

**STATE OF HAWAII**  
**HAWAII CLIMATE CHANGE MITIGATION & ADAPTATION**  
**COMMISSION**  
POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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Director, OPSD

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The Adjutant General  
Manager, CZM

**Testimony of**  
**Leah Laramee**  
**Coordinator, Hawai'i Climate Change Mitigation and Adaptation Commission**

**Before the House Committee on**  
**ENERGY & ENVIRONMENTAL PROTECTION**

**Tuesday, January 31, 2023**  
**8:30 AM**

**State Capitol, Via Videoconference, Conference Room 325**

**In support of**  
**House Bill 389**  
**RELATING TO TAXATION**

House Bill 389 Establishes a carbon sequestration income tax credit. **The Hawai'i Climate Change Mitigation and Adaptation Commission (Commission) supports this measure with comments.**

Tax credits for carbon sequestration are intended to incentivize investment in carbon capture and sequestration. The Commission recognizes that carbon sequestration is a vital part of reaching the State's 2045 net negative emission's goals. The Commission suggests that the language in this bill clarify that the tax credit proposed in this bill is directed at entities that are able to permanently trap CO2 emitted from anthropogenic sources, such as power plants or industrial facilities, thereby reducing net emissions of this greenhouse gas into the atmosphere.

Mahalo for the opportunity to comment in support of this measure.

JOSH GREEN M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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GARY S. SUGANUMA  
DIRECTOR OF TAXATION

KRISTEN M.R. SAKAMOTO  
DEPUTY DIRECTOR

**TESTIMONY OF  
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

**TESTIMONY ON THE FOLLOWING MEASURE:**

H.B. No. 389, Relating to Taxation

**BEFORE THE:**

House Committee on Energy & Environmental Protection

**DATE:** Tuesday, January 31, 2023

**TIME:** 8:30 a.m.

**LOCATION:** State Capitol, Room 325

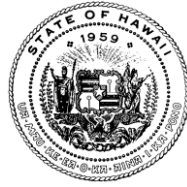
Chair Lowan, Vice-Chair Cochran, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding H.B. 389 for your consideration.

H.B. 389 adds a new section to Chapter 235, Hawaii Revised Statutes, to create a nonrefundable income tax credit which is: (1) an undetermined dollar amount per metric ton of carbon oxide that is captured by the taxpayer at an industrial or direct capture facility in the State; (2) properly disposed at a secure disposal site; and (3) not used by the taxpayer as a tertiary injectant. The taxpayer is to submit required information, as determined by rules adopted by the Department of Health (DOH), to DOH no later than 90 days following the close of their taxable year. DOH must provide the taxpayer with a verified certification no later than seven months from the date the taxpayer submitted the request to DOH. The measure is effective upon approval and applies to taxable years beginning after December 31, 2023.

Due to the number of bills with tax law changes that have been introduced this year, the Department may not have the resources to implement all measures passed this session in time for tax year 2023. The Department will continue to monitor the status of proposed legislation and will advise whether some changes will require a later effective date.

Thank you for the opportunity to provide comments on this measure.



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DEPARTMENT OF HEALTH  
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In reply, please refer to:  
File:

**Testimony COMMENTING on HB 0389  
RELATING TO TAXATION**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR  
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION  
Hearing Date: 1/31/2023 Room Number: 325

1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's  
2 Executive Budget Request for the Department of Health's (Department) appropriations and  
3 personnel priorities. Proposed requirements will require additional staff time and effort.  
4 **Department Testimony:** The Department is supportive of the goal of carbon sequestration  
5 activity that provides safe, effective, and efficient means to reduce greenhouse gas emissions and  
6 combat climate change. However, the Department has comments on this measure which  
7 proposes to create a state level tax credit for geological carbon capture and storage (CCS) and  
8 requires the Department to establish rules to certify the amount of carbon captured and disposed  
9 of by a taxpayer beginning in tax year 2024. This tax credit would provide state dollars to  
10 supplement the federal 45Q tax credit, recently increased by the 2022 Inflation Reduction Act.  
11 The Department would face challenges in developing rules for the tax credit certification  
12 in the absence of an established CCS program in Hawaii. Basic concepts could be taken from  
13 other states, but this would lack specifics related to Hawaii's unique environment and geology.  
14 Discussion regarding geologic CCS in Hawaii suggests that there are a number of actions  
15 needed prior to program implementation. Hawaii's geological composition and protection of our  
16 valuable groundwater aquifers must be carefully considered. Hawaii's Underground Injection  
17 Control rules in Hawaii Administrative Rules, Section 11-23-07, currently prohibit the  
18 construction, operation, or existence of Class VI injection wells (used for geological  
19 sequestration of carbon dioxide) in the State. If geological sequestration were determined  
20 environmentally sound and feasible in Hawaii, existing rules would need to be amended. A new

1 permit program, including applications, reviews, and compliance checks would require  
2 coordination across multiple branches within the Department. In addition, such a program would  
3 need to align with federal requirements for both geologic carbon sequestration and carbon tax  
4 credits.

