JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

STATE OF HAWAIʻI
DEPARTMENT OF TAXATION
Ka ʻOihana ʻAuhau
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TESTIMONY OF GARY S. SUGANUMA, DIRECTOR OF TAXATION

TESTIMONY ON THE FOLLOWING MEASURE:
S.B. No. 2376, S.D.2, H.D.1, Relating to the Renewable Fuels Production Tax Credit

BEFORE THE:
House Committee on Finance

DATE: Tuesday, April 7, 2026
TIME: 2:00 p.m.
LOCATION: State Capitol, Room 308

Chair Todd, Vice-Chair Takenouchi, and Members of the Committee:

The Department of Taxation (DOTAX) offers the following comments regarding S.B. 2376, S.D.2, H.D.1, for your consideration.

S.B. 2376, S.D.2, H.D.1, makes several amendments to section 235-110.32, Hawaii Revised Statutes (HRS), regarding the Renewable Fuels Production Tax Credit (RFPTC).

Subsection (a) is amended to increase the credit during the ten-year credit period from 20 cents to 85 cents per 76,000 British thermal units of renewable fuels using the lower heating value sold for distribution in Hawaiʻi. The bill also doubles the maximum credit amount that may be claimed by a taxpayer per taxable year from $3.5 million to $7 million. Additionally, the credit may only be claimed for “low lifecycle emissions renewable fuels,” and no other tax credit may be claimed under this chapter for the costs used to claim a credit under section 235-110.32, HRS, for the taxable year.

This subsection is also amended to clarify that “taxpayers who previously claimed the tax credit for a single credit period for taxable years beginning before January 1, 2027, may claim another tax credit for taxable years beginning after December 31, 2026."

Subsection (f), regarding the $20 million aggregate yearly cap, is amended to provide that in the event that the credit claims under this section exceed $20 million for all eligible taxpayers in any given calendar year, the $20 million will be allocated to eligible taxpayers in proportion to the total amount of renewable fuels production tax credit claims under this section for the calendar year.

Further, to the extent that the proportional allocation and application of the cap on the amount of the credit claimed by a single taxpayer pursuant to subsection (a) results in total credits lower than $20 million, the difference between the total credits and the $20 million will be allocated to any remaining eligible claims from taxpayers that have not exceeded the cap on the amount of the credit claimed by a single taxpayer pursuant to subsection (a) in proportion to the renewable fuels production tax credit claims for those taxpayers in the calendar year.

Additionally, if the amount of a taxpayer's credit is reduced due to the limitations noted above, the amount of the reduction will be available to the taxpayer to be used as a credit in the subsequent calendar year, but the credit shall not be carried over for any calendar year thereafter, and any carryover credit shall be subject to the limitations of this subsection.

The definition of a "credit period" in subsection (o) is amended to mean a maximum period of ten consecutive years, beginning from July 1, 2026.

Subsection (o) is further amended to add definitions for “feedstock transportation emissions threshold,” “lifecycle greenhouse gas emissions,” “lifecycle greenhouse gas emissions reduction threshold,” “low lifecycle emissions renewable fuels,” and “product transportation emissions threshold,” and conforming amendments are made to the definitions of “renewable feedstocks” and “renewable fuels.”

The measure has a defective effective date of July 1, 3000, and applies to taxable years beginning after December 31, 2025.

First, DOTAX defers to the Hawaii State Energy Office (HSEO) regarding its ability to incorporate these changes and its ability to continue to administer the aggregate credit cap and the proportional credit allocations.

DOTAX recommends, however, that the bill be amended to clarify that, if the total amount of credits applied in a year exceeds the aggregate amount, HSEO issue a certificate to the taxpayer stating the amount eligible to be claimed in the subsequent taxable year.

Second, DOTAX notes that it can administer the tax law changes in this bill for taxable years beginning after December 31, 2025.

Lastly, DOTAX notes that the revenue impact is indeterminate.

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

HAWAII STATE ENERGY OFFICE
STATE OF HAWAII

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARK B. GLICK
CHIEF ENERGY OFFICER

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Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 451-6648
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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
HOUSE COMMITTEE ON FINANCE

Tuesday, April 7, 2026
2:00 PM
State Capitol, Conference Room 308, and Videoconference

Providing Comments on
SB 2376, SD2, HD1

RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT.

Chair Todd, Vice Chair Takenouchi, and Members of the Committee, the Hawai‘i State Energy Office (HSEO) offers comments on SB 2376, SD2, HD1, which amends the Renewable Fuels Production Tax Credit (RFPTC), Section 235-110, Hawai‘i Revised Statutes (HRS). Proposed amendments 1) increase the RFPTC from 20 cents to 85 cents per seventy-six thousand British thermal units (btu) of renewable fuels using lower heating value (LHV) sold for distribution in the state, 2) increases the per-taxpayer cap from $3.5 million to $7 million and introduces a limited rollover mechanism which applies if the total amount of credits applied for exceeds the annual cap, the remaining credits may be applied in the subsequent year, 3) adds lifecycle emissions thresholds for eligibility, and 4) allows taxpayers who previously claimed the tax credit for a single credit period before January 1, 2027 to claim another tax credit for taxable years beginning after December 31, 2026. HSEO appreciates many of the amendments reflected in HD1 and recognizes the numerous changes this measure has undergone as it has moved through the legislative process. HSEO offers the following comments and context on the provisions of the bill and defers to the Department of Taxation on any additional administrative or compliance considerations.

The measure proposes a credit of 85 cents per 76,000 btu based on the LHV of renewable fuel. While expressed on an energy basis, this equates to a substantial per-gallon subsidy when translated into commonly understood fuel units. Converting this value, the credit corresponds to roughly $1.40 per gallon for sustainable aviation fuel (SAF), $1.43 per gallon for renewable diesel, and $1.32 per gallon for biodiesel (B100), based on typical energy content. These values depend on the assumed LHV per gallon, which can vary slightly by feedstock and refining process. While such a credit could accelerate deployment and support local renewable fuel production, it also warrants careful consideration of total program cost, long-term fiscal exposure, and whether the incentive level is appropriately calibrated to achieve desired outcomes.

HSEO recognizes the critical importance of reducing greenhouse gas (GHG) emissions in the transportation sector and aviation subsector. In the *2023 Pathways to Decarbonization* Report to the Legislature, HSEO identified low-carbon fuels as a potentially important tool for reducing emissions in hard-to-electrify sectors. However, the report also emphasized that the climate benefits of alternative fuels are highly dependent on robust lifecycle GHG accounting, transparent verification methodologies, and strong safeguards against over-crediting fuels that deliver marginal or uncertain emissions reductions. HSEO therefore supports the additional lifecycle greenhouse gas threshold criteria and more stringent thresholds applied in this bill.

Regarding the per-taxpayer cap, HSEO defers to the respective finance committees on budget constraints and the appropriate cap level, and notes the proposed increase from $3.5 million to $7 million warrants careful consideration of overall fiscal impacts.

The bill also introduces a rollover mechanism (page 5, lines 15-21 and page 6, lines 1-11) under which excess claims are treated as having been applied for in a subsequent year. While this provision may improve predictability for project developers, it raises concerns regarding long-term budget management and fiscal exposure. In practice, the rollover mechanism could result in a backlog of unpaid credits if claims consistently exceed the annual cap. Over time, this may lead to a portion, or potentially all, of a future year’s allocation being effectively pre-committed to prior-year production. Although the HD1 limits rollover to a single year, the interaction of this provision across

multiple years of oversubscription remains unclear and could introduce administrative and budgeting challenges. Additionally, while the provision preserves the value of the credit for taxpayers, it may result in delayed realization and disproportionate distribution across years.

Given these considerations, HSEO respectfully requests that the committee remove the proposed rollover language (page 5, lines 16-21 and page 6, lines 1-11) and maintain the language currently in statute (page 5, lines 15-16). This will maintain clearer fiscal boundaries and avoid unintended long-term obligations for the State.

Thank you for the opportunity to testify.

April 7, 2026

KAPOLEI CHAMBER of COMMERCE
Working for West Oahu

House Committee on Finance
Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026, 2:00 p.m.
Conference Room 308 and via Videoconference

RE: SB 2376 SD1 HD1– Relating to the Renewable Fuels Production Tax Credit

Dear Chair Todd, Vice Chair Takenouchi and Members of the Committee,

My name is Kiran Polk, and I am the Executive Director & CEO of the Kapolei Chamber of Commerce. The Kapolei Chamber of Commerce is an advocate for businesses in the Kapolei region, including Waipahu, Kapolei, ʻEwa Beach, Nānakūli, Waiʻanae and Mākaha. We work on behalf of our members and the broader business community to improve the regional and State economic climate and to help West Oʻahu businesses thrive.

The Kapolei Chamber of Commerce **supports SB 2376 SD1 HD1**, which expands and clarifies the Renewable Fuels Production Tax Credit to support in-state production, distribution, and investment in renewable fuels, while improving administrative efficiency and program effectiveness.

Additionally, we respectfully urge the Committee to strengthen this measure by reinstating the Sustainable Aviation Fuel (SAF) tax credit, restoring the inclusion of "jet fuel," and ensuring the credit applies to all renewable fuels regardless of feedstock origin. This is particularly important to West Oʻahu, where critical energy infrastructure and industry partners play a central role in fuel production, distribution, and air transportation.

From a business and economic perspective, these clarifications support Hawaiʻi's energy security while reinforcing a stable and predictable policy environment for in-state investment. In West Oʻahu, where significant industrial, logistics, and energy-related activity is located, clear and well-administered programs help sustain local jobs, support workforce transition, and provide greater certainty for long-term planning.

For these reasons, the Kapolei Chamber of Commerce respectfully urges your support of **SB 2376 SD1 HD1 with the requested amendments**. Mahalo for the opportunity to provide testimony and for your continued leadership on issues that support Hawaiʻi's economy, workforce, and long-term resilience.

Respectfully submitted,

Best,

Kiran Polk
Executive Director & CEO

P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

April 7, 2026

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON SB 2376, SD2, HD1
RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

Conference Room 308 & Videoconference
2:00 PM

Aloha Chair Todd, Vice-Chair Takenouchi, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaiʻi Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaiʻi's voice of agriculture to protect, advocate, and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaiʻi Farm Bureau supports SB 2376, SD2, HD1, which strengthens and clarifies the renewable fuels production tax credit, providing greater certainty for in-state renewable fuel production. For agriculture, this credit represents a potential value-added opportunity for locally grown crops, agricultural residues, and byproducts to serve as renewable fuel feedstocks.

Locally grown biofuel feedstocks can provide farmers with additional revenue streams, particularly when cultivated on marginal or underutilized lands. In some cases, these crops may also function as cover crops, contributing to improved soil health, reduced erosion, and more sustainable land management practices while still producing marketable outputs. Integrated systems that utilize agricultural residues and waste streams can further generate co-products such as livestock or aquaculture feed, strengthening both the agricultural and energy sectors while keeping economic activity within Hawai'i.

Market certainty is critical for farmers considering whether to invest in new crops or production systems. Renewable fuel feedstock production requires forward planning, acreage commitments, and long-term agreements. The tax credit must provide a sufficiently strong and predictable market signal to support participation at the farm level. As this measure moves forward, we encourage continued collaboration to ensure the credit structure meaningfully supports in-state agricultural production and aligns with Hawai'i's cost environment.

Renewable fuel opportunities can complement agriculture, but only if viable agricultural operations are able to persist and grow. Continued attention to land access, water availability, labor, invasive species pressures, transportation costs, and energy costs remains essential to ensuring that agriculture can fully participate in Hawai‘i’s renewable energy future.

Thank you for the opportunity to provide testimony.

Hawai'i Renewable Fuels Coalition

April 7, 2026

TESTIMONY IN SUPPORT OF SB 2376 SD2 HD1 RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

Aloha Chair Todd, Vice Chair Takenouchi and Members of the House Committee on Finance,

My name is Nahelani Parsons, and I am the Executive Director of the Hawaiʻi Renewable Fuels Coalition, HRFC. On behalf of our coalition members across the energy, agriculture, labor, and transportation sectors, we offer our strong support for SB 2376 SD2 HD1, and respectfully urge the Committee to pass this measure with targeted amendments to ensure it fully supports a locally rooted renewable fuels economy.

