



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON WAYS AND MEANS**

Friday, February 27, 2015  
1:00 PM  
State Capitol, Conference Room 211

in consideration of  
**SB 349, SD1**  
**RELATING TO TAXATION.**

Chair Tokuda, Vice Chair Kouchi, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) offers comments on SB 349, SD1, which would establish a renewable fuels production tax credit and repeal the ethanol facility tax credit.

DBEDT is concerned that the financial and human resources (approximately \$100,000 and 0.5 full-time equivalent) required to administer the duties of this bill are not included in its current budget and should not replace or adversely impact priorities indicated in the Executive Budget.

Though DBEDT defers to the Department of Taxation on its part of the administration of the tax, DBEDT requests that the committee add a definition of “taxable year” and “year” as one that starts from January 1 through December 31. Because businesses can file tax returns at any time of the year and can set their own taxable year, defining the year would simplify the administration of the bill by making it possible to calculate the annual allowable tax credit and administer the aggregate cap on the amount of allowable tax credits on a first-come, first-served basis.

DBEDT defers to the Department of Budget and Finance and Department of Taxation on the fiscal impacts of the bill. The Department also defers to the Attorney General on the legal aspects, especially concerning the definition of “renewable fuels,” which may be in conflict with the commerce clause of the US Constitution.

Thank you for the opportunity to offer these comments regarding SB 349, SD1.

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Jill N. Tokuda, Chair  
and Members of the Senate Committee on Ways and Means

Date: Friday, February 27, 2015  
Time: 1:00 P.M.  
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 349, S.D. 1, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 349, S.D. 1 and offers the following comments.

S.B. 349, S.D. 1 repeals the current ethanol facility tax credit and creates a refundable income tax credit for production of renewable fuels. The tax credit would provide 20 cents of credit per every 76,000 British Thermal Units of fuel produced in a taxable year. The credit applies for a five year period, beginning when a taxpayer begins qualifying renewable fuel production at the threshold rate. The credit must be certified by the Department of Business, Economic Development, and Tourism (DBEDT), and is capped at \$3,000,000 per taxpayer per year, and has an aggregate cap of \$12,000,000 per year.

The Department generally has concerns regarding the inclusion of an aggregate cap on the total amount of tax credits. In this instance, DBEDT is required to certify the credits prior to taxpayers claiming the credit by filing with the Department, thus, the Department defers to DBEDT regarding its ability to perform this certification function.

The Department notes that the renewable fuels production tax credit provided under this measure is refundable. A refundable tax credit allows a taxpayer to receive a refund if the credit amount exceeds the tax liability. As a general matter, the Department prefers that tax credits be non-refundable due to the potential for abuse that refundable tax credits create.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Renewable fuels production tax credit

BILL NUMBER: SB 349, SD-1

INTRODUCED BY: Senate Committee on Energy and Environment

EXECUTIVE SUMMARY: Replaces the ethanol fuels income tax credit with a renewable fuels production income tax credit to encourage the production of such fuels. A direct appropriation would be preferable as it would provide some accountability for the taxpayers' funds being utilized to support this effort.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to establish a 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 five years.

The annual dollar amount of the credit shall be 20 cents per 76,000 British thermal units (BTU) of renewable fuels using the lower heating value produced for distribution in Hawaii; provided that the production by the facility 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 "credit period," "net income tax liability" and "qualifying renewable fuels." "Renewable fuels" are fuels produced in the state from renewable feedstocks located in the state and meet the relevant ASTM International specifications for the particular fuel or other industry specifications for liquid or gaseous fuels, including but not limited to: (1) methanol, ethanol, or other alcohols; (2) hydrogen; (3) biodiesel or renewable diesel; (4) other biofuels; or (5) renewable jet fuel or renewable gasoline. Defines "renewable feedstocks" as biomass crops; agricultural residues; oil crops, including but not limited to algae, canola, jatropha, palm, soybean and sunflower; other agricultural crops; grease and waste cooking oil; food wastes; municipal solid wastes and industrial wastes; water and animal residues and wastes that can be used to generate energy.

Requires the department of business, economic development and tourism (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 \$12 million in the aggregate, DBEDT may 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 shall be refunded to the taxpayer.

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

DBEDT 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 director of DBEDT 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 director of DBEDT on the number of BTUs 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 BTUs of renewable fuels production for the succeeding year.

