



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Monday, February 11, 2013
3:30 p.m.
State Capitol, Conference Room 325

in consideration of
HB 497, HD1
RELATING TO RENEWABLE ENERGY.

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) supports HB 497, HD1 to create an appropriate legislative solution regarding the renewable energy income tax credit to provide a predictable investment stimulus for renewable energy deployment in a manner the State can afford.

Continuing to support clean energy development is critical to Hawaii's economy: a prime example is that in 2012, 26% of all construction-related spending was attributed to the solar industry; in a time of declining construction spending, solar construction has helped provide welcomed relief to Hawaii's construction industry.

DBEDT recognizes the framework and mechanisms proposed in HB 497, HD1 which will bring clarity and ease of administration of the credit and reduce the level of incentive in a predictable and transparent manner that will provide support for continued clean energy development. We respectfully defer to the Department of Budget and Finance on the budgetary impacts.

DBEDT offers a proposed amendment on the reporting required of the Department to conform to HD497, HD1. Because data is unavailable, DBEDT would propose to delete

Section 1, (o)(3)(A)(ii).

Thank you for the opportunity to offer testimony in support of HB 497, HD1.

Proposed amendment to Section 1(o)(3):

"(3) The estimated economic benefit that may be attributed to the renewable energy technologies tax credits, including

(A) The impact on the economy, including:

(i) Economic stimulus;

~~(ii) Net flow of money into or out of the State;~~

(iii) General excise and income tax revenue

generated; and

(B) Jobs, including:

(i) The number of jobs maintained;

(ii) The number of jobs created and number of jobs

lost; and

(iii) The average pay of jobs maintained, created,

and lost."



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Before the House Committee on Consumer Protection & Commerce
Monday, February 11, 2013, 3:30 pm, Conference Room 325
HB 497 HD 1: RELATING TO RENEWABLE ENERGY

Aloha Chair McKelvey, Vice-Chair Kawakami, and members of the House Committee on Consumer Protection & Commerce,

On behalf of the Hawaii Solar Energy Association (HSEA), I would like to testify **in partial support of HB 497 HD 1**, which calls for a gradual ramp down of residential PV from 35% to 15%, holds SHW steady at 35%, with no sunset, and a yet to be determined production tax credit (PTC) for projects of 1 MW or greater. HSEA is a non-profit trade organization that has advocated for both solar hot water and photovoltaics since 1977, with an emphasis on residential distributed generation (DG) and commercial SHW and PV. Although HSEA supports the 35% tax credit proposed for SHW, we do not support a ramp down of PV credits as this harms the consumer and will slow the speed and scale of residential and commercial installations.

1. Ramp Down of incentive makes solar more expensive for utility customers

HSEA does **not** support a ramp down of the renewable energy tax credit at this time. By ramping down the credit for PV from 30% to 15% over the next four years, HB 497 HD 1 will be adding approximately \$7,000 to an average sized PV system for the homeowner and business owner, at today's prices. This additional cost would put solar out of reach for many, and take away the dream of generating your own power. In 1985 when President Regan eliminated the solar tax credit for solar hot water, it increased the cost of a system by about \$1,500. As a result of this drop, Hawaii saw solar hot water installations plummet by 93%. In the same way, we believe that a drop of the PV credit from 35% to 15% will negatively impact the consumer, and slow the speed and scale of grass roots installations.

2. Distributed generation is power to the people

Although HSEA supports all solar installations from DG to utility scale, we believe that DG is vital to Hawaii's green energy infrastructure and should be given top priority. DG has several advantages over utility scale installations. First, roof top installation on homes and businesses are not delayed by years of permitting and financial issues as are utility scale projects, and once installed the utility customer gets an immediate savings—a true power to the people. In addition, because of the relatively small scale of DG projects, grid saturation is rarely an issue, and transmission loss never is. Finally, DG comprises the lion's share of the market in Hawaii, and the solar industry was 26% of the entire construction income in Hawaii in 2012, most of which

was responsible for DG installations. HECO reported last week that in 2012, of the approximately 90 MW of solar installed (includes residential, commercial and utility installations), approximately 75 MW was residential DG.