The Role of the Coalition and Why This Credit Matters

HRFC represents a broad coalition across agriculture, energy, labor, and transportation sectors statewide, including founding members Alaska and Hawaiian Airlines, Pono Pacific, and Par Hawaiʻi. The coalition also works closely with partners such as Pacific Biodiesel, the Hawaiʻi Farm Bureau, ranchers and dairy producers, and national aviation stakeholders to advance renewable fuel production, strengthen local agriculture, and support Hawaiʻi's clean energy transition.

Hawaiʻi Renewable Fuels Coalition members

Airlines for America	**Alaska x Hawaiian Airlines**	**Haleakala Ranch**
Hawaii Farm Bureau	**Hawaii Fuelling Facilities Corp**	**HECO**
ITOCHU Corporation	**Japan Airlines**	**Kuilima Farm**
Meadow Gold Hawaii	**Pacific Biodiesel**	**Par Hawaii**
Pono Pacific	**United Steelworkers**	

We appreciate the progress reflected in SB 2376 SD2 HD1 and the Legislature's recognition that the Renewable Fuels Production Tax Credit is a critical tool in advancing the State's obligations under the Navahine v. HDOT climate settlement, which requires meaningful reductions in transportation emissions. By strengthening the credit, the State is creating a real pathway to support the production of renewable fuels such as sustainable aviation fuel and renewable diesel.

With transportation contributing nearly half of Hawaiʻi's greenhouse gas emissions, and aviation fuel consumption exceeding 700 million gallons annually, this policy

represents one of the most practical and scalable opportunities to reduce emissions while supporting local jobs, agriculture, and economic resilience.

Renewable fuels create new demand for agricultural production, bring underutilized lands back into use, support skilled local jobs, and keep energy dollars circulating within Hawai‘i. The Renewable Fuels Production Tax Credit is the foundation of that system, and ensuring it is properly calibrated will determine whether that system succeeds at scale.

Support SB 2376 SD2 HD1 With Targeted Amendments

1. **Support All Locally Produced Renewable Fuels While Allowing Imported Feedstocks and Growing Local Agriculture**

   We support the lifecycle framework and agree that it appropriately prioritizes and incentivizes the use of local feedstocks. At the same time, imported feedstocks will be necessary in the early years to ensure projects can operate reliably and scale effectively.

   Allowing both local and imported feedstocks for fuels produced within Hawai‘i provides a practical and balanced pathway, enabling immediate market growth while local agricultural supply chains are developed over time. To make a meaningful impact on greenhouse gas emissions today, it is essential that this credit can be fully utilized, including for fuels produced in the state using imported renewable feedstocks.

   Importantly, local production of renewable fuels, regardless of feedstock origin, delivers clear economic and energy security benefits for Hawai‘i. It keeps investment within the state, supports local jobs, and reduces dependence on imported petroleum as we transition to a clean energy future.

2. **Ensure Sustainable Aviation Fuel Is Competitive Within the Credit Structure**

   We respectfully recommend adding an additional credit value for sustainable aviation fuel to ensure it can compete within the credit structure.

   As currently structured, producers are more likely to prioritize renewable diesel due to stronger economics, including higher yields, lower production costs, and more favorable incentive structures. Without a targeted adjustment, sustainable aviation fuel may not be produced at a meaningful scale, despite representing

Hawai‘i’s largest opportunity to reduce transportation emissions. Ensuring sustainable aviation fuel production is economically viable is essential to achieving meaningful emissions reductions in our transportation sector.

These amendments support local agriculture, enable market growth, and help ensure Hawai‘i achieves the maximum possible reduction in greenhouse gas emissions. We respectfully urge the Committee to pass this measure with these targeted amendments to ensure it delivers meaningful emissions reductions, supports local industry, and strengthens Hawai‘i’s energy security.

Nahelani Parsons

Executive Director, Hawai‘i Renewable Fuels Coalition

Testimony of
ALASKA AIRLINES and HAWAIIAN AIRLINES

Before the House Committee on
Finance

Tuesday, April 7, 2026
2:00 p.m.
Hawai'i State Capitol, Room 308

In consideration of
SENATE BILL 2376, SD2 HD1
RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

The Honorable Chris Todd, Chair of the Committee on Finance
The Honorable Jenna Takenouchi, Vice Chair of the Committee on Finance
Members of the Committee on Finance

Re: Testimony with Comments on S.B. 2376, SD2 HD1 – Relating to the Renewable Fuels Production Tax Credit

Chair Todd, Vice-Chair Takenouchi and members of the committee,

Alaska Airlines and Hawaiian Airlines respectfully offer comments on S.B. 2376, SD2 HD1, relating to the Renewable Fuels Production Tax Credit (RFPTC), and appreciate the continued work of the Legislature to strengthen Hawai'i's renewable fuels framework.

We remain supportive of the overall intent of this measure to incentivize in-state renewable fuel production, reduce lifecycle greenhouse gas emissions, and advance Hawai'i's energy security goals. The transition to a more performance-based framework tied to lifecycle emissions, along with enhanced reporting and accountability, represents a meaningful step forward in aligning Hawai'i's policy with federal standards and market expectations.

Importantly, under the Navahine Settlement and the Hawai'i Department of Transportation's Energy Security and Waste Reduction Plan, the State has a clear obligation to advance strategies that decarbonize the transportation sector, including aviation. As such, policies that shape Hawai'i's renewable fuels market should be inclusive of pathways that directly support emissions reductions in aviation.

However, we respectfully note a significant concern with the current draft.

Exclusion of Sustainable Aviation Fuel (SAF)

As currently structured, S.B. 2376, SD2 HD1 removes sustainable aviation fuel (SAF) and renewable jet fuel from the definition of eligible renewable fuels.

This represents a significant policy gap, particularly in the context of the State's broader climate and energy commitments.

The aviation sector is one of the most difficult segments of the transportation system to decarbonize, and SAF is the primary and most viable pathway to reduce emissions from air travel in the near- to mid-term. Unlike ground transportation, aviation does not yet have scalable electrification alternatives, making liquid fuels essential for long-haul connectivity.

For Hawai‘i in particular, this issue is even more acute.

As an island state that depends on aviation for economic activity, tourism, and the movement of people and goods, Hawai‘i has both a unique reliance on aviation and a unique opportunity to lead in the development of SAF. Excluding SAF from eligibility under the RFPTC risks:

- Limiting Hawai‘i’s ability to attract investment in SAF production facilities
- Creating an uneven playing field relative to other renewable fuels
- Missing a critical opportunity to align state policy with federal incentives
- Undermining the State’s ability to meet its obligations to decarbonize aviation under the Navahine Settlement and HDOT’s Energy Security and Waste Reduction Plan
- Slowing progress toward statewide decarbonization goals, particularly in the transportation sector

Alignment with Legislative Intent

We understand and appreciate the Committee’s focus on ensuring that renewable fuel incentives deliver local economic benefit, particularly through the use of locally sourced feedstocks.

We support this objective, and we believe it’s important to highlight that local renewable fuel production, regardless of the origin of the renewable feedstock, has economic and energy security benefits for the state.

Importantly, the inclusion of SAF is not inconsistent with this goal. In fact, SAF production can strongly reinforce it. A local SAF industry that relies on imported and locally sourced or regionally proximate feedstocks can:

- Generate local jobs in production, refining, and logistics
- Support Hawai‘i’s agricultural sector
- Create demand for crops such as oilseeds and other renewable feedstocks
- Maximize in-state economic circulation

Recommendation

Given the importance of aviation to Hawai‘i’s economy, energy security, and climate obligations, we respectfully recommend that the Committee:

1. **Reinstate sustainable aviation fuel (SAF) as an eligible renewable fuel under SB 2376.**

This can be accomplished by restoring SAF within the definition of "renewable fuels" and ensuring it is treated consistently within the lifecycle emissions framework established in the bill.

2. **Maintain flexibility for feedstocks while continuing to support local agriculture**

   Allowing both local and imported feedstocks for locally produced fuels provides a practical pathway to grow the market in the near term while building local feedstock capacity over time. To achieve immediate reductions in greenhouse gas emissions, the credit should be usable to its full extent, including for imported feedstocks that are processed in-state and directly support local fuel production and community benefit.

3. **Include a dedicated SAF "adder" to ensure parity with renewable diesel and other competing fuel pathways.**

   Specifically, we recommend establishing an additional $1.00 per gallon for fuels that qualify as sustainable aviation fuel (SAF).

   This targeted adder appropriately recognizes:

   - The additional technical and economic barriers associated with SAF production, including stricter ASTM specifications, more complex refining processes, lower yields, and lower value from certain federal incentive programs

   - The critical role SAF plays in advancing Hawai'i's decarbonization strategy, particularly in the aviation sector where alternatives remain limited

Without a SAF-specific adder, producers are more likely to prioritize renewable diesel and other fuels with lower production costs, limiting the development of a SAF market in Hawai'i.

Establishing parity through a targeted incentive will help ensure that SAF production is economically viable and competitive.

Reinclusion of SAF, paired with the targeted adder, will help ensure that Hawai'i's renewable fuels policy is:

- Comprehensive across all major transportation sectors

- Competitive in attracting private investment

- Aligned with federal policy and emerging markets

- Positioned to make progress toward the State's climate commitments, including the decarbonization of aviation

- Structured to deliver long-term economic and environmental benefits for Hawai'i

Mahalo for the opportunity to provide testimony.

PONO PACIFIC

April 6, 2026

TESTIMONY IN SUPPORT OF SB 2376 SD2 HD1
RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

House Committee on Finance
Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026, at 2:00 pm
State Capitol
Conference Room 308

Aloha Chair Todd, Vice Chair Takenouchi, and Members of the Committee,

Thank you for the opportunity to provide testimony in **SUPPORT** of **SB 2376 SD2 HD1**, Relating to the Renewable Fuels Production Tax Credit. We respectfully urge the Committee to advance this measure with the amendments proposed by the Hawaii Renewable Fuels Coalition to ensure it fulfills its purpose of effectively supporting Hawaii-based renewable fuel production and providing economic benefits to a broad range of local businesses and sectors.

Specifically, we urge you to maintain flexibility with feedstocks, allowing a credit for both locally grown as well as imported renewable feedstocks. It is important to note the renewable fuel WILL BE REFINED LOCALLY whether or not the feedstock is imported. And it is also important to note there will not be enough locally grown feedstocks initially, as it will take time to ramp up local production.

Second, we urge you to add an additional credit for the production of Sustainable Aviation Fuel, which is desperately needed to decarbonize air travel, but it significantly costlier to produce.

Finally, add “Camelina” under the definition of “Renewable feedstocks” under section (3), which already includes other oil crops including “algae, canola, jatropha, palm, soybean, and sunflower”.

By focusing on objective environmental performance standards, this policy can maximize local economic opportunity while advancing Hawai‘i’s climate and long-term energy goals. This will help establish a new agricultural market by providing an additional credit of $1 per gallon for low lifecycle emissions renewable fuels, which can be produced from locally grown renewable feedstocks.

Pono Pacific is Hawai‘i’s first and largest private natural resource conservation company, providing land management, restoration services, sustainable agricultural development, renewable energy, and eco-asset development for projects throughout the state. Our work is focused on activating working lands, increasing food security and community engagement, and protecting natural resources to build a more resilient future for Hawai‘i.

Finding viable uses for agricultural lands that promote environmental sustainability while generating positive economic returns is a critical need for Hawai‘i. Locally grown biofuel feedstocks such as camelina can be grown in rotation with food crops or on currently fallow land, improving soil health and reducing erosion. Camelina trials completed in 2025 across Oahu, Maui and Kauai produced encouraging results, averaging approximately 1,200 pounds of seed per acre, and local farmers, ranchers, and feed producers have expressed strong interest in the crop’s potential. Pono Pacific recently entered into an agreement with HARC to continue trials of Camelina on Oahu through 2026 with the goal of improving both yield per acre and oil content through further research and development.