Directs the director of DBEDT, 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. Requires DOTAX to prepare the necessary forms to claim the credit, and requires the taxpayer to furnish information to validate a claim for the credit.

Repeals the ethanol facility tax credit under HRS section 235-110.3.

EFFECTIVE DATE: Tax years beginning after December 31, 2015

STAFF COMMENTS: The legislature by Act 289, SLH 2000, established an investment tax credit to encourage the construction of an ethanol production facility in the state. The legislature by Act 140, SLH 2004, changed the credit from an investment tax credit to a facility tax credit. This measure proposes to replace the ethanol facility tax credit with a renewable fuels production tax credit.

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 consider repealing the ethanol facility credit and look for other types of alternate energy to encourage through the appropriation of a specific number of taxpayer dollars. At least 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.

Ethanol was the panacea of yesterday; lawmakers have since learned that there are more minuses to the use of ethanol than there are pluses. Ethanol production demands more energy to produce than using a traditional petroleum product to produce the same amount of energy, and the demand for feedstock that is used to produce ethanol basically redirects that feedstock away from traditional uses, causing products derived from the feedstock to substantially increase in price. It may make sense to encourage development of other alternative fuels that will not have these issues, but doing it in open-ended fashion by way of a tax credit is an invitation to abuse.

An appropriation of taxpayer dollars for such untried and unproven technologies would be far more accountable than the tax credit as such technologies would have undergone the scrutiny of lawmakers. Providing a tax incentive is an indicator that lawmakers are unwilling to do the hard research and unwilling to impose strict discipline in the expenditure of hard-earned tax dollars. The tax incentive approach represents nothing more than a hope and a wish that some breakthrough will be made, no matter how inefficient it may be, that some alternative to fossil fuel will be found. In the meantime, those tax dollars will be wasted on some unproven folly. If this were an appropriation, taxpayers would then know who to hold accountable for the waste of those tax dollars.

This, along with numerous other proposals targeted at certain types of business activity, is truly an indictment of what everyone has known and acknowledged since before Hawaii became a state, that is, the climate imposed by government regulations and taxation makes it difficult to survive without some kind of subsidy such as tax credits from government. Once those subsidies disappear, so will the businesses. Instead of throwing out such breaks for special interests, lawmakers must endeavor to make Hawaii's business climate more welcoming and conducive to nurturing budding entrepreneurs.

Digested 2/26/15



## SENATE COMMITTEE ON WAYS & MEANS

February 27, 2015, 1 P.M., Room 211

(Testimony is 1 pages long)

### TESTIMONY IN SUPPORT OF SB 349

Chair Tokuda, Vice-Chair Kouchi, and members of the Committee:

The Blue Planet Foundation supports SB 349, expanding the eligibility for biofuel production facilities beyond ethanol. This policy—providing a biofuel facility tax credit to incentivize the needed development and construction of such facilities—will provide greater support for Hawai'i's diverse biofuel production infrastructure.

Biofuels will likely play a major role in Hawai'i's clean energy future—particularly as a substitute for petroleum-based transportation fuels. While much of our work has been focused on renewable energy and reducing electricity use, transportation in Hawai'i (cars, trucks, ships, and planes) accounts for approximately two-thirds of the oil consumed. **In 2014, Hawai'i cars and trucks burned nearly 500 million gallons of gasoline and diesel fuel.** For a typical car, that's enough fuel to cover the distance equivalent to over 21,000 round trips to the moon.

Transportation fuels in Hawai'i can be made from renewable resources, such as waste products, biomass in various forms, algae, and other materials. These materials are neither as scarce nor as expensive as crude oil. Even more importantly, these materials are available here. Hawai'i should set a clear course for a steady, incremental transition to renewable fuels including local and sustainable biofuels.

**Blue Planet also supports policy to require that a certain percentage (5% - 10%) of diesel fuel sold in Hawai'i be biodiesel.** One of Hawai'i's entrepreneurial success stories is biodiesel, a fuel that can be created from recycled cooking grease and oils or grown locally, and that can be substituted in place of fossil fuel-based diesel for transportation. Already, this local industry is creating enough fuel to displace 5% of transportation diesel fuel sold in the state. The biofuels industry is also making headway on the state's use of aviation fuels; HawaiiBioenergy has completed an agreement with Alaska airlines to power Hawai'i flights with biofuels starting as soon as 2018. Blue Planet supports a mandate to blend biodiesel with all locally sold diesel fuel. This smart step will help to continue the momentum for a local industry to supply indigenous clean energy for our transportation energy needs.