3. Now is the time to take full advantage of the 30 % federal tax credit which expires in 2016

With the federal tax credit due to expire December 31, 2016, Hawaii should make the most of the federal credit while it can by support residential and commercial installations. Now is not the time to slow the speed and scale of installations, especially given the urgency of our clean energy goals.

4. Balance DG and utility scale projects

Current proposals that call for 8 cents/kWh for PTC (utility scale projects) give a significant advantage to utility scale projects. At a non-refundable rate for DC power production, the effective rate for a utility scale project would be 36.5% for 10 years after the installation is place in service. In contrast, HB 497 HD 1 proposes a ramp down to 15% for projects that directly benefit home owners and businesses, thus slowing down DG installations. HSEA recommends that HB 497 HB 1 keeps SHW and PV residential and commercial at 35%, and that the committee carefully consider a PTC that will be equitable for all interested parties.

Thank you for the opportunity to testify.

Leslie Cole-Brooks
Executive Director
Hawaii Solar Energy Association



2/11/2013

House Committee on Energy & Environmental
Protection

EEP

3:30 p.m.

HB 497

TESTIMONY IN SUPPORT

Dear Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

Hawaii PV Coalition **supports** HB 497, HD 1, which will reform the Renewable Energy Technologies Income Tax Credit (“RETTTC”) while maintaining the viability of the solar industry. We believe that as currently drafted, HB 497, HD 1 will preserve the residential and commercial sectors of the solar industry and ensure that homeowners and businesses are able to continue to adopt solar technologies to reduce their electricity costs and save money. This reform measure will reduce the tax credit's long-term impact on the general fund by tens of millions of dollars annually by steadily ramping the credit down from its current level of 35% to a 15% level by 2018.

The remainder of this testimony does two things:

- Suggests technical amendments.
- Discusses issues and potential rules for larger “utility scale” solar systems.

Three Proposed Technical Amendments

(1) **Definition of "Property"**

This draft of HB497 rightly attempts to rely on the federal definition of energy “property” in its reform of HRS § 235-12.5 by defining "property" as having "the same meaning as in section 25D, 45, or section 48 of the Internal Revenue Code." Unfortunately, however, "property" is not defined as a stand-alone term in any of those three sections of the IRC, and to the extent it is defined in conjunction with other terms — e.g., "energy property" and "qualified solar electric property expenditure"—the definitions are inconsistent and/or contradictory. For example, "energy property" in Sec. 48 is defined so as to exclude property that is not depreciable, since Sec. 48 only applies to commercial property. This won't work for HRS § 235-12.5, where the definition of property is intended to apply to both residential and commercial property. In any case, HD1 of HB497 maintains a tie-in to the federal IRC for interpretation of these terms via its section (j), which provides that "The tax credits provided for in this section shall be construed in accordance with Treasury Regulations and judicial interpretations of similar provisions in sections 25D, 45, and 48 of the Internal Revenue Code."

In order to address this technical flaw, we recommend that the definition of "Property" used in HB 497, HD1 be replaced with the following definition:



"Property" means (i) equipment which uses wind or solar energy to generate electricity; (ii) the construction, reconstruction, or erection of which is completed by the taxpayer, or which is acquired by the taxpayer if the original use of such property commences with the taxpayer.

(2) Definition of "Basis"

HB497 HD1's definition of "basis" also complicates the effort to follow the federal guidance in administering Hawaii's energy credit. The third sentence of this proposed definition fully accomplishes the goal of "following the federal" by stating:

"The basis used under this part shall be consistent with the use of basis in section 25D or section 48 of the Internal Revenue Code of 1986, as amended; provided that for the purposes of calculating the credit allowed under this chapter, the basis of the solar energy property or the wind energy property shall not be reduced by the amount of any federal tax credit or other federally subsidized energy financing received by the taxpayer."

In this context, the sentence that precedes it stating: "Any cost incurred and paid for the repair, construction, or installation and placing in service of solar or wind energy property shall not constitute a part of the basis for the purpose of this section" muddies the waters and will result in the potential for different system components to be included and excluded from the tax basis of solar projects under state and federal tax law. This situation, in which Hawaii law would conflict with federal law, can be resolved by simply eliminating the second sentence.

(3) Clarification of the Credit for Utility Scale Wind Energy Property.