Camelina requires less water and fertilizer than traditional row crops, making it well suited to Hawai‘i’s diverse landscapes. In addition to supplying low-carbon feedstock for renewable fuels, camelina produces nutritious meal that can be used as feed for cattle and chickens or processed into pellets for aquaculture feed, creating multiple revenue streams from a single crop. By creating a stable demand for these crops and their byproducts, the renewable fuels industry can help revitalize rural communities, create new jobs, and diversify farm income streams across the islands.

We urge you to pass this legislation with amendments. Thank you for your time and consideration.

Mahalo,

Chris Bennett
Vice President of Sustainable Energy Solutions
Pono Pacific Land Management, LLC
Pono Energy Inc.

PONO PACIFIC

Camelina FAQs

What other industries can benefit from growing Camelina?

Beyond supplying oil for renewable fuel production at the Par Hawaii refinery, camelina creates meaningful value through its co-products, particularly camelina meal. The high-protein seed cake remaining after oil extraction can be used as livestock feed for cattle and poultry, incorporated into aquaculture pellets, thereby reducing Hawai'i's dependence on costly imported feed inputs. This supports local ranchers, dairies, egg producers, and aquaculture operations while keeping more dollars circulating within the state. In addition, we have had discussions with companies exploring the use of camelina meal as a feedstock for bio-based materials, including bioplastics, which could open an entirely new value-added manufacturing pathway in Hawai'i. These diversified end uses strengthen the overall economics of the crop, create multiple revenue streams from a single acre, and help build a more resilient, circular agricultural and clean energy economy.

What agricultural lands will be used?

According to recent informational testimony to the Hawai'i Senate from the Hawai'i Farm Bureau and others, Hawai'i farms are on the decline – down 10% from 2017 to 2022. Efforts are underway to expand Hawai'i agriculture, expand Hawai'i lands in production, and expand the availability of Hawai'i-grown feed for our ranching communities. Our focus is on former sugarcane/pineapple lands with low opportunity cost, reactivating these lands for both renewable fuel feedstocks and food production, and at the same time mitigating fire hazards from unmanaged lands. There are tens of thousands of acres of these lands available on Kaua'i, Maui County, Oahu and Hawai'i Island. These lands are held by private entities such as Kamehameha Schools, Maui Land and Pineapple, Grove Farm, Gay & Robinson, as well as various government agencies.

Although we are several years from commercial production, we are engaged in ongoing discussions with many of these landowners to enter into potential lease agreements. We currently hope to scale the project up to 1,500 acres by the end of 2027, and up to 25,000 acres over the following 5 years focusing on privately held fallow lands previously in sugar and pineapple production, as well as rotating with food production on currently active lands.

What are the water requirements for growing Camelina?

Pono Pacific recognizes that water use and management in Hawai'i have historically been sensitive and complex issues, and we remain mindful of that context in all aspects of our work.

Camelina is not a water intensive plant, and in reality, camelina does not like 'wet feet' (too much water). A combination of 8-12 inches of rainfall and irrigation across its 80-day growing cycle is all that is required, with some producers on the Continent recommending even lower rates of 4-6". Germination and emergence, then pre-flowering, are the critical stages for irrigation. Camelina needs good soil moisture for a uniform stand establishment and even germination. Very limited watering, if any, is recommended after flowering due to lodging commonly occurring. This works out to approximately 2,715 gallons per acre per day – again, a combination of rainfall and irrigation. Here is a comparison to other common Hawai'i-grown crops, per information from the Hawai'i Department of Agriculture (AGRICULTURAL WATER USE AND DEVELOPMENT PLAN):

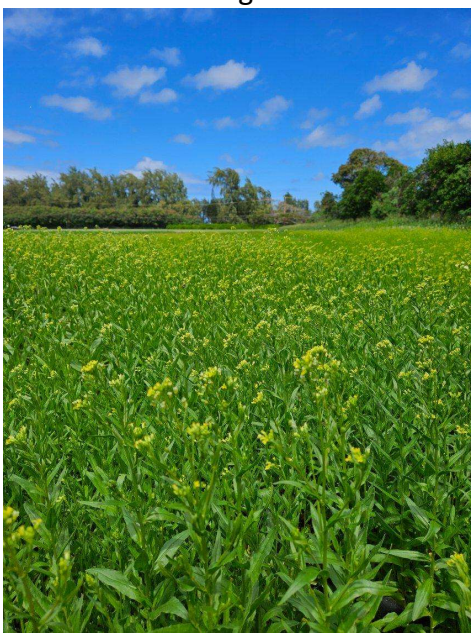
HDOA IRRIGATION WATER USE GUIDELINES (2004 AWUDP)

Crop	Water Use Rate (gals/acre/day)	Crop	Water Use Rate (gals/acre/day)
Alfalfa/Corn (grain)	7,700	Orchids	3,700
Aquaculture	145,000	Papaya	5,000
Dendrobium	4,000	Passion Fruit	10,000
Field Crops (grass & seed)	6,700	Pineapple	1,350
Foliage Plants	4,000 - 6,000	Protea	2,000-2,500
Forage Crops	7,400	Sugarcane (drip)	6,700
Guava	4,400	Sugarcane (furrow)	10,000
Leafy Vegetables (drip)	4,050	Taro (Asian)	4,000 - 8,000
Leafy Vegetables (sprinkler)	5,400	Taro (dryland)	5,400
Macadamia Nuts	4,400	Taro (wetland)	80,000 - 100,000
Nursery (potted plants)	6,000	Vegetables	6,700

Takeaway: Although the exact amount can vary significantly depending on several factors, Camelina's low water requirement, combined with its short cycle, makes it attractive for regions where water resources are limited.

PONO PACIFIC

Camelina flowering on Oahu



Camelina seed pods on Maui

Camelina field on Kauai

Camelina field on Kauai

Environmental Caucus of
The Democratic Party of Hawai‘i

TESTIMONY OF THE ENVIRONMENTAL CAUCUS OF THE DEMOCRATIC PARTY OF HAWAI‘I IN OPPOSITION TO SB2376 SD2 HD1 RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

Chair Chris Todd, Vice Chair Jenna Takenouchi
House Committee on Finance (FIN)
Date: Tuesday, April 7, 2026
Time: 2:00 PM
Place: Conference Room 308 & Videoconference

Aloha Chair Todd, Vice Chair Takenouchi, and Members of the Committee:

The Environmental Caucus of the Democratic Party of Hawai‘i respectfully opposes SB2376 SD2 HD1, which expands the Renewable Fuels Production Tax Credit.

While the Caucus supports reducing greenhouse gas emissions and transitioning away from fossil fuels, SB2376 SD2 HD1 expands tax incentives for fuel pathways that are combustion-based, waste-derived, and inconsistent with environmental-justice and energy-justice principles. The bill broadens eligibility for fuels that continue to emit greenhouse gases and co-pollutants, perpetuate waste-generation markets, and delay Hawai‘i’s transition to true zero-emission transportation.

1. The bill expands subsidies for combustion-based fuels rather than zero-emission alternatives

SB2376 SD2 HD1 broadens the definition of eligible “renewable fuels” to include a wide range of burnable fuels, including biofuels, waste-derived fuels, and renewable natural gas. These fuels: (1) still require combustion, (2) still emit greenhouse gases and toxic co-pollutants, and (3) still rely on energy-intensive production processes. Expanding tax credits for these pathways diverts resources away from non-combustion, zero-emission transportation, such as electrification and renewable-electricity-based hydrogen.

2. Waste-derived and biomass-based fuels are widely recognized as false solutions

Environmental-justice and energy-justice frameworks identify waste-derived fuels, landfill gas, and biomass combustion as false alternatives because they: (1) perpetuate burning and air pollution, (2) incentivize waste generation, (3) undermine composting and soil-health strategies, (4) create new markets for waste streams, and (5) disproportionately impact frontline communities. SB2376 SD2 HD1 expands tax credits for exactly these pathways, without requiring lifecycle emissions reductions or environmental-justice safeguards.

3. The bill lacks guardrails to prevent harmful feedstocks

SB2376 SD2 HD1 does not exclude: (1) municipal solid waste, (2) construction and demolition debris, (3) invasive-species biomass, (4) industrial waste gases, or (5) other problematic feedstocks. Without exclusions, the tax credit could subsidize fuels that increase pollution, undermine recycling and composting, or create incentives for waste-to-fuel systems that Hawai‘i has historically rejected.

4. The bill does not advance Hawai‘i’s zero-emission transportation goals

SB2376 SD2 HD1 does not: (1) prioritize electrification, (2) require emissions reductions beyond combustion baselines, (3) require environmental-justice review, or (4) ensure that tax credits support the State’s statutory zero-emission transportation targets. Instead, it expands subsidies for combustion-based fuels that delay the transition to clean, non-polluting alternatives.

5. The bill risks locking Hawai‘i into long-term combustion infrastructure

By expanding tax credits for renewable fuels production, SB2376 SD2 HD1 may encourage: (1) new fuel-production facilities, (2) long-term supply contracts, (3) expanded agricultural land use for fuel crops, and (4) continued reliance on combustion engines. These investments can create path dependencies that make it harder for Hawai‘i to transition to zero-emission transportation systems.

Conclusion

SB2376 SD2 HD1 expands tax credits for combustion-based fuels that conflict with environmental-justice and energy-justice principles and do not advance Hawai‘i’s zero-emission transportation goals. The Environmental Caucus respectfully urges the Committee to **hold SB2376 SD2 HD1**.

Mahalo nui loa for the opportunity to testify.

Alan Burdick, Co-Chair, burdick808@gmail.com
Mike Ewall, Co-Chair, mike@energyjustice.net
Melodie Aduja, Co-Chair *Emerita,* Legislativepriorities@gmail.com
Environmental Caucus Democratic Party of Hawai‘i

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Restricts Renewable Fuels Production Tax Credit to Renewable Fuels Produced in State

BILL NUMBER: SB 2376 SD2 HD1

INTRODUCED BY: EEP

EXECUTIVE SUMMARY: Expands the provisions of the renewable fuels production tax credit. Applies to taxable years beginning after December 31, 2025. Effective 7/1/3000. (HD1)

SYNOPSIS: Amends section 235-110.32, HRS, to require qualified renewable fuel production costs to be incurred within the State.

Allows a separate ten-year credit eligibility period for each separate qualified renewable fuels production located at a separate physical site.

Specifies that no other tax credit may be claimed for costs incurred to produce renewable fuels that are used to claim a credit under sec 235-110.32, HRS.

Requires that if the aggregate credit cap of $20 million is exceeded, the Hawaii State Energy Office shall issue a certificate to the taxpayer stating the amount of credit that the taxpayer is entitled to claim in the subsequent year.

Allows information that is determined to constitute critical energy infrastructure information pursuant to section 215A(d) of the Federal Power Act (16 U.S.C. 824o-1), the disclosure of which could reasonably be expected to jeopardize the security, safety, or operational resilience of critical energy infrastructure, to be treated as confidential and exempt from public disclosure.

Defines “qualified renewable fuel production costs”as costs incurred by a qualified production within the State that are subject to the general excise tax under chapter 237 at the highest rate of tax or income tax under chapter 235 if the costs are not subject to the general excise tax. Makes technical and conforming amendments.

EFFECTIVE DATE: April 19, 2042 for taxable years beginning after December 31, 2026.

STAFF COMMENTS: Act 202, SLH 2016, enacted a renewable energy production credit with a five-year life. The credit sunset on December 31, 2021. The credit was revived by Act 16, SLH 2022 with an aggregate cap of $20 million.

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 encourage alternative energy production through the appropriation of a specific number of taxpayer dollars. The State could directly purchase energy, or it could give a subsidy to developers. Then, 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.

Digested: 3/16/2026

April 7, 2026

COMMENTS TO
SB 2376 SD2 HD1
RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

House Committee on Finance
The Honorable Chris Todd, Chair
The Honorable Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026, 2:00 p.m.