5 Although the extent of the Department's responsibilities proposed in the bill are still  
6 being evaluated, additional staff resources will be necessary to pass rules and carry out the  
7 required duties of verifying carbon captured and disposed, certifying tax credits, and maintaining  
8 records.

9 While the Department supports the implementation of carbon sequestration in Hawaii,  
10 without a geologic carbon sequestration project or program and potential processes being  
11 evaluated as feasible in Hawaii, the tax credit and the utilization of resources necessary to  
12 develop associated rules at this time would be premature.

13 Thank you for the opportunity to testify on this measure.

14 **Offered Amendments:** None.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Carbon Sequestration Tax Credit

BILL NUMBER: HB 389

INTRODUCED BY: WOODSON, AMATO, COCHRAN, GATES, HUSSEY-BURDICK, KAPELA, KILA, LOWEN, MARTEN, PERRUSO, POEPOE

EXECUTIVE SUMMARY: Establishes a carbon sequestration income tax credit. Applicable to taxable years beginning after 12/31/2023.

SYNOPSIS: Adds a new section to chapter 235, HRS, establishing the credit.

The credit is nonrefundable and is equal to \$\_\_\_\_\_ per metric ton of qualified carbon oxide that is either (1) by the taxpayer using equipment placed in service in the state, and (2) disposed of by the taxpayer in secure geological storage and not used by the taxpayer as a tertiary injectant.

The taxpayer is to apply for the credit no later than 90 days following the end of each taxable year.

The Department of Health is tasked with certifying eligibility for the credit no later than seven months after the submission of the application.

All claims, including any amended claims, for tax credits 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 any of the foregoing provision shall constitute a waiver of the right to claim the credit.

For passthru entities, the cost [?] on which the tax credit is computed shall be determined at the entity level.

Defines “carbon capture equipment,” “industrial facility,” and “secure geological storage” by reference to Treasury Regulations under IRC section 450.

Defines “direct air capture facility” as any facility that uses carbon capture equipment to capture carbon dioxide directly from the ambient air, but does not include any facility that captures carbon dioxide that is deliberately released from naturally occurring subsurface springs or using photosynthesis.

Defines “qualified carbon oxide” as (1) any carbon dioxide or other carbon oxide that: (A) is captured from an industrial source by carbon capture equipment; (B) would otherwise be released into the atmosphere as industrial emission of greenhouse gas or lead to such release; and (C) is measured at the source of capture and verified at the point of disposal; or (2) in the case of a direct air capture facility, any carbon dioxide that: (A) is captured directly from the ambient air; and (B) is measured at the source of capture and verified at the point of disposal.

Defines “tertiary injectant” as qualified carbon oxide that is injected into and stored in a qualified enhanced oil or natural gas recovery project and contributes to the extraction of crude oil or natural gas, including the term as defined in IRC section 193(b)(1).

EFFECTIVE DATE: Taxable years beginning after 12/31/2023.

STAFF COMMENTS: It appears that this measure is proposed to encourage taxpayers to install and use carbon capture technologies to help clean up our state and our planet.

Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as understanding about the expenditure of these funds when students are roasting in our schools, or when there isn’t enough money for social service programs?

Utilizing tax credits other than to alleviate an excessive tax burden is of a questionable benefit relative to the cost for all taxpayers. If lawmakers want to encourage the use of carbon capture technology, then a direct appropriation to subsidize any related cost would be more accountable and transparent. In other words, with a direct appropriation (1) you know how much you’re spending, and (2) you know what you are paying for. With a tax credit you know neither.

As a technical matter, we suggest that the word “cost” in proposed subsection (b) be changed to “amount of qualified carbon oxide that is captured and disposed,” because that is the metric on which this credit is based.

Digested: 1/28/2023

**HB-389**

Submitted on: 1/27/2023 9:35:47 PM

Testimony for EEP on 1/31/2023 8:30:00 AM

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

Comments:

There is no such thing as a Climate emergency this is all Bull Shit. This is all a scam to make certin people very Rich.m mStop lising to the Crooks ans Wize Up.End the Bull Shit the people know better now. They now the Government Can Not Be Trusted!!!!

**HB-389**

Submitted on: 1/29/2023 5:09:07 PM

Testimony for EEP on 1/31/2023 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lisa Diaz	Individual	Support	Written Testimony Only

Comments:

**Aloha Representative Lowen & EEP Committee Members,**

**I strongly support HB389** to establish a carbon sequestration income tax credit. Applicable to taxable years beginning after 2/31/2023.

Mahalo, Rep.Lowen and committee members for leading the EEP committee and hearing this bill to create more incentives to encourage Hawaii businesses and residents to adopt carbon sequestration. I suggest that more specific technologies/methods be named in HB389 to clarify how to qualify for the credits.

Mahalo with Aloha,

Lisa Diaz

76-223 Haoa St

Kailua-Kona, HI 96740



**HB-389**

Submitted on: 1/29/2023 9:06:19 PM

Testimony for EEP on 1/31/2023 8:30:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Gerdine Markus	Individual	Support	Written Testimony Only

Comments:

Great bill, please support. Thank you,