It is our understanding that the intent of HB497 HD1 is not to include a tax credit for projects larger than 1 MW. As drafted, however, a larger wind energy project comprised of turbines whose individual rated capacities are below 1 MW would arguably be eligible for an investment tax credit because it is possible that each turbine would be considered separate "property." If the intent of the Committee is to limit the investment tax credit's availability to solar and wind developments in which the overall project is less than one MW in size, the Committee may wish to substitute "not part of a larger wind energy property" in section (a)(4) with "not part of a larger wind energy development". A similar change could be made in section (a)(2) by replacing "not part of a larger solar energy property" with "not part of a larger solar energy development" or "not part of a larger solar energy facility."



Rules for Utility Scale Solar Systems

As currently drafted, HB 497, HD 1 does not specify how solar projects of greater than one megawatt in size—i.e., "utility scale" installations—will be treated in section (a)(3).¹ We recommend that projects larger than one megawatt be made ineligible for the investment tax credit available to smaller projects, and be offered instead a production tax credit that is based structurally on the federal renewable energy production tax credit. The value of such a credit would be determined by the amount of electricity produced by the facility and either sold to an unrelated third party or consumed on-site to offset load. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects because it will allow the state to spread the cost of the tax credit out over a longer period of time. It will also ensure that the credit is only paid for systems that are actually producing electricity, and only for electricity that is actually used.

Should the Committee choose to enact a production tax credit for larger scale projects, we recommend that the credit rate be equal to **8 cents per kilowatt hour**. Assuming that the refundability provisions of HB 497, HD 1 are retained, then 8 cents per kilowatt hour over ten years is the minimum production tax credit level necessary to ensure the continued viability of the utility-scale projects that are already in various stages of development. We also recommend that in the event that one of Hawaii's utilities runs a competitive procurement process for large scale renewable energy projects that the tax credit rate for these "competitively bid" projects be set at **4 cents per kilowatt hour**.

The production tax credit will be administratively straightforward because the concept is already well-established under federal tax law and because very few projects will ever qualify for it because few are greater than one megawatt in size. This approach will provide the state with general fund relief while ensuring the ongoing viability of the market for large scale solar in Hawaii. Inserting the following language in (a)(3) would implement our suggestion:

"For each solar energy property that is used to generate electricity and is one megawatt or larger in alternating current capacity":

(A) For solar energy property that is not competitive bid solar energy property, and which is placed in service after December 31, 2012, for the first ten years the solar energy property is in service: \$0.08 multiplied by the number of kilowatt hours produced by the solar energy property and sold by the taxpayer to an unrelated person during the taxable year, or produced by the solar energy property and used on-site to offset the site's demand for electricity.

¹ We believe it is preferable for "utility-scale" to be defined as photovoltaic systems that interconnect to the utility grid at transmission or sub-transmission level, rather than based on the 1 MW size. This interconnection-based approach was the approach taken in HB 756. However, we are nonetheless supportive of separating utility-scale projects, however, defined, into a separate production tax credit.



(B) For competitive bid solar energy property placed in service after December 31, 2012, for the first ten years the solar energy property is in service: \$0.04 multiplied by the number of kilowatt hours produced by the solar energy property and sold by the taxpayer to an unrelated person during the taxable year, or produced by the solar energy property and used on-site to offset the site's demand for electricity.

Once again we support this bill, and we hope that the technical recommendations offered above may be of some use to the Committee. Thank you for the opportunity to provide this testimony.

Mark Duda
President, Hawaii PV Coalition

The Hawaii PV Coalition was formed in 2005 to support the greater use and more rapid diffusion of solar electric applications across the state. Working with business owners, homeowners and local and national stakeholders in the PV industry, the Coalition has been active during the state legislative sessions supporting pro-PV and renewable energy bills and helping inform elected representatives about the benefits of Hawaii-based solar electric applications.



February 9, 2013

The Honorable Angus L.K. McKelvey, Chairman
House Committee on Consumer Protection & Commerce
Hawaii State Capitol, Room 320
Honolulu, HI 96813

RE: House Bill 497 HD1 – Renewable Energy Technology; Tax Credit – Support

Dear Chairman McKelvey:

Mainstream Energy Corp. strongly supports House Bill 497 HD1, which makes needed reforms to the current Renewable Energy Technologies Income Tax Credit (RETITC). This bill reduces the tax credit's long-term impact to the general fund by tens of millions of dollars by reducing the RETITC from its current level of 35% to 15% by 2018.