VIA VIDEOCONFERENCE
Conference Room 308
State Capitol
415 South Beretania Street

Chair Todd, Vice Chair Takenouchi, and Members of the Committee,

Island Energy Services, LLC ("IES") offers the following comments on SB 2376 SD2 HD1, which proposes the establishment of a sustainable aviation fuel tax credit program for the State.

- The current language of SB 2376 SD2 HD1 indicates it is intended to "support local production of SAF and other renewable fuels." The State goals are best served by allowing any imported finished sustainable aviation fuel and other renewable fuels produced outside of Hawai'i to qualify for the same proposed tax credit provided it meets the same lifecycle greenhouse gas emission threshold.

We thank the House Committee on Finance for hearing this bill and thank you for the opportunity to testify.

Albert D.K. Chee, Jr
Executive Vice President Island Energy Services, LLC

NCLH
NORWEGIAN CRUISE LINE HOLDINGS LTD.

Testimony for SB 2376 SD2 HD1
Relating to the Renewable Fuels Production Tax Credit

Hearing Scheduled for April 7, 2026
Committee on Finance

Aloha Chair Todd, Vice Chair Takenouchi and Committee Members,

Norwegian Cruise Line Holding Ltd (NCLH) **supports** SB 2376 SD2 HD1 relating to the renewable fuels production tax credit.

As the only cruise company operating a U.S. flagged, year-round cruise ship in Hawaii – the Pride of America – Norwegian Cruise Line has been a committed partner to the state since the early 2000s. As a cruise line, our business is inextricably linked to the health of our planet and communities. To ensure our continued success, we actively integrate sustainability into our core business strategies and objectives. We are investing in cleaner technologies, including alternative zero/near-zero GHG emission fuels, and have established long-term decarbonization targets.

We are actively engaging in partnerships that help advance our ***Sail & Sustain*** environmental program, focusing on collaborative efforts with innovators, global suppliers and regional organizations. The creation of these alliances helps accelerate the development and adoption of sustainable solutions. Hawaii Renewable Fuels Coalition is one of these alliances that helps a broad range of stakeholders work to advance new fuels that support climate, energy security and economic development.

The progress made this session toward establishing a Renewable Fuels Production Tax Credit is vital for fostering the development of innovative fuels and building a strong foundation to address future requirements, including those highlighted in the *Navahine v DHOT* settlement. We respectfully propose one adjustment to the bill: permitting the use of both locally sourced and imported feedstocks for fuels produced within Hawaii. By making this modification, the tax credits can support fuel production using imported feedstocks as the local agricultural sector grows to meet increasing demand.

NCLH respectfully requests the committee to pass SB 2376 SD2 HD1 with the above-mentioned amendment.

Testimony to The Committee on Finance
Tuesday, April 7, 2026
2:00 PM
Conference Room 308 & VIA videoconference
Hawaii State Capitol
SB 2376 HD1

Chair Todd, Vice Chair Takenouchi, and Members of the Committee,

Hawai‘i Gas respectfully submits comments on SB 2376 HD1.

Hawaii Gas is the state’s only regulated gas utility, providing essential energy services to homes, businesses, and critical facilities across all islands. The company is committed to Hawaii’s transition to a cleaner, more sustainable energy system by advancing renewable fuels such as renewable natural gas and hydrogen while maintaining the reliable infrastructure needed to keep energy affordable and resilient for Hawaii’s communities.

SB 2376 HD1 introduces a prescriptive set of emissions-related requirements that may disincentivize diverse renewable technologies aligned with Hawai‘i’s broader energy objectives. The lifecycle carbon intensity framework, while well-intentioned, risks creating unintended consequences by favoring certain fuel pathways over other renewable fuel applications that can be used to support overall system reliability and decarbonization in all sectors.

Accordingly, the Renewable Fuels Production Tax Credit should be structured to incentivize multiple projects by taxpayers across a range of technologies and use cases. Allowing separate credit periods or eligibility for distinct projects at different facilities would better support innovation, competition, and scale. This approach would more effectively advance the State’s clean energy goals while maintaining flexibility to accommodate evolving technologies and market conditions.

Thank you for your consideration and the opportunity to testify.

TESTIMONY **ON SENATE BILL NO 2376, SD2, HD1** RELATING TO
RENEWABLE FUELS
Position: **Support**

To Representative Chris Todd, Chair; Representative Jenna Takenouchi, Vice Chair; and Members of the Committee on Finance:

Simonpietri Enterprises LLC (SEL) **SUPPORTS** the intention of this measure.

SEL is an O'ahu-based small business developing innovative ways to recycle some of Hawai'i's most challenging wastes into renewable fuels and other beneficial recycled-material products for use in Hawai`i. For the better of the last 6 years, we have been designing the Aloha Carbon integrated plant in Campbell Industrial Park to divert over 2000 tons per day of construction & demolition (C&D) debris from landfilling to be converted into renewable natural gas starting with a small manufacturing plant – the Aloha Sustainable Materials Recycling and Fertilizer Facility (Aloha SMRFF) – which will serve as the pilot plant for Aloha Carbon.

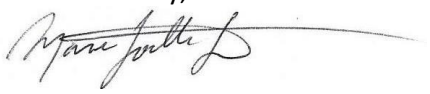
The Aloha SMRFF will divert over 200 tons per day of construction & demolition (C&D) waste from landfilling along with invasive and pest infested biomass and remanufacture that waste to displace over 10,000 tons per year of imported fossil fuels, fertilizers, and building materials for Hawai'i. This facility is the first step to demonstrating our Aloha Carbon manufacturing process to manufacture pipeline-quality renewable fuel from solid wastes – 100% of which are generated in Honolulu. Even with modest fuel and fertilizer production, we anticipate this initial project to have sizable benefits that will support the state's emission reduction and energy resilience goals, while creating other economic opportunities.

The cost to develop energy infrastructure projects in Hawai'i is a limiting factor for many companies especially when considering the efforts invested in project development and engineering to mature our innovations from concept to pilot scale. The implementation of a renewable fuel tax credit incentivizes and helps smaller businesses, like ours, developing these types of projects to contribute their innovative solutions with greater success. While the 20-cent level is a step in the right direction, if truly serious about enticing production of renewable fuels at meaningful scale by new companies, we would like to urge the committee to consider recommendations proposed by the Hawai'i Renewable Fuels Coalition.

Comments for Consideration: We would also ask that the measure be amended to have construction and demolition (C&D) debris added to the list of "renewable feedstocks" to produce eligible fuels. Hawaii Gas's IRP identified C&D waste as the largest viable feedstock readily available on island to produce fuel at scale. While there have been concerns previously raised about the various contaminants in C&D debris that keep it from being recycled currently, our company has been working to develop the technology to safely do so and have a recognized patent for the process. By opening up the feedstock to include C&D debris, this measure would stimulate greater environmental impact through waste reduction and related circular economy benefits.

We appreciate the opportunity to testify on this measure, and urge your support for this bill with considerations.

Sincerely,



Marie-Joelle Simonpietri
President

About Simonpietri Enterprises LLC

Simonpietri Enterprises is a Kailua, Hawaii-based woman- and veteran-owned small business with ten employees, focused on technical innovation and first-of-kind project development of emerging clean and renewable technologies. Since founding in 2006, we have helped dozens of small and large industrial companies in Hawaii, the continental U.S., Australia, and Canada improve the environmental and economic sustainability of their operations through technical and business advice in renewable energy conversion, waste reduction and re-use, and greenhouse gas lifecycle impact reduction. Simonpietri Enterprises' founder and employees have participated in the strategy, planning, design, financing, development, construction, and energy efficiency/greenhouse gas reduction/sustainability renovation for over $400 million in new renewable and first-of-kind sustainable fuel projects over the past 15 years. Since launching the Aloha Carbon waste-to-fuel technical development process in August 2020, Simonpietri Enterprises is now developing renewable fuel production facilities in its own right, starting with the Aloha Sustainable Materials Recycling and Fertilizer Facility (SMRFF) in Kapolei, Hawaii to divert wastes generated in Honolulu from landfilling and transform it to renewable fuel, organic fertilizer, and recycled-material building products.

Par Hawaii

April 7, 2026

TESTIMONY ON SB 2376 SD2 HD1
RELATING TO THE RENEWABLE FUELS PRODUCTION TAX CREDIT

House Committee on Finance
Representative Chris Todd, Chair
Representative Jenna Takenouchi, Vice Chair

Tuesday, April 7, 2026 at 2:00 p.m.
State Capitol, Conference Room 308

Aloha Chair Todd, Vice Chair Takenouchi, and members of the Committee,

My name is Eric Wright and I serve as President of Par Hawaii. Par Hawaii is the largest local supplier of fuels, including various grades of utility fuels, as well as diesel, jet fuel, gasoline and propane.

Thank you for the opportunity to **support the intent** of SB 2376 SD2 HD1, Relating to the Renewable Fuels Production Tax Credit.

We appreciate the improvements incorporated in the HD1. To more effectively support Hawai‘i based renewable fuel production and align with the State’s climate and energy security goals, we respectfully request two targeted enhancements that directly reduce end-user costs:

- $1.00 per diesel-gallon-equivalent for low-lifecycle-emissions renewable fuels
- $1.00 per gallon for sustainable aviation fuel (SAF)

These additions are essential to narrowing the cost gap between renewable fuels and imported petroleum. Without them, Hawaii-produced renewable fuels will remain significantly more expensive than fossil fuels and will be diverted to higher-value West Coast markets.

We also note that Par Hawai‘i is partnering with Pono Pacific to expand the availability of locally sourced feedstock, an important step in developing a homegrown renewable energy value chain. However, until those efforts scale, we must continue to rely on imported feedstock. Under current transportation emissions thresholds and other lifecycle accounting requirements, this reliance can limit the ability to claim the full value of available tax incentives, placing local renewable fuel production at a competitive disadvantage.

Par Hawaii has invested over $100 million to construct Hawai‘i’s largest renewable fuels manufacturing facility at Kapolei, expected to produce 61 million gallons per year of renewable diesel, sustainable aviation fuel, and renewable naphtha. We believe these amendments provide the level of certainty and incentive strength needed to ensure renewable fuels produced in Hawaii stay in Hawaii.

Mahalo for the opportunity to offer comments, and we request the enhanced amendments.

HOUSE OF REPRESENTATIVES
THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2026

COMMITTEE ON FINANCE
Rep. Chris Todd, Chair
Rep. Jenna Takenouchi, Vice Chair

HEARING

DATE: April 7, 2026
TIME: 2:00 PM
PLACE: VIA VIDEOCONFERENCE
Conference Room 308

Public commentor: Ted Metrose - Opposed - Amendments Recommended

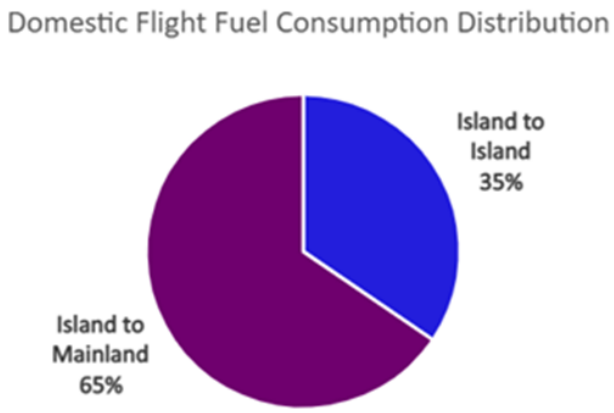
SD2999 – HD2 Empowers and requires HDOT to establish a clean fuel standard (CFS) for transportation fuels and sets carbon intensity targets to reduce GHG emissions within the State. Land based transportation fuels and marine fuels consumed within the State would be explicitly subject to the CFS. Interisland aviation fuel and fuel consumed during interstate travel by air or by sea would be allowed to earn marketable clean fuel credits, through voluntary participation in the CFS program but (but in contrast to land-based transportation fuels) would not be obligated by HDOT's clean fuel standard.

Comments / Opposed pending Amendment:

To advance the State's decarbonization goals for the transportation sector, SB2999 HD2 (like HB1986 HD2) directs HDOT to define a clean fuel standard (CFS) and establishes a regulatory framework for a clean fuel credit market. The CFS approach is conceptually sound, however the proposed bill has some structural flaws, and largely misses its mark.