Thank you for the opportunity to testify.



COLLEGE OF SOCIAL SCIENCES  
**HAWAII ENERGY POLICY FORUM**  
UNIVERSITY OF HAWAI'I AT MĀNOA

**Hawaii Energy Policy Forum**

Jeanne Schultz Afuwai, HI Inst. for Public Affairs  
Joseph Boivin, Hawai'i Gas  
Warren Bollmeier, HI Renewable Energy Alliance  
Albert Chee, Chevron  
Elizabeth Cole, The Kohala Center  
Leslie Cole-Brooks, HI Solar Energy Assn  
Kyle Datta, Ulupono Initiative  
Mitch Ewan, UH HI Natural Energy Institute  
Jay Fidell, ThinkTech HI, Inc.  
Carl Freedman, Haiku Design & Analysis  
Sen. Mike Gabbard, HI State Senate  
Dan Giovanni, Hawaiian Electric Company  
Mark Glick, State Energy Office, DBEDT  
Justin Gruenstein, City & Co. of Honolulu  
Dale Hahn, Ofc of US Sen Brian Schatz  
Michael Hamnett, Research Corp. of the UH  
Rachel James, Ofc of US Rep. Tulsi Gabbard  
Jim Kelly, Kaua'i Island Utility Cooperative  
Darren Kimura, Energy Industries  
Kelly King, Sustainable Biodiesel Alliance  
Rep Chris Lee, HI House of Representatives  
Gladys Marrone, Building Industry Assn of HI  
Doug McLeod, Maui County  
Stephen Meder, UH Facilities and Planning  
Lauren Montez-Hernandez, Ofc of Sen Mazie Hirono  
Hermína Morita, Public Utilities Commission  
Sharon Moriwaki, UH So. Sci. Public Policy Ctr  
Ron Nelson, U.S. Defense Energy Support Center  
Tim O'Connell, U.S. Dept of Agriculture  
Jeffrey Ono, Division of Consumer Advocacy, DCCA  
Darren Pai, Hawaiian Electric Company  
Melissa Pavlicek, Hawaii Public Policy Advocates  
Randy Perreira, HI Government Employees Assn  
Rick Rocheleau, UH HI Natural Energy Institute  
Will Rolston, Hawai'i County  
Riley Saito, SunPower Systems Corp  
Joelle Simonpietri, U.S. Pacific Com. Energy Ofc  
H. Ray Starling, Hawaii Energy  
Ben Sullivan, Kaua'i County  
Lance Tanaka, Hawaii Independent Energy  
Maria Tome, Public Utilities Commission  
Ah Linn Yamane, HI Government Employees Assn

Testimony of Warren Bollmeier  
Chair, Renewable Energy Working Group  
Hawaii Energy Policy Forum

Before the  
Senate Committee on Ways & Means  
Senator Jill Tokuda, Chair; Senator Ronald Kouchi, Vice-Chair  
February 27, 2015, 1:00 p.m., Conference Room 211

**IN SUPPORT OF SB 349 SD1 – Relating to Renewable Fuels**

I am Warren Bollmeier, Chair of the Renewable Energy Working Group of the Hawaii Energy Policy Forum (Forum). The Forum, created in 2002, is comprised of 46 representatives from Hawaii's electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. Our vision and mission, and comprehensive "10 Point Action Plan" serves as a guide to move Hawaii toward its preferred energy goals and our support for this bill.

The purpose of SB 349 SD1 is to replace the existing Ethanol Facility Investment Tax Credit (Section 243-3.5, Hawaii Revised Statutes) with a Renewable Fuels Production Tax Credit.

The Forum supports SB 349 SD1 as it would help us meet the transportation fuels component of the Hawaii Clean Energy Initiative. Specifically, we note after having worked on various precursor versions of this bill for the past several years that this bill would:

1. Create opportunities for a broad range of facilities in Hawaii to produce renewable fuels and. Specifically, in addition to ethanol, the credit would be eligible for facilities that could produce liquid or gaseous fuels, including methanol, biodiesel, biojet, hydrogen and biogas,
2. Reward successful developers in Hawaii based on how much they produce and not how much they invest,
3. Encourage local farmers to work with developers to produce local feedstocks, and
4. Result in the creation of sustainable jobs in Hawaii and valuable contribution to Hawaii's economy, and

Thus, the Forum respectfully urges its passage of SB 349 SD1.