Mainstream Energy Corp. is the parent company of REC Solar, a national installer of grid-tied residential, commercial, government, and utility solar installations, and AEE Solar, one of the country's largest distributors of renewable energy equipment. Our companies have a presence in all major solar markets and employ more than 800 people nationwide. We have installed more than seven megawatts of commercial systems in Hawaii – for schools, public buildings, retailers, and utilities – and have more than sixteen megawatts under construction. Changes to the current RETITC structure will have a major impact on these and future projects.

HB 497 HD1 preserves residential and commercial sectors of the solar industry and ensures that homeowners and businesses will continue to be able to utilize solar to reduce electricity costs. As currently drafted, however, this bill does not specify how solar projects larger than one megawatt in size – 'utility-scale' installations – shall be treated. As a company in process of developing a number of these projects, we take an active interest in this issue. We recommend that such projects be offered a production tax credit based structurally on the federal renewable energy production tax credit. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects, as the cost of the tax credit is distributed over a ten-year term. It will also ensure that the credit is only provided for systems that are actually producing electricity, and only for electricity actually produced.

Again, Mainstream Energy Corp., REC Solar, and AEE Solar support House Bill HB 497 HD1, and we appreciate your leadership in renewable energy issues. Thank you for the opportunity to provide this testimony.

Sincerely,

A handwritten signature in cursive script that reads "Benjamin Higgins".

Benjamin L. Higgins
Director of Government Affairs

TESTIMONY IN SUPPORT TO HB 497, HD1

To: House Committee on Consumer Protection & Commerce
Hearing on February 11, 2013 at 3:30 p.m. Room 325

Aloha Chair McKelvey, Vice Chair Kawakami and members of the Committee:

Introduction: My name is Riley Saito Senior Manager, Hawaii Projects, for SunPower Systems Corporation. SunPower has been a dedicated supporter and active participant of renewable energy initiatives in Hawaii for more than 15 years. This participation includes: being a Member (charter) of Hawaii Energy Policy Forum; Hawaii Clean Energy Initiative-Steering Committee and Energy Generation Working Group; and participant in various energy related Public Utilities Commission dockets.

SunPower **supports** HB 497, HD 1, which is to reform the Renewable Energy Technologies Income Tax Credit (“RETITC”) while maintaining the viability of the solar industry. We believe that as currently drafted, HB 497, HD 1 will preserve the residential and commercial sectors of the solar industry and ensure that homeowners and businesses are able to continue to adopt solar technologies to reduce their electricity costs and save money. This reform measure will reduce the tax credit’s long-term impact on the general fund by tens of millions of dollars annually by steadily ramping the credit down from its current level of 35% to a 15% level by 2018.

As currently drafted, HB 497, HD 1 does not specify how solar projects of greater than one megawatt in size – i.e., “utility scale” installations – will be treated. We recommend that projects larger than one megawatt be made ineligible for the investment tax credit available to smaller projects, and instead be offered a production tax credit that is based structurally on the federal renewable energy production tax credit. The value of such a credit would be determined by the amount of electricity produced by the facility and either sold to an unrelated third party or consumed on-site to offset load. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects because it will allow the state to spread the cost of the tax credit out over a longer period of time. It will also ensure that the credit is only paid for systems that are actually producing electricity, and only for electricity that is actually used.

Should the Committee choose to enact a production tax credit for larger scale projects, we recommend that the credit rate be equal to **8 cents per kilowatt-hour**. Assuming that the refundability provisions of HB 497, HD 1 are retained, then 8 cents per kilowatt-hour over ten years is the minimum production tax credit level necessary to ensure the continued viability of the utility-scale sector of the solar industry. We also recommend that in the event that one of Hawai’i’s utilities runs a competitive procurement process for large scale renewable energy projects that the tax credit rate for these “competitively bid” projects be set at **4 cents per kilowatt-hour**.

The production tax credit will be administratively straightforward because the concept is already well-established under Federal tax law and because very few projects will ever qualify for it

because few are greater than one megawatt in size. This approach will provide the state with general fund relief while ensuring the ongoing viability of the market for large scale solar in Hawai'i.