The fundamental flaw with SB2999-HD2 is that aviation fuel (unlike marine fuel) consumed during travel between Hawaiian Islands is not explicitly subject to the CFS. The bill inexplicably provides an exemption for aviation fuel even though inter-island aviation fuel is fully within Hawaii's authority to regulate and the State is essentially obligated by HRS 225P-8 to reduce/eliminate GHG emissions from air travel within the State. Even though the CFS approach has been widely touted as one of the most cost-effective means of reducing GHG emissions (without public subsidies), this bill inappropriately exempts aviation fuels consumed in flights between islands, which according to the HDOT, represents about 35% of the approximate 600 million gallons per year of domestic aviation fuel uplifted in Hawaii.

Figure 2-4. Domestic Flight Fuel Consumption Distribution



Inter-island aviation transportation is precisely the sector which could benefit the most from the innovation and cost-savings generated by a mandatory CFS program.

Advocates, including HDOT contend that GHG emissions from inter-island air travel, (as well interstate and international) travel can be reduced (and ultimately eliminated) by allowing the airlines and their fuel suppliers to participate in the CFS program on a voluntary basis. The bill proposes to use marketable clean fuel credits as a financial inducement to evoke participation. The airlines and/or their fuel suppliers would be able to earn marketable credits for clean fuels, but they would not be obligated to use clean fuels or electrification as a replacement for fossil fuels. Besides giving interisland air travel a free pass, SB2999-HD2 contains provisions (specifically financial incentives) that could expose the State to federal preemption risk, expand HDOT's authority beyond what is authorized and required by HRS §225P-8, and will likely create implementation challenges that will be difficult to correct, with subsequent legislation.

By exempting inter-island aviation fuel from the CFS and by relying upon voluntary participation, the bill places the State and taxpayers at risk of bearing substantial costs—potentially hundreds of millions of dollars per year - to decarbonize inter-island air travel. Under the entirely voluntary structure that has been proposed (by and) for the aviation sector, the State would effectively be responsible for subsidizing or paying for the GHG emissions reductions that airlines and their suppliers decline to undertake without additional financial incentives. As clearly conveyed in their testimony on February 17th, 2026, principally to justify the airline industry's demand for robust tax credits for sustainable aviation fuel (SAF), the airlines give their full support to SB2999, providing of course that their participation in the CFS program is exempted and strictly voluntary,

Because Hawaii has limited authority to regulate, control or induce specific fuels on interstate travel, the State should mandate participation in the CFS for inter-island travel - not make credits available and participation in the CFS voluntary for all air travel. Allowing credits to be earned on interstate or international flights for the use of low-carbon fuels such as SAF would be extension of a financial incentive, that is violation of the Air Deregulation Act.

Premature and legally binding Carbon Intensity (CI) Targets established by SB2999

Even in advance of establishing a baseline or completing the impact analysis this bill needlessly includes potentially legally binding carbon intensity (CI) targets for clean fuels for 2035 and 2045 which are poorly defined and arguably contradictory to existing decarbonization statutes. The CI targets should be developed in parallel with or after the clean fuel standards that are to be developed over the next two years and compared to the alternative of in-state mandates for clean fuels and electrification. Certainly, HDOT can as part of the CFS program proposal suggest targets, any legislative action to firmly establish CI targets (and make a market), however that should be after the scope, impact analysis and comparison has been completed, just as previously recommended in HDOT's Energy Security and Waste Reduction Plan. The initial CFS study findings have only been summarized by the HDOT (as part of their testimony) and not released to the public for comments. Despite optimistic representations from HDOT, there are no explicit projections for either the CI or the GHG reductions that would be achieved in the aviation transportation sector under the CFS approach. The inability to make projections suggest voluntary participation will not be effective.

Proposed Amendments

Attached is a targeted amendment package that identifies these issues and provides clean, committee-ready language for SD2999-HD2. I request and hope that the legislature will endorse many if not all the proposed amendments.

The rationale provided for each of the amendments should make them readily acceptable. However, in the alternative if for some reason the TRN committee were to find them unacceptable, simply defer SD2999 and give HDOT more time, to consult with the AG and other influencers to get the CFS bill right for next year. Notably deferring this version of the CFS bill would not preclude HDOT from working on the CFS proposal, because neither SD2999 or HB1986 currently provide any additional funding for HDOT to conduct the study or administer the CFS program, even though supplemental funding is likely to be needed and requested in the future.

Again, thank you for the opportunity to comment on the proposed clean fuel standard.

TARGETED AMENDMENT PACKAGE FOR SB2999 HD2 (TO BECOME HD3)

PREFATORY DESCRIPTION & JUSTIFICATION

This targeted amendment package ensures that Hawai‘i’s Clean Fuel Standard (CFS) is implemented strictly within the scope of the State’s regulatory authority while preventing unintended consequences such as federal preemption, market distortion, or double-subsidization. The amendments clarify that inter-island aviation, and marine fuels fall within the State’s jurisdiction under HRS §225P-8 and are therefore subject to the CFS. They also make explicit that fuels used in interstate or international transportation - whether aviation or marine - cannot generate CFS credits under any circumstance, including voluntary participation.

The package also addresses a structural flaw introduced in HB1986 HD2: the premature insertion of carbon-intensity (CI) targets. Although the bill purports to advance the goals of HRS §§225P-5, 225P-7, and 225P-8 “as quickly as possible,” the CI targets are expressed as reductions from 2019 statewide fuel carbon intensity without specifying which fuels are included. This ambiguity risks being misinterpreted as legislative authorization for HDOT to expand the CFS beyond the State’s jurisdiction, particularly into interstate aviation and marine fuels.

HDOT’s own Energy Security Plan outlines a logical sequence: first clarify the scope of the CFS, then evaluate program impacts, and only then develop appropriate CI targets.

HB1986 HD2 reverses this sequence by inserting CI targets before HDOT has completed the foundational work needed to determine which fuels are subject to the CFS and how the program will operate. This premature insertion risks creating statutory confusion, weakening the State’s zero-emissions mandate under HRS §225P-8, and enabling HDOT to use CI targets as a justification for jurisdictional overreach

To promote fiscal responsibility and prevent double-dipping, the amendments prohibit any fuel from receiving both a state tax credit and a CFS credit for the same unit of fuel. The Renewable Fuels Production Tax Credit (RFPTC) is phased out three years after CFS rules are adopted, aligning long-term incentives with the CFS framework and ensuring a coherent statewide policy. The amendments further clarify that only electricity supplied for transportation end uses may participate in the CFS, and that fuels burned by regulated electric utilities to generate electricity are not eligible for CFS credits.

KEY AMENDMENT OBJECTIVES

- Encourage and ensure the CFS (and resulting electrification) applies only to transportation modes within the State's jurisdiction under HRS §225P-8
- Prevent risk of federal preemption by prohibiting CFS credits for interstate or international aviation and marine fuel
- Require inter-island aviation and marine fuel to participate in the CFS
- Prevent double-subsidization by prohibiting fuels from receiving both State tax credits and CFS credits
- Phase out the Renewable Fuels Production Tax Credit three years after CFS rules are adopted
- Clarify that only electricity supplied for transportation end uses may generate CFS credits
- Prevent utilities from generating CFS credits for fuels they are already required to use under the RPS
- Remove premature carbon-intensity targets until HDOT completes scope clarification and program evaluation, preventing statutory conflict and jurisdictional overreach

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DESCRIPTION AND RATIONALE FOR SPECIFIC AMENDMENTS

SECTION 1 — Clarify the Existing Exemption Clause

Current bill text:

"Exemptions for diesel, gasoline, or other fuels used by aircraft, railroad locomotives, military vehicles, and interstate waterborne vessels."

Proposed amendment:

Clarifies that the exemption applies only to interstate or international aviation and marine operations, consistent with federal jurisdiction.

Rationale:

This preserves the bill's structure while ensuring that inter-island aviation and marine fuel remain subject to the CFS, consistent with HRS §225P-8. Clarifying the scope of the exemption also ensures that clean, low-carbon fuels are used within the State where the Legislature has clear authority to regulate.

SECTION 2 — Require CFS Coverage for Inter-Island Aviation & Marine Fuel

Proposed amendment:

"(9)(A) Aviation fuel and marine fuel used exclusively for inter-island transportation shall not be exempt under paragraph (9) and shall be subject to the clean fuel standard, consistent with the State's authority under section 225P-8, Hawaii Revised Statutes."

Rationale:

This amendment ensures that the CFS applies to the transportation modes the Legislature is authorized to regulate. HDOT's Energy Security Plan identifies inter-island aviation fuel as approximately 35% of domestic jet fuel uplifted in Hawai'i and identifies the CFS as a key tool for reducing emissions from this sector. (See excerpt from HDOT's plan at the end.) Applying the CFS to inter-island aviation and marine fuel will align the program with the State's statutory mandate and treats inter-island transportation in a manner which is consist with land-based transportation fuels.

SECTION 3 — Close the Voluntary Participation Loophole

Proposed amendment:

"No credits, deficits, carbon-intensity adjustments, or other incentives may be generated, awarded, or applied to aviation fuel or marine fuel used for interstate or international transportation, whether mandatory or voluntary."

Rationale:

This prevents HDOT from using voluntary participation to indirectly regulate interstate or international transportation — a core federal preemption risk. Case law is clear that financial inducements affecting interstate aviation or marine operations may be treated as regulatory burdens. Prohibiting CFS credits for interstate or international fuel ensures the program remains legally defensible, increases the availability of clean fuels for in-state use, and avoids creating incentives that the State cannot lawfully impose. This also corrects misinterpretations in HDOT's Energy Security Plan regarding the scope of the Navahine settlement, which does not require the State to regulate emissions outside its jurisdiction.

SECTION 4 — Clarify Legislative Intent

Proposed amendment:

"The legislature finds that its authority under section 225P-8, Hawaii Revised Statutes, extends only to ground transportation and sea and air inter-island transportation. Interstate and international aviation and marine operations fall under exclusive federal jurisdiction. The clean fuel standard established under this Act is therefore intended to apply only to fuels used in transportation modes within the State's regulatory authority."

Rationale:

This findings clause provides clear legislative direction, strengthens the legal foundation of the bill, and ensures that HDOT implements the CFS within the State's jurisdiction. Explicit legislative intent reduces preemption risk and guides rulemaking.

SECTION 5 — Prevent Double-Dipping of State Subsidies and CFS Credits

Proposed amendment:

"No alternative fuel may generate credits under the clean fuel standard if the production of that fuel received any State tax credit, rebate, production incentive, or other State-funded financial support. The department shall adopt rules to verify that fuels generating credits under the clean fuel standard have not received State tax incentives for the same unit of fuel."

Rationale:

This prevents double-subsidization, where the same gallon of fuel receives both a State tax credit and a CFS credit. Double-dipping undermines the purpose of the CFS, distorts the market, and increases fiscal exposure. This amendment ensures that the CFS rewards performance rather than stacking subsidies and helps maintain the program's credibility and fiscal neutrality.

SECTION 6 — Phase Out the Renewable Fuels Production Tax Credit (RFPTC)

Proposed amendment:

Repeals the RFPTC three years after CFS rules are adopted.

Rationale:

A three-year phase-out provides producers time to adjust while aligning long-term State incentives with the CFS. This avoids long-term subsidy stacking, reduces fiscal exposure, and ensures that the CFS becomes the State's primary mechanism for rewarding low-carbon fuel production.

SECTION 7 — Prohibit Utility Fuel Credits While Preserving Electrification

Rationale:

Utilities are already required to use renewable fuels under the Renewable Portfolio Standard and related mandates. Allowing those same fuels to generate CFS credits would create windfall credits for actions utilities are already obligated to take. This amendment:

- Prevents double counting and market distortion
- Keeps the CFS focused on transportation decarbonization
- Preserves full eligibility for electricity used in transportation
- Requires no new reporting burdens, as utilities already report fuel use to the PUC

SECTION 8 - Defer Setting Carbon-Intensity Targets Until HDOT Completes Baseline Assessment and Program Effectiveness Evaluation

Strike the poorly defined carbon-intensity targets in Section 2(b)(1), HB1986 HD2, and direct HDOT to develop any future CI targets only after the department has fully evaluated the revised scope of the Clean Fuel Standard (CFS) and assessed the impacts of implementation.

