SB 349

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

Tuesday, February 3, 2015
2:45 PM
State Capitol, Conference Room 225

in consideration of
SB 349
RELATING TO TAXATION.

Chair Gabbard, Vice Chair Green, and Members of the Committee,

The Department of Business, Economic Development & Tourism (DBEDT) offers comments on SB 349, 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 our Executive Budget.

In addition, 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.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Energy and Environment

Date: Tuesday, February 3, 2015
Time: 2:45 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B.349, Relating to Taxation

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

S.B. 349 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 S.B. 349 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.

SUBJECT: INCOME, Renewable fuels production tax credit

BILL NUMBER: SB 349; HB 618 (Identical)

INTRODUCED BY: SB by Gabbard, Galuteria, Green, Ihara and 3 Democrats; HB by C. Lee, Belatti, Evans, Lowen and 1 Democrat

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 2/2/15

REACH
RENEWABLE ENERGY ACTION COALITION OF HAWAII
1110 University Avenue, Suite 402
Honolulu, Hawaii 96826
Tel: (808) 371-1475
www.REACHawaii.org

Testimony of ERIK KVAM
President of Renewable Energy Action Coalition of Hawaii
e-mail: Erik.Kvam@REACHawaii.org

In SUPPORT of SB 349 RELATING TO TAXATION

Before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

February 3, 2015 2:45 p.m.

Aloha Chair Gabbard, Vice-Chair Green and members of the Committee.

My name is Erik Kvam. I am the President of Renewable Energy Action Coalition of Hawaii (REACH). REACH is a trade association whose vision is a Hawaiian energy economy based 100% on renewable sources indigenous to Hawaii.

REACH is in **SUPPORT** of SB 349.

Hawaii is far behind in achieving its renewable goals for transportation. Transportation fuels account for about two-thirds of all the energy consumed in Hawaii. Virtually all of Hawaii's energy for transportation comes from imported fuels.

Without renewable fuel production from sources indigenous to Hawaii, Hawaii will have virtually no fuel available for critical transportation needs when imported fuels stop flowing to Hawaii.

REACH **SUPPORTS** SB 349 – creating a production tax credit of so-many cents per 76,000 BTUs of renewable fuels produced from sources indigenous to Hawaii -- to encourage the development of renewable fuel production from sources indigenous to

Hawaii, so that Hawaii has the transportation fuels it needs when imported fuels stop flowing to Hawaii.

Thank you for providing this opportunity to testify.

  

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
February 3, 2015, 2:45 P.M.
Room 225

TESTIMONY IN SUPPORT OF SB 349

Chair Gabbard and members of the Energy and Environment 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 Hawaii's diverse biofuel production infrastructure.

Biofuels will likely play a major role in Hawaii'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 Hawaii (cars, trucks, ships, and planes) accounts for approximately two-thirds of the oil consumed. **In 2014, Hawaii 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 biomass in various forms, algae, and waste products. These materials are neither as scarce nor as expensive as crude oil. Even more importantly, these materials are available here. Hawaiʻi 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 Hawaiʻi be biodiesel. One of Hawaiʻi'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 Hawaiʻi 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.

info@blueplanetfoundation.org
55 Merchant Street 17th Floor • Honolulu, Hawaiʻl 96813 • 808-954-6142 • blueplanetfoundation.org

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

SB 349, Relating to Taxation

February 3, 2015

Chair Gabbard, Vice-Chair Green 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 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 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 easy 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.

Mahalo for this opportunity to testify.

46-040 Konane Place #3816, Kaneohe HI 96744 • www.http://hawaiirenewableenergy.org: 808.247.7753 •wsb@lava.net

40 Hobron Avenue
Kahului, Hawaii 96732
(808) 877-3144
Fax (808) 877-5030
www.biodiesel.com

February 1, 2015

Testimony on Senate Bill 349, Relating to Taxation
SUPPORT

Committee on Energy and Environmental
Senator Mike Gabbard, Chair
Senator Josh Green, Vice Chair
Hearing February 3, 2015 at 2:45 p.m., Conference Room 225

Dear Chair Gabbard, Vice Chair Green 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 Energy and Environmental Protection. 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,

Kelly T. King

Kelly King
Vice President
ktk@biodiesel.com

From:	mailinglist@capitol.hawaii.gov
To:	ENETestimony
Cc:	skaye@hawaii.edu
Subject:	Submitted testimony for SB349 on Feb 3, 2015 14:45PM
Date:	Saturday, January 31, 2015 3:43:38 PM

SB349

Submitted on: 1/31/2015
Testimony for ENE on Feb 3, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Springer Kaye	Individual	Support	No

Comments: I support this measure.

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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