Mahalo for the opportunity to testify.



Riley Saito

Riley Saito
Senior Manager, Hawaii Projects
SunPower Systems, Corporation



Testimony of Cindy McMillan
The Pacific Resource Partnership

House Committee on Consumer Protection and Commerce
Representative Angus L.K. McKelvey, Chair
Representative Derek S.K. Kawakami, Vice Chair

HB 497, HD1 – Relating to Renewable Energy
Monday, February 11, 2013
3:30 pm
Conference Room 325

Aloha Chair McKelvey, Vice Chair Kawakami and Members of the Committee:

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP **strongly supports** HB 497, HD1 – Relating to Renewable Energy. This bill would reform the Renewable Energy Technologies Income Tax Credit (“RETITC”) while maintaining the viability of the solar industry.

Hawaii has an aggressive goal of meeting 70% of our energy needs by 2030 through energy efficiency and development and use of renewable energy. The solar industry has been an important component in moving us in the right direction, and the solar tax credit has been a significant factor in establishing this industry in Hawaii. Over the years, the industry has matured, and this bill considers how best to go forward.

HB 497, HD 1 will preserve the residential and commercial sectors of the solar industry and ensure that homeowners and businesses are able to continue to adopt solar technologies to reduce their electricity costs and save money. This reform measure will reduce the tax credit’s long-term impact on the general fund by tens of millions of dollars annually by steadily ramping the credit down from its current level of 35% to a 15% level by 2018.

PRP’s support for HB 497, HD1 is based on these and several other factors. The solar industry is an increasingly important part of Hawaii’s construction industry. That translates into jobs – jobs for contractors and jobs for carpenters. When our contractors and members are working, their discretionary spending increases, contributing to economic activity at the community level.

In addition, solar projects help our working families afford a critical piece of infrastructure that will help them save money on their energy bills. Hawaii’s solar tax credits — coupled with new third party-owned PV programs — have enabled a broadening range of Oahu homeowners to escape the burden of high energy costs and benefit from a clean energy solution.

PRP believes HB 497, HD1 will allow men and women working to install renewable energy infrastructure projects to earn a living in ways that contribute substantially to preserving our environmental quality and making better use of our natural resources.

Recommendations:

As currently drafted, HB 497, HD 1 does not specify how solar projects of greater than one megawatt in size – i.e., “utility scale” installations – will be treated. We recommend that projects larger than one megawatt be made ineligible for the investment tax credit available to smaller projects and instead be offered a production tax credit that is based structurally on the federal renewable energy production tax credit. The value of such a credit would be determined by the amount of electricity produced by the facility and either sold to an unrelated third party or consumed on-site to offset load. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects because it will allow the state to spread the cost of the tax credit out over a longer period of time. It will also ensure that the credit is only paid for systems that are actually producing electricity and only for electricity that is actually used.

Should the Committee choose to enact a production tax credit for larger scale projects, we recommend that the credit rate be equal to **8 cents per kilowatt-hour**. Assuming that the refundability provisions of HB 497, HD 1 are retained, then 8 cents per kilowatt-hour over ten years is the minimum production tax credit level necessary to ensure the continued viability of the utility-scale sector of the solar industry.

We also recommend that in the event that one of Hawai‘i’s utilities runs a competitive procurement process for large scale renewable energy projects that the tax credit rate for these “competitively bid” projects be set at **4 cents per kilowatt-hour**.

The production tax credit will be administratively straightforward because the concept is already well-established under Federal tax law and because very few projects will ever qualify for it because few are greater than one megawatt in size. This approach will provide the state with general fund relief while ensuring the ongoing viability of the market for large scale solar in Hawai‘i.

For these reasons, we respectfully request that you move HB 497, HD1 out of the Committee on Consumer Protection and Commerce.

Mahalo for the opportunity to share our views on this incredibly important matter.