Rationale:

The carbon-intensity (CI) targets inserted into HB1986 HD2 are premature, ambiguous, and risk being misinterpreted as legislative authorization for HDOT to expand the CFS beyond the State's jurisdiction. Although the bill purports to advance the goals of HRS §§225P-5, 225P-7, and 225P-8 "as quickly as possible," the CI targets are expressed as reductions from a 2019 statewide fuel carbon intensity baseline without specifying which fuels are included. This ambiguity allows HDOT to argue that the Legislature intended the CFS to encompass all transportation fuels consumed in Hawai‘i, including interstate and international aviation and marine fuels that fall under exclusive federal authority.

HDOT's own Energy Security Plan outlines a logical sequence: first clarify the scope of the CFS, then evaluate program impacts, and only then develop appropriate CI targets.

HB1986 HD2 reverses this sequence by inserting CI targets before HDOT has completed the foundational work needed to determine CI baselines and projections of how the program will operate. This premature insertion risks creating statutory confusion, weakening the State's zero-emissions mandate under HRS §225P-8, and enabling HDOT to use CI targets as a justification for jurisdictional overreach.

Deferring CI targets until after HDOT completes its scope clarification and program evaluation ensures that any future targets are:

- aligned with the State's actual regulatory authority,
- consistent with HRS §225P-8's zero-emissions requirement,
- based on accurate fuel-use data,
- will not create an unreasonable legislative mandate and become a legal liability,
- and developed through a transparent rulemaking process.

For these reasons, the CI targets should be removed from SD2999D1 and revisited only after HDOT has completed the necessary groundwork.

PROPOSED STATUTORY AMENDMENTS

(All new statutory material is underscored; no material is deleted unless bracketed and stricken.)

SECTION 1.

Section 2(b)(1), HB1986 HD2, is amended to read as follows:

"(1) A schedule to phase in the implementation of the clean fuel standard for alternative fuels in manner that reduces the average carbon intensity at a rate [~~to enable the State to achieve the targets in sections 225P-5, 225P-7, and 225P-8, Hawaii Revised Statutes as quickly as possible, but beginning with targets no less than ten per cent below 2019 levels by 2035 and no less than fifty per cent below 2019 levels by 2045, including the establishment of annual carbon intensity standards for alternative fuels~~] which is consistent with the State's charge under section 225P-8, Hawaii Revised Statutes, and based on the department's evaluation of program scope, fuel-use data, and implementation impacts;"

Section 2(b)(2), HB1986 HD2, is amended to read as follows:

(2) An implementation date for the clean fuel standard for diesel, [~~and~~] gasoline, and aviation and marine fuels sold and used exclusively for inter-island transportation, beginning January 1, 2029[.] ; provided that this implementation date shall apply only to fuels within the State's regulatory authority under section 225P-8, Hawaii Revised Statutes.

SECTION 2.

Section 2(a)(9), HB1986 HD2, is amended to read as follows:

(9) Exemptions for diesel, gasoline, or other fuels used by aircraft engaged in interstate or international flights, railroad locomotives, military vehicles, and interstate or international waterborne vessels;

SECTION 3.

Section 2(a), HB1986 HD2, is amended by adding four new paragraphs to follow paragraph (9) to read as follows:

(9)(A) Aviation fuel and marine fuel sold or delivered for use exclusively for inter-island transportation shall not be exempt under paragraph (9) and shall be subject to the clean fuel standard, consistent with the State's authority under section 225P-8, Hawaii Revised Statutes.

(9)(B) No credits, deficits, carbon-intensity adjustments, or other incentives may be generated, awarded, or applied to aviation fuel or marine fuel used for interstate or international transportation, whether mandatory or voluntary.

(9)(C) The clean fuel standard shall not create, directly or indirectly, any financial inducement, credit mechanism, deficit obligation, or carbon-intensity requirement that affects the fuel choices, prices, routes, or services of interstate or international air carriers or marine carriers.

(9)(D) For purposes of paragraphs (9) through (9)(C), "inter-island" means transportation occurring wholly between points within the State, and "interstate or international" means transportation involving any point outside the State.

SECTION 4.

Section 2(b)(3), HB1986 HD2, is amended to read as follows:

(3) Mechanisms whereby exempt end-uses, such as aviation, marine, rail, and military, can opt in to the clean fuel standard to generate credits when using alternative fuel[.]; *provided that no credits may be generated for fuels used in interstate or international transportation.*"

SECTION 5.

Section 1, HB1986 HD2, is amended by adding a new paragraph at the end to read as follows:

The legislature further finds that its authority under section 225P-8, Hawaii Revised Statutes, extends to ground transportation and sea and air transportation wholly within the State. Interstate and international aviation and marine operations fall under exclusive federal jurisdiction. The clean fuel standards established under this Act is therefore intended to apply only to fuels used in transportation modes within the State's regulatory authority.

SECTION 6.

Section 2(a), HB1986 HD2, is amended by adding a new paragraph to read as follows:

(12) No credit may be generated under the clean fuel standard for any alternative fuel for which the producer or supplier has received a state tax credit, rebate, or other State-funded financial incentive for the production or sale of that same fuel. The department shall adopt rules to ensure that fuels receiving State tax incentives are not eligible to generate credits under the clean fuel standard.

SECTION 7.

Section 235-110.31, Hawaii Revised Statutes, is amended by adding a new subsection to read as follows:

(g) Notwithstanding any law to the contrary, the credit established under this section shall be repealed on June 30 of the third calendar year following the adoption of rules establishing a clean fuel standard pursuant to Section 2 of this Act. No taxpayer may claim the credit for any fuel produced after that date.

SECTION 8.

No fuel used for the generation of electricity by a regulated electric utility shall be eligible to generate credits under the clean fuel standard. Only electricity supplied for transportation end uses may generate credits under the clean fuel standard.

SECTION 9.

The department of transportation shall revise any draft rules, guidance documents, or program designs to conform to the amendments made by this Act.

April 6, 2026

Subject Bill: SB2999-HD2–– Clean Fuel Standard for Transportation Fuel

Chair Todd, Vice Chair Takenouchi, and members of House Committee on Finance (FIN)

Thank you for the opportunity to comment on SB2999-HD2, which according to the bill's introductory language is intended *"to require the department of transportation to adopt rules by January 1, 2028, establishing a clean fuel standard for alternative fuels in the State."*

Despite the clearly stated objective and legal authority to do so, the bill fails to mandate the use of alternative (low carbon) fuels or electrification for the aviation sector within the State. The airlines have submitted testimony strongly in support of the CFS but falsely assert and likely represented to HDOT as well that no aviation fuel should not be bound to the CFS because it would violate federal regulations. However, the federal regulations and related prohibitions apply to interstate air travel – not interisland travel. In-state transportation is the State's top priority as clearly set forth by HRS 225P-8 and yet the airlines (with these bills and self-serving testimony) insist that legislators must ignore the best tool (administrative measure) for addressing GHG emissions from inter-island travel. In contrast to the CFS, tax credits merely and inappropriately shift the cost burden of using SAF from travelers and tourist to taxpayers, though a massive draw on taxpayer funds.

Instead of mandates, the bill and its advocates contend that the airlines and/or their fuel suppliers will produce and use low carbon fuels and other means of propulsion, during inter-island and interstate air travel by allowing (not mandating) participation in the CFS program on a voluntary basis. Moreover, advocates of the current bill contend that even without mandates the airlines and fuel suppliers would be incentivized to participate in the CFS program voluntarily because they would be entitled and allowed to earn marketable clean fuel credits. However, unlike most other transportation fuels consumed within the State, HDOT did not provide an estimation in the reduction in the amount of fossil fuel or the cost impact on airline, because no mandate is proposed for interstate aviation fuel and there is too much uncertainty to make any realistic projections.

Hawaiian and Alaska Airlines correctly provided testimony which cautioned that:

> *"Aviation fuel is governed by a comprehensive federal regulatory framework addressing aircraft operations, safety, and fuel standards."*

However, in a deliberate effort to avoid becoming obligated to a CFS, the airlines overstate the federal preemption concern and materially misrepresents it by stating that:

> *"Any state-level mandate directly obligating jet fuel under a clean fuel standard would raise significant federal preemption concerns. Maintaining aviation's exempt status is therefore essential to ensure the program remains legally defensible and avoids unintended conflicts with federal law."*

Hawaiian and Alaska Airlines which operate in California, know that states have legal authority to mandate a CFS on intrastate/inter-island travel, but nonetheless through testimony (like that above) attempt to convinced HDOT and persuade the legislature, that imposition of CFS is not allowed (legally) and would not be effective, by misrepresenting the amount of inter-island jet fuel, as 10%.

The airline's testimony/ assertion much like the premise for the proposed CFS bill is not actually true because the State can (and should) impose a CFS mandate on aviation fuel consumed during interisland air travel. According to HDOT the amount of aviation fuel consumed entirely within the State represents 35% of the domestic commercial fuel of the approximate 600 million gallons of domestic aviation fuel uplifted in Hawaii, and the prime focus of HRS 225P-8. The airlines assert that a mandatory CFS on intrastate aviation fuel in California would be ineffective because it only represents only 10%, but Hawaii intrastate fuel consumption is 3.5x times higher on a relative basis (despite the airlines representation to the contrary).

In prior testimony Alaska and Hawaiian Airlines *"emphasize that a Clean Fuel Standard alone will not be sufficient to incentivize meaningful volumes of SAF in Hawai'i*" but that assessment is only because SB2999 provides an unnecessary exemption for interstate aviation fuel undercutting cut its utility. The airlines and their fuel suppliers have been advocating for tax credits for SAF ranging from $1 - 2.56/gal. In lieu of a $1.50/gal tax credits, if the CFS was made mandatory for interstate fuel just like interstate marine fuel, the State would not have to draw on public reserves and spend $300 million per year on SAF credits for 210 million gallons inter-island aviation fuel.

Because the airlines and HDOT are inappropriately (and somewhat covertly) trying to extend the CFS on a voluntary basis beyond intrastate to interstate and international aviation fuel, this bill over-reaches the State's authority and undermines the State's objectives (as specifically defined by HRS 225P-8). As drafted, the proposed statute is open to federal preemption challenge by the DOJ and aggrieved parties.

The following documents (legal analysis compiled by MS Copilot) are attached.

1. CFS mandate allowed on Inter-island aviation fuel -exemption not needed
2. Federal Preemption Analysis for Interstate and international aviation fuel
3. Comparative Legal Analysis Table: Interstate vs Interisland Aviation Fuel

The bottom-line implications for the proposed CFS are summarized below.

BOTTOM LINE: Interstate vs Inter-Island Aviation Fuel CFS

Interstate & International Aviation Fuel

❌ **State CFS credits or CI-based incentives are prohibited.** Federal law preempts any state action affecting fuel choice, price, routes, emissions, or foreign carriers.

Inter-Island Aviation Fuel

✅ **State CFS credits and CI-based regulation are fully allowed.** Intrastate aviation falls outside ADA, FAA fuel regulation, CAA §209, international treaties, and Dormant Commerce Clause constraints.

Practical Implication for Hawai'i's CFS

A legally defensible CFS must:

- Exclude interstate and international aviation fuel
- Include inter-island aviation fuel if the Legislature chooses
- Define "inter-island" as transportation wholly between points within the State

Inter-Island Aviation Fuel and State CFS Authority – Legal Analysis

Unlike interstate or international aviation fuel (which is categorically off-limits), inter-island aviation fuel is fully within Hawai‘i’s regulatory authority, and a Clean Fuel Standard (CFS) can lawfully apply to it.

Below is a comprehensive, citation-supported legal analysis explaining why Hawai‘i may regulate inter-island aviation fuel under a CFS, and why the federal prohibitions that block interstate/international aviation regulation do not apply.