Mahalo for the opportunity to testify.

*This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organizations.*



**Directors**

Jody Allione  
Project Development  
Consultant

Joe Boivin  
Hawaii Gas

Kelly King  
Pacific Biodiesel

Warren S. Bollmeier II  
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE  
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE  
SENATE COMMITTEE ON WAYS AND MEANS

SB 349 SD1, RELATING TO TAXATION

February 27, 2015

Chair Tokuda, Vice-Chair Kouchi and members of the Committee I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of SB 349 SD1 are to: (i) establishes a renewable fuels production tax credit and repeals the ethanol facility tax credit; (ii) allow qualifying taxpayers to claim a refundable income tax credit equal to 20 cents per seventy six thousand British thermal units of renewable fuel, capped at \$3,000,000 per year for up to five years; (iii) cap the credit at \$12,000,000 per year in aggregate; (iv) require the department of business, economic development, and tourism to certify all tax credits and submit a report regarding the production and sale of renewable fuels to the governor and legislature each year; (v) direct the department of taxation to create forms for the tax credit; and (vi) apply to taxable years beginning after December 31, 2015

HREA **strongly supports** this measure with the following comments:

- 1) Meeting Our Clean Energy. This measure supports our clean energy goals by encouraging business opportunities in the production and sale of renewable fuels in Hawaii.
- 2) Merits of a Production Tax Credit (“PTC”). We believe a PTC is the best way for the state to support biofuel production in Hawaii. With a PTC, a “producer” gets paid when the producer actually produces, not when he installs his production facility. This reduces the risk to the state significantly. The PTC has other features that we find attractive:
  - a) we believe the PTC will be straightforward to administer, including the qualification of biofuel facilities, and documentation of the types and amounts of biofuels produced and sold in Hawaii; and
  - b) the PTC will help facilitate effective producer-ag grower relationships to grow renewable feedstocks for the production of local renewable fuels.

Recommendation: We recommend passing the measure out “as is.”

Mahalo for this opportunity to testify.



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February 25, 2015

**Testimony on Senate Bill 349, Relating to Taxation  
SUPPORT**

Committee on Ways and Means  
Senator Jill N. Tokuda, Chair  
Senator Ronald Kouchi, Vice Chair  
Hearing February 27, 2015 at 1:00 p.m., Conference Room 211

Dear Chair Tokuda, Vice Chair Kouchi and Committee Members,

The management, investors and 70+ employees of the Pacific Biodiesel ohana thank you for introducing Senate Bill 349 for consideration by the Committee on Ways and Means. This bill is crucial to the expansion of the biofuels industry in Hawaii, especially since our state is so far behind in our transportation renewable energy goals. We wholeheartedly testify in favor of SB349.

This bill supports the State of Hawaii's interest in becoming more energy self-sufficient, and does not add any additional burden to the state budget since it just broadens the use of funding already designated for ethanol production. If SB349 is passed, it will be one of the most important actions the Legislature can take to incentivize local renewable fuel production, support current and future local jobs as well as ensure the future energy security of our island communities.

Pacific Biodiesel employs about 75 people in a wide range of positions from chemists to engineers, office and sales personnel to biodiesel facility operators and farmers, as well as outside consultants. Employment represents \$3 million in wages paid in 2013 and continued operations generate over \$10 million in revenue for the State of Hawaii every year. When biodiesel is purchased from Pacific Biodiesel in Hawaii, over 85% of the money stays in the Hawaii economy, and 98% of the money stays in the US economy. This is truly an economic boost as opposed to the economic drain of foreign petroleum.

It is the goal of all those connected with Pacific Biodiesel to continue with our mission to promote a clean, sustainable energy future through the community-based production of renewable fuels, but we need your help as federal support for biofuel continues to be inconsistent and short-term. Meanwhile, the petroleum industry with whom we must compete enjoys on-going, statutory support at all levels of government.

We ask you to consider our proposed changes and please pass SB349 to support the continued efforts of renewable fuel producers throughout the State of Hawaii.

Mahalo,

A handwritten signature in black ink that reads "Kelly T. King".

Kelly King  
Vice President  
[ktk@biodiesel.com](mailto:ktk@biodiesel.com)

**SB349**

Submitted on: 2/25/2015

Testimony for WAM on Feb 27, 2015 13:00PM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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