HOUSE COMMITTEE CONSUMER PROTECTION & COMMERCE

Monday, February 11, 2013 — 3:30 p.m. — Room 325

**HB 497, HD 1 Relating To Renewable Energy
Testimony in Support**

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

My name is Jon Wallenstrom and I am the President of Forest City Hawaii. Forest City Hawaii is principally engaged in the ownership, development, management and acquisition of commercial and residential real estate and land in Hawaii. It is currently involved in a partnership with the Hawaii Housing Finance and Development Corporation (HHFDC) to develop Kamakana Villages, a mixed-use community of 2,206 homes on the Big Island, of which more than 50% will be affordably priced. It recently completed construction of the largest utility-scale solar photovoltaic farm on Oahu to date. Forest City is one of the largest residential community and renewable energy developers in the state. At Forest City we leverage our real estate experience to create renewable energy projects. These developments help offset the high cost of energy in Hawaii for both our community as a whole, while also decreasing the state's dependence on fossil fuels.

Forest City **supports** HB 497, HD 1, which seeks to reform the Renewable Energy Technologies Income Tax Credit ("RETITC") while maintaining the viability of the solar industry. We believe that as currently drafted, HB 497, HD 1 will preserve the residential and commercial sectors of the solar industry and ensure that homeowners and businesses are able to continue to adopt solar technologies to reduce their electricity costs and save money. This reform measure will reduce the tax credit's long-term impact on the general fund by tens of millions of dollars annually by steadily ramping the credit down from its current level of 35% to a 15% level by 2018.

As currently drafted, HB 497, HD 1 does not specify how solar projects of greater than one megawatt in size – i.e., "utility scale" installations – will be treated. We recommend that projects larger than one megawatt be made ineligible for the investment tax credit available to smaller projects, and instead be offered a production tax credit that is based structurally on the federal renewable energy production tax credit. The value of such a credit would be determined by the amount of electricity produced by the facility and either sold to an unrelated third party or consumed on-site to offset load. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects because it will allow the state to spread the cost of the tax credit out over a longer period of time. It will also ensure that the credit is only paid for systems that are actually producing electricity, and only for electricity that is actually used.

Should the Committee choose to enact a production tax credit for larger scale projects, we recommend that the credit rate be equal to **8 cents per kilowatt-hour**. Assuming that the refundability provisions of HB 497, HD 1 are retained, then 8 cents per kilowatt-hour over ten years is the minimum production tax credit level necessary to ensure the continued viability of the utility-scale sector of the solar industry. We also recommend

that in the event that one of Hawai'i's utilities runs a competitive procurement process for large scale renewable energy projects that the tax credit rate for these "competitively bid" projects be set at **4 cents per kilowatt-hour**.

The production tax credit will be administratively straightforward because the concept is already well-established under Federal tax law and because very few projects will ever qualify for it because few are greater than one megawatt in size. This approach will provide the state with general fund relief while ensuring the ongoing viability of the market for large scale solar in Hawai'i.

Thank you for the opportunity to provide this testimony.



HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Monday, February 11, 2013 – 3:30 p.m. – Room 325

Testimony in Support of HB 497, HD 1 Relating to Renewable Energy

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

Distributed Energy Partners is a Hawaii based, owned, and operated firm specializing in the development of commercial-scale distributed renewable energy projects, which include solar, wind, and emerging technologies.

Distributed Energy Partners **supports** HB 497, HD 1, which will reform the Renewable Energy Technologies Income Tax Credit (“RETITC”) while maintaining the viability of the solar industry. We believe that as currently drafted, HB 497, HD 1 will preserve the residential and commercial sectors of the solar industry and ensure that homeowners and businesses are able to continue to adopt solar technologies to reduce their electricity costs and save money. This reform measure will reduce the tax credit’s long-term impact on the general fund by tens of millions of dollars annually by steadily ramping the credit down from its current level of 35% to a 15% level by 2018.

As currently drafted, HB 497, HD 1 does not specify how solar projects of greater than one megawatt in size – i.e., “utility scale” installations – will be treated. We recommend that projects larger than one megawatt be made ineligible for the investment tax credit available to smaller projects, and instead be offered a production tax credit that is based structurally on the federal renewable energy production tax credit. The value of such a credit would be determined by the amount of electricity produced by the facility and either sold to an unrelated third party or consumed on-site to offset load. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects because it will allow the state to spread the cost of the tax credit out over a longer period of time. It will also ensure that the credit is only paid for systems that are actually producing electricity, and only for electricity that is actually used.