SUMMARY

Hawai‘i may apply a Clean Fuel Standard (CFS) to inter-island aviation fuel because federal preemption statutes — including the Airline Deregulation Act, the Federal Aviation Act, the Clean Air Act, and international aviation treaties — apply only to interstate and international aviation. Transportation that occurs wholly within a single state is considered intrastate commerce, which states retain broad authority to regulate, including fuel standards and economic incentives.

COMPREHENSIVE LEGAL ANALYSIS

1. Airline Deregulation Act (ADA) — Why It Does Not Apply to Inter-Island Aviation

The ADA preempts state laws “related to a price, route, or service of an air carrier.” (49 U.S.C. § 41713(b)(1))

But the ADA applies only to air carriers providing interstate air transportation.

Key statutory definition
49 U.S.C. § 40102(a)(25):
“Interstate air transportation” means the transportation of passengers or property by aircraft between a place in a State and a place in another State…”

Inter-island flights do not meet this definition.

Intrastate air transportation is explicitly outside ADA preemption.

Congress left intrastate aviation to the states unless the FAA has occupied the field (it has not for fuel carbon intensity).

Case law support:
- Morales and Rowe apply only to interstate carriers.
- Courts consistently hold that intrastate carriers (e.g., air taxis, local commuter airlines) are not covered by ADA preemption.

Conclusion:
A Hawai‘i CFS applied to inter-island aviation fuel is not preempted by the ADA because the flights are intrastate, not interstate.

2. Federal Aviation Act — Why It Does Not Preempt State Fuel Standards for Intrastate Aviation

The FAA Act gives the federal government exclusive authority over airspace, aviation safety, and aircraft certification.

But fuel carbon intensity is not an aviation safety standard.

Key distinction:
- FAA regulates fuel safety (e.g., flash point, composition).
- States may regulate fuel carbon intensity, fuel taxation, and fuel incentives for intrastate operations.

Case law:
Courts have repeatedly held that economic or environmental regulations affecting intrastate aviation are not preempted unless they intrude into safety.

A CFS credit is not a safety regulation.

Conclusion:
A Hawai‘i CFS regulating carbon intensity of inter-island aviation fuel does not intrude into FAA’s exclusive domain.

3. Clean Air Act (CAA) § 209 — Why It Does Not Apply to Intrastate Aviation Fuel

CAA § 209(a) preempts state standards “relating to the control of emissions from aircraft engines.”

But this applies only to aircraft engines subject to federal emission standards, which are:
- interstate aircraft, and
- aircraft engaged in international operations.

Key point:
The EPA has never set emission standards for intrastate-only aircraft (e.g., small commuter turboprops).

Therefore:
States may regulate fuel carbon intensity for intrastate aviation because:
- It is not an engine emission standard
- It applies only to intrastate operations
- It does not conflict with any federal standard

Conclusion:
CAA § 209 does not preempt a Hawai‘i CFS applied to inter-island aviation fuel.

4. International Aviation Treaties — Why They Do Not Apply to Inter-Island Flights

The Chicago Convention and ICAO standards apply only to:
- international flights, and
- aircraft engaged in international civil aviation.

Inter-island flights:
- do not cross international borders
- do not implicate foreign carriers
- do not trigger treaty obligations

Conclusion:
International aviation treaties impose no restrictions on Hawai‘i’s regulation of inter-island aviation fuel.

5. Dormant Commerce Clause — Why It Does Not Bar Regulation of Inter-Island Aviation Fuel

The Dormant Commerce Clause prohibits states from:
- burdening interstate commerce, or
- regulating foreign commerce.

But inter-island aviation is purely intrastate.

Key Supreme Court principle:
Intrastate commerce is not protected by the Dormant Commerce Clause.

Therefore:
A Hawai‘i CFS applied to inter-island aviation fuel:
- does not burden interstate commerce
- does not regulate foreign commerce
- does not have extraterritorial effects

Conclusion:
The Dormant Commerce Clause does not restrict Hawai‘i’s authority over inter-island aviation fuel.

6. Ninth Circuit Precedent — Why It Supports State Regulation of Intrastate Aviation Fuel

The Ninth Circuit has repeatedly held:
- States may regulate intrastate transportation
- Federal preemption applies only when a state law affects interstate carriers
- Environmental and economic regulations affecting intrastate operations are generally upheld

Key case analogy:
Rocky Mountain Farmers Union v. Corey — The Ninth Circuit upheld California’s LCFS because it regulated in-state fuel pathways, not interstate commerce.

A Hawai‘i CFS applied to inter-island aviation fuel is even more clearly intrastate.

🏵️ 7. Why a CFS Applied to Inter-Island Aviation Fuel Is Legal Even Though It Is Illegal for Interstate/International Fuel

Legal Authority	Interstate/International Aviation	Inter-Island Aviation
Airline Deregulation Act	Preempts	Does not apply
Federal Aviation Act	Preempts fuel incentives	No preemption
Clean Air Act §209	Preempts emissions-related incentives	Does not apply
Chicago Convention / ICAO	Preempts state incentives	Does not apply
Dormant Commerce Clause	Bars state burdens on interstate commerce	Not applicable
Ninth Circuit Precedent	Protects interstate carriers	Allows intrastate regulation

Conclusion:
A CFS applied to inter-island aviation fuel is fully legal, while a CFS applied to interstate or international aviation fuel is categorically illegal.

🌺 Why Hawai‘i Cannot Offer CFS Credits for SAF Used on Interstate Flights — Even If the State Wants to Reduce Those Emissions

Even though Hawai‘i has a local refinery, 65% of the domestic jet fuel uplift is interstate, and related emissions appear in the State’s GHG inventory, Hawai‘i still cannot legally offer CFS credits to induce SAF use on interstate flights. The reason is structural, not policy-based.

Even though Hawai‘i’s GHG inventory (consistent with IPCC and Intergovernmental Panel guidance) counts all fuel sold in the state, including fuel later burned on interstate flights, the State cannot regulate or incentivize how that fuel is used once it enters interstate aviation. The legal barrier is not about emissions accounting — it is about federal jurisdiction over interstate aviation.

🌺 **SUMMARY**

Hawai‘i cannot award CFS credits for low-carbon fuels used on interstate or international flights because doing so would constitute an economic regulation of air carriers, which is expressly preempted by federal law — including the Airline Deregulation Act, the Federal Aviation Act, and the Clean Air Act. Courts have repeatedly held that even indirect economic incentives that influence airline fuel choice, routes, or operations are federally preempted.

1. Federal law gives the U.S. government exclusive authority over interstate aviation — not the states.

Airline Deregulation Act (ADA)

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49 U.S.C. § 41713(b)(1)
Prohibits any state law “related to a price, route, or service of an air carrier.”

A CFS credit for SAF used on interstate flights would:
- change the effective price of fuel for interstate carriers
- influence route economics
- alter fuel procurement decisions
- create a state-level economic incentive for airlines to modify interstate operations

Courts interpret “related to” extremely broadly.
Even indirect incentives = preempted.

California can do this only because its LCFS does not regulate interstate aviation fuel.

It awards credits only for in-state ground operations (e.g., electric ground support equipment), not for jet fuel burned on interstate flights.

2. The Federal Aviation Act gives FAA exclusive authority over aviation operations, including fuel.

49 U.S.C. §§ 40103, 44701

FAA has exclusive sovereignty over:
- airspace
- aviation operations
- aircraft performance
- fuel standards

A state cannot create a financial inducement that affects:
- what fuel airlines use on interstate flights
- how airlines operate aircraft
- how airlines plan interstate routes

A CFS credit for interstate SAF use would be treated as state interference in FAA-regulated operations.

3. Clean Air Act § 209 prohibits states from regulating aircraft engine emissions.

42 U.S.C. § 7543(a)

“No State may adopt or attempt to enforce any standard relating to the control of emissions from aircraft engines.”

A CFS credit for SAF used on interstate flights is:
- a state standard
- relating to aircraft engine emissions
- because it rewards lower lifecycle carbon intensity

Even if framed as a “fuel standard,” courts look at effect, not label.
If the effect is to reduce aircraft emissions, it is preempted.

4. International aviation treaties prohibit state-level incentives affecting international carriers.

Even if Hawai‘i wanted to mirror California’s LCFS:
- ICAO rules
- Chicago Convention
- bilateral air service agreements

…prohibit states from imposing emissions-related incentives on international aviation.
Because interstate and international flights are operationally intertwined, Hawai‘i cannot create a program that affects both.

5. The Dormant Commerce Clause prohibits state laws that burden interstate commerce.

A Hawai‘i CFS credit for SAF used on interstate flights would:
- alter competitive conditions between airlines
- affect out-of-state operations
- regulate conduct occurring outside Hawai‘i
- distort interstate fuel markets

This is classic extraterritorial regulation, which the Supreme Court consistently strikes down.

6. Ninth Circuit precedent is especially strict.

The Ninth Circuit (Hawai‘i’s circuit) has repeatedly held:
- states cannot regulate aviation fuel markets
- states cannot impose economic incentives affecting interstate carriers
- states cannot regulate aircraft emissions

This is the same circuit that upheld California’s LCFS only because it excluded aviation fuel.
If California tried to regulate interstate jet fuel, it would be struck down too.

Why the GHG inventory does not change the legal analysis

Hawai‘i’s GHG inventory counts fuel sold in the state, not fuel burned in the state.

This is an accounting convention, not a grant of regulatory authority.

The fact that interstate jet fuel emissions appear in Hawai‘i’s inventory:
- does not expand state jurisdiction
- does not override federal preemption
- does not allow Hawai‘i to regulate interstate aviation

Hawaii can count the emissions —
but Hawaii cannot regulate the activity that produces them.

Why California can do what Hawai‘i cannot

California’s LCFS does not award credits for SAF used on interstate flights.

It awards credits only for:
- in-state ground operations, and
- in-state fuel pathways

California explicitly excludes interstate aviation fuel from credit generation to avoid federal preemption.
If California tried to do what Hawai‘i is considering, it would be struck down too.

Final Summary

Even though Hawai‘i has a local refinery and even though interstate jet fuel emissions appear in the State’s GHG inventory, Hawai‘i cannot legally offer CFS credits to induce SAF use on interstate flights because:

- the Airline Deregulation Act prohibits state economic incentives affecting interstate aviation
- the Federal Aviation Act gives FAA exclusive authority over aviation operations and fuel
- the Clean Air Act prohibits state standards relating to aircraft engine emissions
- international aviation treaties prohibit state-level emissions incentives
- the Dormant Commerce Clause bars state interference with interstate commerce
- Ninth Circuit precedent is especially strict

Only inter-island aviation fuel is within Hawai‘i’s jurisdiction.
Interstate and international aviation fuel must remain excluded.

Side-by-Side Comparison - Interstate vs Inter-Island Aviation Fuel CFS

Provided below is clean, committee-ready side-by-side comparison of the legal treatment of interstate/international aviation fuel versus inter-island aviation fuel under a Clean Fuel Standard (CFS).

Side-by-Side Legal Comparison: Interstate vs. Inter-Island Aviation Fuel Under a CFS

This table distills the entire federal preemption landscape into a single, easy-to-read format. It shows exactly why Hawai'i is prohibited from regulating interstate/international aviation fuel — and why it is fully permitted to regulate inter-island aviation fuel.

