant portions of their land to address Hawaii's existing and growing energy needs.

One of the biofuel alternatives that HBE is pursuing is the production of jet fuel and other oil derivatives from micro-algae, and is already engaged in Phase II of a Hawaii-based, DARPA-funded algae project. Along with providing a local, renewable, and lower-carbon fuel source, expanded algae-based biofuel production will benefit the agriculture industry by providing a local source of protein for animal feed, fertilizers and other products. In addition to HBE's on-going algae-based biofuel projects, the company is moving forward with plans to develop locally produced high density fuels from sweet sorghum, eucalyptus and/or other dedicated energy crops. The feedstocks and conversion production pathways under consideration hold tremendous potential to displace fossil fuel imports given their relatively low input requirements, exceptionally high yields, and capacity to produce a portfolio of products including liquid fuels for transport and power generation while contributing feed, and other bio-based co-products to the local market.

In addition to the clear environmental and energy security benefits that local production would bring to bear, fostering Hawaii's biofuel industry would also provide needed economic stimulus to the state through direct investment, job creation, and demand for goods and services. Based on an independent analysis commissioned by HBE, it's projected that a large-scale agricultural operation coupled with biofuels facility could provide up to 1,400 new direct, indirect and induced jobs, over $115 million in value added or new wealth, and over $17 million in annual tax revenue from combined indirect business and personal income taxes. Such benefits could be multiplied through additional investments in large-scale biofuels facilities supported through a facility tax credit.

While the environmental, energy security and economic benefits are clear, the state's ability to secure the substantial capital required for large-scale commercial facilities requires providing a degree of assurance to private investors that they will be able to recover their investment within a reasonable time horizon. Extending the current Ethanol Facility Tax Credit to incorporate biofuels more broadly would help to attract a wider range of investors and provide the additional support needed to help offset the technology and capital risk inherent in the establishment of new industries, particularly those that require new technology. The credit would also be self-sustaining as the additional business and income tax revenue generated by the industry could be applied to future credits.

CONCLUDING REMARKS

HBE is moving forward with projects that will help provide renewable and sustainable sources of energy for Hawaii. Limiting tax incentives such as HRS235-110.3 will also limit the growth of the bio-based renewable fuels industry in this state. HBE therefore opposes HB 563 and respectfully requests that members of the committee consider alternative measures being proposed before this legislature that expand the existing HRS235-110.3 to apply to a broader base of biofuels.

Thank you for the opportunity to testify.

PACIFIC WEST ENERGY LLC
1212 NUUANU #1704
HONOLULU, HI 96817
Tel. 808-927-3608

HB 563

February 7, 2011

Representative Hermina M. Morita, Chair
Representative Denny Coffman, Vice-Chair
And Members of the Committee on Energy and Environmental Protection
Hawaii State Capitol
415 S. Beretania
Honolulu, HI 96813

Re: HB 563 – Relating to Renewable Fuels

Dear Chair Morita, Vice-Chair Coffman and Members of the Committee,

My name is William Maloney and I am the President and Chief Executive Officer of Pacific West Energy LLC and its affiliate, Pacific West Energy Kauai LLC, the developers of the integrated agriculture to green power and biofuel project on Kauai. I testify today in opposition to HB 563, repealing the Ethanol Facility Tax Credit.

Pacific West Energy LLC continues to intend to construct a fuel ethanol production facility on Kauai, integrated with a renewable energy electricity cogeneration facility. The total project cost is approximately $140 million, with $40 million of this representing the ethanol facility. We are in the land lease negotiations, and negotiating contract farming agreements, and have entered into several contracts in support of this project. In addition to producing fuel ethanol for the local Hawaiian motor fuel market we intend to produce renewable electricity for sale to Kauai Island Utility Cooperative ("KIUC"). To date, we have expended over $8 million and several years of effort in reliance on the Hawaii Ethanol Facility Tax Credit.

In 2000, and again in 2004, the legislature enacted the Ethanol Facility Tax Credit to stimulate investment in local ethanol production. The incentive is designed to make Hawaiian production competitive with other states providing similar production based incentives, to protect Hawaiian producers from non-domestic imported ethanol, which has also enjoyed much historical governmental support, and to offset the negative economies of scale associated with smaller local production facilities.

The Ethanol Facility Tax Credit was only approved by the legislature in both 2000 and 2004 after comprehensive reviews that included a detailed fiscal and economic analysis commissioned by DBEDT and prepared for the legislature by Decision Analysts Hawaii Inc. ("DAHI"). These cost / benefit analysis required the presentation of all our capital and operating budgets to DAHI. The findings were that the incentive would be revenue positive for the State over the life of the project. At that time the project was to be primarily a molasses based facility – today it is to be a fully integrated facility to employ in excess of 150 jobs. The fiscal and economic benefits to the State from our project that were positive in 2004 would be far greater today with the expanded project scope.

Our project has taken much longer to develop than we originally envisaged. There have been many challenges, including the recent turmoil in the financial sector, volatility in the energy markets, and securing suitable agricultural lands against competing uses. We have recently secured the former Kekaha sugar mill industrial site, and are diligently working with State agencies such as DHHL for agricultural lands. Our project is to be a model for an integrated bio-energy refinery, and it is consistent with the expressed intentions of the Hawaiian legislature to develop indigenous energy resources.

The Ethanol Facility Tax Credit does not cost the State anything currently, and with credits only commencing after a facility has been fully constructed and is in operation, maintaining the Ethanol Facility Tax Credit leaves open the opportunity to increase State revenues in the near term.

The repeal of the Ethanol Facility Tax Credit would result in our cessation of development activities relating to ethanol, and leave stranded several million dollars of investment made in good faith in reliance on the Statute.

In the event the Committee decides that it does want to repeal the Ethanol Facility Tax Credit we respectfully request that the language in the provision make clear that those invested funds that would have been eligible Investments in a proposed Qualifying Facility, where the Company had previously registered the Facility with DBEDT shall be eligible to receive a tax credit up to the total qualifying investments (i.e., those capital investment in conformity with the IR Code UNICAP rules).

Sincerely,

William Maloney

William Maloney
President & Chief Executive Office
Pacific West Energy LLC