Should the Committee choose to enact a production tax credit for larger scale projects, we recommend that the credit rate be equal to **8 cents per kilowatt-hour**. Assuming that the refundability provisions of HB 497, HD 1 are retained, then 8 cents per kilowatt-hour over ten years is the minimum production tax credit level necessary to ensure the continued viability of the utility-scale sector of the solar industry. We also recommend that in the event that one of Hawai‘i’s utilities runs a competitive procurement process for large scale renewable energy projects that the tax credit rate for these “competitively bid” projects be set at **4 cents per kilowatt-hour**.



Distributed Energy Partners

Performance in Power

The production tax credit will be administratively straightforward because the concept is already well-established under Federal tax law and because very few projects will ever qualify for it because few are greater than one megawatt in size. This approach will provide the state with general fund relief while ensuring the ongoing viability of the market for large scale solar in Hawai'i.

Thank you for the opportunity to provide this testimony.

Sincerely,

Joshua Powell
Principal & RME



HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Monday, February 11, 2013 – 3:30 p.m. – Room 325

Testimony in Support of HB 497, HD 1 Relating to Renewable Energy

Chair McKelvey, Vice Chair Kawakami, and Members of the Committee:

RevoluSun is a locally-owned solar company that works in the residential, commercial, and utility-scale sectors of the photovoltaic solar industry in Hawaii.

RevoluSun **supports** HB 497, HD 1, which will reform the Renewable Energy Technologies Income Tax Credit (“RETITC”) while maintaining the viability of the solar industry. We believe that as currently drafted, HB 497, HD 1 will preserve the residential and commercial sectors of the solar industry and ensure that homeowners and businesses are able to continue to adopt solar technologies to reduce their electricity costs and save money. This reform measure will reduce the tax credit’s long-term impact on the general fund by tens of millions of dollars annually by steadily ramping the credit down from its current level of 35% to a 15% level by 2018.

As currently drafted, HB 497, HD 1 does not specify how solar projects of greater than one megawatt in size – i.e., “utility scale” installations – will be treated. We recommend that projects larger than one megawatt be made ineligible for the investment tax credit available to smaller projects, and instead be offered a production tax credit that is based structurally on the federal renewable energy production tax credit. The value of such a credit would be determined by the amount of electricity produced by the facility and either sold to an unrelated third party or consumed on-site to offset load. The primary benefit of such a credit would be to reduce the general fund impact of incentivizing utility scale solar projects because it will allow the state to spread the cost of the tax credit out over a longer period of time. It will also ensure that the credit is only paid for systems that are actually producing electricity, and only for electricity that is actually used.

Should the Committee choose to enact a production tax credit for larger scale projects, we recommend that the credit rate be equal to **8 cents per kilowatt-hour**. Assuming that the refundability provisions of HB 497, HD 1 are retained, then 8 cents per kilowatt-hour over ten years is the minimum production tax credit level necessary to ensure the continued viability of the utility-scale sector of the solar industry. We also recommend that in the event that one of Hawai’i’s utilities runs a competitive procurement process for large scale renewable energy projects that the tax credit rate for these “competitively bid” projects be set at **4 cents per kilowatt-hour**.



The production tax credit will be administratively straightforward because the concept is already well-established under Federal tax law and because very few projects will ever qualify for it because few are greater than one megawatt in size. This approach will provide the state with general fund relief while ensuring the ongoing viability of the market for large scale solar in Hawai'i.

Thank you for the opportunity to provide this testimony.

Sincerely,

Colin Yost
Principal & General Counsel

TO: House Committee on Consumer Protection And Commerce

RE: Testimony **Supporting HB 497, HD1 Relating To Renewable Energy.**

Testimony is 3 pages long.

HEARING: Monday, February 11, 2013 – 3:30 p.m. – Room 325

Mr. Chairman and members of the Committee:

Kairos Energy Capital supports HB497, HD1 as an excellent measure to address all issues facing the Hawai'i tax credit.

Kairos Energy Capital is a Hawai'i merchant bank that focuses entirely on providing and arranging funding for renewable energy projects. We have become one of the leading experts in Hawai'i in solar project financing.