1. Airline Deregulation Act (ADA)

49 U.S.C. § 41713(b)(1)

Issue	Interstate/International Aviation	Inter-Island Aviation
ADA applicability	Yes — fully applies	No — does not apply
Why	Applies to "interstate air transportation"	Intrastate flights fall outside statutory definition
Effect	State cannot impose economic incentives affecting fuel choice, routes, or services	State may regulate fuel standards and incentives
Outcome	CFS credits = preempted	CFS credits = allowed

2. Federal Aviation Act (FAA Act)

49 U.S.C. §§ 40103, 44701

Issue	Interstate/International Aviation	Inter-Island Aviation
FAA exclusive authority	Yes — full field preemption	Limited — safety only
Why	FAA regulates fuel standards for interstate carriers	FAA does not regulate carbon intensity of intrastate fuel
Effect	State cannot influence fuel type or performance	State may regulate carbon intensity and incentives
Outcome	CFS credits = preempted	CFS credits = allowed

3. Clean Air Act (CAA) § 209

42 U.S.C. § 7543

Issue	Interstate/International Aviation	Inter-Island Aviation
Preemption of aircraft engine emission standards	Yes — explicit	No — does not apply
Why	EPA sets standards for interstate aircraft engines	EPA has never set standards for intrastate-only aircraft
Effect	State cannot regulate emissions or fuel CI for interstate flights	State may regulate CI of intrastate aviation fuel
Outcome	CFS credits = preempted	CFS credits = allowed

4. International Aviation Treaties

Chicago Convention (1944), ICAO Standards

Issue	Interstate/International Aviation	Inter-Island Aviation
Applicability	Yes — binding	No — not applicable
Why	Applies to international civil aviation	Intrastate flights do not cross borders
Effect	State cannot impose emissions-related incentives on foreign carriers	State retains full authority
Outcome	CFS credits = prohibited	CFS credits = allowed

5. Dormant Commerce Clause

Issue	Interstate/International Aviation	Inter-Island Aviation
Applicability	Yes — protects interstate/foreign commerce	No — intrastate commerce not protected
Why	State cannot burden interstate markets	Intrastate markets are within state authority
Effect	State cannot impose incentives affecting interstate aviation	State may regulate intrastate aviation fuel
Outcome	CFS credits = unconstitutional	CFS credits = constitutional

6. Ninth Circuit Precedent

Issue	Interstate/International Aviation	Inter-Island Aviation
Treatment	Strict preemption	State authority preserved
Why	Aviation fuel regulation affecting interstate carriers is federally preempted	Intrastate fuel regulation is permissible
Key cases	Air Transport Ass'n v. City of LA; Morales; Rowe	Rocky Mountain Farmers Union v. Corey (supports in-state fuel regulation)
Outcome	CFS credits = preempted	CFS credits = allowed

Final Conclusion

Interstate & International Aviation Fuel

❌ Hawai'i is prohibited from awarding CFS credits or imposing CI-based incentives.
Federal law preempts any state action affecting fuel choice, price, routes, or emissions.

Inter-Island Aviation Fuel

✅ Hawai'i may regulate inter-island aviation fuel under a CFS.
Intrastate aviation is outside ADA preemption, FAA fuel regulation, CAA §209, international treaties, and Dormant Commerce Clause constraints.

Bottom Line
A Clean Fuel Standard must exclude interstate and international aviation fuel —
but may include inter-island aviation fuel without legal risk.

TESTIMONY IN OPPOSITION TO SB2999 HD2

Hearing: April 7, 2026 — House Committee on Finance

Chair, Vice Chair, and Members of the Committee on Finance:

Thank you for the opportunity to submit comments on **SB2999 HD2**, relating to the Clean Fuel Standard (CFS). I respectfully **oppose this measure unless amended** because it does **not** establish a Clean Fuel Standard for **inter-island aviation fuel**. Both the 2025 Climate Action Plan and HDOT's Energy Security and Waste Reduction Plan identify aviation as a critical emissions sector and recommended a CFS as a key policy/administrative tool, but this bill does not empower and more importantly does not obligate HDOT to establish CFS standards and protocols for inter-island aviation fuels, - which could cost taxpayers tens and potentially hundreds of millions of dollars per year.

1. SB2999 HD2 Does Not Create a CFS Requirement for Inter-Island Aviation Fuel (Despite Legal Authority to Do So)

Hawai'i's **2025 Climate Action Plan (CAP)** identifies aviation as one of the State's largest and most difficult-to-decarbonize sectors.

Hawai'i Climate Action Pathway FINAL DEC11.3

The CAP explicitly recommends a **Clean Fuel Standard** as a mechanism to reduce aviation emissions.

However:

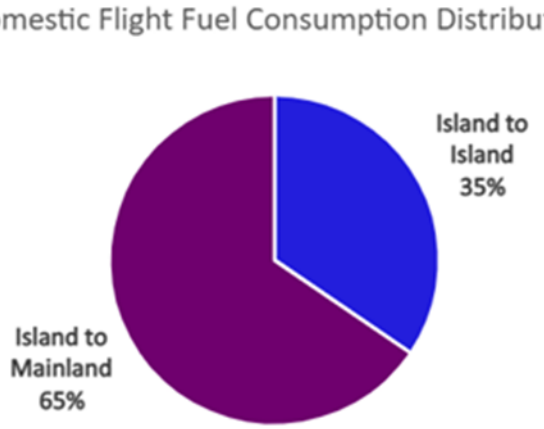
- **Currently there is no mandate requiring a CFS for inter-island aviation fuel.**
- **SB2999 HD2 does not create such a mandate.**
- The bill leaves aviation participation **voluntary**, which is inconsistent with the CAP's recommendations and is insufficient to achieve meaningful reductions.

This is a critical omission because **inter-island aviation accounts for roughly 35% of Hawai'i's total jet fuel consumption**, a far larger share than in mainland states. Without a mandatory CFS for this sector, the State cannot meet the aviation decarbonization targets and large public subsidies in the form of tax credits for the aviation sector will be required as result.

As indicated by HDOT's Energy Security and Waste Reduction Plan (ESWRP) and as shown below, approximately 35% of the domestic aviation fuel, or about 210 million gallons per year is consumed on air travel between the islands.

HDOT's Energy Security and Waste Reduction Plan (ESWRP)

Figure 2-4. Domestic Flight Fuel Consumption Distribution



Based on an estimate of 210 million gallons of aviation fuel consumed on interisland flights (35% of 600 million gallons) and the proposed $1.40/gal that has already been advanced by SB2376-HD1, the State's potential costs to subsidize a 50% blend of SAF with conventional jet fuel would be $147 million per year and $294 million per year if or when 100% SAF is uplifted within Hawaii. Again, without a mandatory CFS for aviation that potential public subsidy ($150 – $300 million **per year**) would be needed for just inter-island air travel.

The legislature could substantially avoid burdening Hawaii taxpayers with the costs of reducing and eventually eliminating GHG emissions by making participation of inter-island air travel in the CFS mandatory. Require HDOT to establish implementation criteria and procedures for inter-island aviation fuel just like inter-island marine fuels, but with separate carbon intensity (CI) targets to be established.

2. The Bill's Structure Suggests Broader Authority Than HRS §225P-8 Provides

SB2999 HD2 relies on **HRS §225P-8**, which authorizes HDOT to adopt rules for a clean transportation standard. But the statute does **not** authorize:

- A statewide carbon intensity credit trading market
- A system that monetizes credits for private entities
- A program that applies to **interstate or international aviation fuel**

The State's jurisdiction extends only to **intrastate (inter-island) aviation**. Yet the bill does not clearly distinguish between intrastate and interstate fuel, creating legal ambiguity and potential conflict with federal law.

3. The CAP's Aviation Cost Estimates Highlight the Need for a Clear, Targeted Policy

The **2025 Climate Action Plan** estimates that achieving 100% Sustainable Aviation Fuel (SAF) for Hawai'i's aviation sector would cost **$12.15 billion** over the program period through 2045. This underscores two realities:

1. **Aviation is a major emissions source requiring a dedicated policy tool.**
2. **A voluntary CFS framework is insufficient** to drive SAF adoption at the scale envisioned in the CAP.

SB2999 HD2 does not implement the CAP's recommended approach for aviation and leaves the State without a viable and fiscally responsible mechanism to address one of its largest emissions sectors.

As indicated below, the 2025 CAP report estimated the additional and cumulative cost of transitioning from conventional aviation/jet fuel to 100% sustainable aviation fuel (SAF) by 2045 at $**12.15 billion** dollars ($76.79 - 64.64 billion).

Table 57: Projected conventional aviation fuel cost versus a [preferred] scenario in which 100% SAF blend is used in [all domestic] aviation fuels by 2045

$ billions	2026	2030	2035	2040	2045	Cumulative 2026-2045
Projected jet fuel use costs	2.57	3.30	3.30	3.30	3.28	64.64
Costs of jet fuel use + 30% SAF blend by 2040	2.62	3.92	4.12	4.01	3.63	76.79
Difference (savings)	0.05	0.62	0.82	0.71	0.35	12.15

Without adoption of a mandatory CFS for interisland aviation or the possibility of extending the CFS to interstate aviation with special authorization from federal authorities, almost the entire financial burden of the transition of to renewable energy in the aviation section (estimated at **$640 million per year**) will fall on either:

1. Taxpayers or
2. Airlines and their passengers

The airlines, and their fuel suppliers and other advocates for tax credits principally for SAF, have provided testimony that their participation in the CFS on a voluntary basis will not provide a sufficient financial incentive for SAF, based in part on the false assertion that any mandatory participation of the aviation section would be illegal (largely dismissing the fact that it could and should be imposed on intrastate air travel, just like interstate marine fuels).

Allowing the development of a mandatory CFS program for interisland air transportation to be deferred particularly will effectively force the State to offer State tax credits as an additional incentive for the uplift of SAF in Hawaii. Although many of the amendments proposed by the TRN committee on March 27 th (as HD2) are beneficial, because aviation fuels are currently exempted, the addition of paragraph (e) reproduced below is almost certain to delay the imposition of a CFS on interisland aviation fuels (and all

aviation fuels) another 3 or 4 years until at least 2031 and probably longer if the airline industry has its way (of benefiting from the CFS program without being obligated to it).

> *"(e) For any substantive rule amendments or expansion of the clean fuel standard for alternative fuels adopted on or after **January 1, 2028**, the department shall conduct at least one public informational session in each county, including virtual participation options, no less than one hundred twenty days prior to the effective date of the rule or expansion."*

Because so much (35%) of the domestic aviation fuel uplifted in Hawaii is used on interisland flights, in the early years all of the SAF which is predicted to be available could be consumed preferentially on inter-island flights. After establishing the industry and allowing the production of SAF to increase, its use on interstate flights (even without special federal authorization) would be greatly accelerated once parity in pricing between conventional jet fuel and SAF is reach in the mid 2040's, as projected in the climate action plan.

4. The Bill Creates Fiscal Exposure Without Ensuring Emissions Reductions

Because SB2999 HD2 does not mandate participation by inter-island aviation, the State could face:

- **Uncapped credit issuance**
- **Uncertain General Fund exposure**
- **Credit stacking** with federal and state incentives
- **No guaranteed emissions reductions** from aviation

This creates fiscal risk without delivering the aviation decarbonization outcomes identified in the CAP.

5. Airlines' Use of California Data Is Misleading in the Hawai‘i Context

Some testimony has cited California's intrastate aviation emissions to argue that intrastate aviation is a small share of total fuel use. But:

- California's intrastate aviation is **less than 10%** of its total aviation fuel consumption.
- Hawai‘i's intrastate aviation is **approximately 35%** of domestic jet fuel consumption according to HDOT's GHG reduction plan.

These markets are not comparable. Hawai‘i's reliance on inter-island air travel makes intrastate aviation a **major emissions source**, and the CAP recognizes this. SB2999 HD2 does not.

6. Recommended Amendments

If the Committee chooses to advance SB2999 HD2, the following amendments would align the bill with the CAP and reduce fiscal and legal risk:

1. **Explicitly require a Clean Fuel Standard for inter-island aviation fuel**, consistent with CAP recommendations.
2. **Clarify that interstate and international aviation fuel are excluded**, consistent with federal jurisdiction.
3. **Prohibit double-dipping** between CFS credits and state tax credits.
4. **Cap total credit issuance** or establish fiscal safeguards.
5. **Require a fiscal impact assessment** before implementation.

These changes would ensure that the bill actually implements the CAP's aviation recommendations and protects the State from unintended financial exposure.

Summary

SB2999 HD2 advances an important policy discussion, but as drafted, it does **not** establish a Clean Fuel Standard for inter-island aviation fuel, despite the 2025 Climate Action Plan identifying aviation as a critical sector and recommending a CFS as a primary tool. I respectfully request that the Finance Committee **defer this measure** or **amend it** to address the concerns outlined above.

Thank you for the opportunity to testify.