HB497, HD1 does an excellent job of balancing the needs of the State to maximize its use of alternative energy sources with its needs to avoid excessive impacts on the State budget. Key elements to accomplishing these goals which are contained in HB497, HD1 are:

1. Predictability and Stability: By providing for an orderly reduction of the energy tax credit, consumers, businesses and investors will be able to continue installing and funding renewable energy without as much fear of annual disruptions by proposed changes at the Legislature.
2. Elimination of the Troublesome "Cap" Structure: Most of the confusion and claims of abuse over the existing credit arise from these artificial "caps," so by using the definition of energy property and the rate of the credit to control the outlay, the law will be easier to administer and easier to follow (but see discussion on "property" definition below).
3. Familiar "Follow-the-Federal" Rules: The rules governing interpretation of the Federal energy tax credit have evolved over decades and are very well known and understood in the capital markets.
4. Protection of Existing Investments: By including provisions to protect investments already made in pending utility scale and public sector projects, HB756 helps provide reassurance to the capital markets that investments made in reliance on Hawai'i's promises will be respected.

There are two potential issues in HB497, HD1 which we wish to call the Committee's attention to, and for which amendment may be warranted:

- Possible Error in Definition of “Basis”: The definition of “basis” at page 6, lines 11-14 has what looks may be a hugely important typographical error – a “not” where there shouldn’t be one. As we read this, the language says that the cost of installing PV or wind facility shall NOT be included in the basis, which is the opposite of what we believe the intent to be:

11 [REDACTED] Any cost incurred
12 and paid for the repair, construction, or installation and
13 placing in service of solar or wind energy property shall not
14 constitute a part of the basis for the purpose of this section.

The intent of this language is not clear, and the Committee may wish to consider deleting it, or amending it to eliminate the potential direct conflict between this language and the language in the first sentence of the definition of “basis.”

- Potential Issue With the Definition of “Property”: HB497, HD1 provides for differing treatment of certain energy property depending on whether it is over or under 1 megawatt in AC generating capacity, and separately uses the Federal definition of renewable energy “property.” The Federal definition of renewable property generally relates to the type of property – e.g. wind, solar, biomass etc. – without regard to its size, however. As we understand the Federal law, if a “property” is owned by a taxpayer, that taxpayer is entitled to the credit allowed for that type of property, regardless of its size.

When we attempt to apply the Federal property definition to the concept of over and under 1 megawatt of capacity, however, we are left with uncertainty over whether it is intended to refer to all renewable energy property owned by a particular taxpayer and placed into service during the applicable year, or whether it would allow that taxpayer to differentiate between installations at different sites, or of differing technologies, or the like.

If the intent is to apply a credit level to everything owned by a particular taxpayer and placed into service in the applicable year, it creates a potential unintended consequence of affecting various financing mechanisms used with renewable energy. For instance, if a person or entity places multiple smaller installations into service in a single year that aggregate over 1MW AC, it might find itself in eligible only for a production tax credit (or no credit at all, depending on where that comes out). This could create some complexities or worse for structuring the larger pooled financings of residential leases etc.

If the intent of the bill is to treat larger scale projects differently due to their differing cost, ownership and financing characteristics, then a different mechanism for determining what constitutes a facility over or under 1 megawatt

would be appropriate, but would also create some of the same issues that plagues the previous definition of “system.”

The policy basis for treating larger projects differently is that the larger the scale, the lower the cost, and also generally the more sophisticated the owners and the larger and more sophisticated the investors. Accordingly, it would be more appropriate from a policy standpoint to use some definition other than the Federal renewable energy “property” definition to determine the size and hence applicable credit. Multiple smaller systems owned by a single taxpayer do not usually enjoy the advantages of significantly lower costs, and are not necessarily owned or financed by larger and more sophisticated owners and investors.

We would urge the Committee to consider this issue and explore it with the Department of Taxation, tax professionals and industry participants to determine an appropriate treatment.

Kairos Energy Capital strongly supports HB497, HD1 and, subject to the comments above, recommends that this Committee pass HB497, HD1 with amendments as appropriate to address the above issues. Thank you for the opportunity to provide this testimony.

Thank you for the opportunity to submit this testimony, and please feel free to contact me if I can be of further assistance.

Larry Gilbert
Managing Partner
Kairos Energy Capital LLC
201 Merchant Street, Suite 2225
Honolulu, HI 96813
Tel 808 457-1600
Email: LGilbert@kairosenergycapital.com