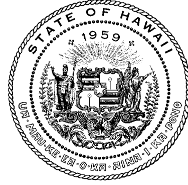
DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR

ISAAC W. CHOY
DIRECTOR OF TAXATION



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

To: The Honorable Glenn Wakai, Chair;
The Honorable Bennette E. Misalucha, Vice Chair;
and Members of the Senate Committee on Energy, Economic Development, and Tourism

From: Isaac W. Choy, Director
Department of Taxation

Date: March 22, 2021
Time: 3:00 P.M.
Place: Via Video Conference, State Capitol

Re: H.B. 1174, H.D. 1, Proposed S.D. 1, Relating to Taxation

The Department of Taxation (Department) opposes H.B. 1174, H.D. 1, Proposed S.D. 1, and offers the following analysis for your consideration. This measure has a defective effective date of July 1, 2050.

First, Proposed S.D. 1 creates a 0.5% general excise tax (GET) rate for film production companies that engage in qualified productions where the total qualified production costs do not exceed $3 million. The limitations placed on these provisions are not effective and cannot be enforced. GET must be reported and paid on a periodic basis, thus, the total qualified production costs incurred in a year would not be known until the end of the year. In addition, a taxpayer could create several entities that would each incur qualified production costs to stay below the $3 million cap. This means that a taxpayer could incur an unlimited amount of qualified production costs and still be deemed to be engaged in the business of manufacturing.

Furthermore, GET is imposed at the same rate regardless of the taxpayer's revenue. This would be the only instance where the GET tax rate of imposition was lower based on the gross receipts of the company. For example, GET is imposed at the same rate on a small convenience store and a national supermarket chain. If the Legislature deems it appropriate for a lower GET rate to apply to a taxpayer with less revenue, the relief should be applied to all industries starting with industries that deal with human necessities such as food and medical services. It is also important to note that deeming a production to be engaged in the business of manufacturing allows a loan-out company to receive the 0.5% GET rate for services provided to a manufacturer. Thus, Section 1's general fund revenue loss is broader than would appear from its face.

For the foregoing reasons, the Department is strongly opposed to Section 1 of this measure which allows for a special GET imposition only for a small part of an industry that already receives such a generous income tax credit as well.

Second, Proposed S.D. 1 allows the film credit provided under section 235-17, Hawaii Revised Statutes (HRS), to be claimed as nonrefundable for tax only for qualified productions where qualified productions do not exceed $3 million. The Department notes that the $3 million cap cannot be enforced as a qualified production is not necessarily a taxpayer. A single taxpayer may have more than one qualified production, which is often the case. If the Legislature believes that it is appropriate to allow this credit to be claimed as nonrefundable, the Department strongly suggests that it allow this election for all taxpayers.

Third, this Proposed S.D. 1 requires the Department of Business, Economic Development, and Tourism (DBEDT) to publish on its website, the names of the qualified productions and the amount of tax credits claimed. The Department notes that DBEDT does not know what the actual claims are; it only knows the amount of the credits that it has certified. As such, the Department strongly suggests proposed section 235-17(i)(4), HRS, to read:

> (4) Publish on its website the names of the qualified productions and the amount of tax credits **certified** per qualified production per filing year; and

Fourth, Proposed S.D. 1 reduces the cap per system for the renewable energies technology income tax credit (RETITC) provided under section 235-12.5, HRS, by fifty percent and provides and exemption from the reduction for commercial systems used for an eligible community-based renewable energy project pursuant to section 269-27.4, HRS. This Section in the measure applies to taxable years beginning after December 31, 2020. The Department notes that this effective date will have a retroactive impact on taxpayers. For example, if a taxpayer installed a single solar energy system on their house on February 1, 2021 under the law that existed on that day the taxpayer would have been eligible for a $5,000 RETITC. This measure would reduce the RETITC to $2,500 retroactively.

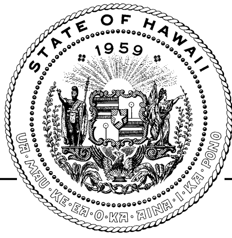
In order to address this issue, the Department suggests making the amendment to the RETITC effective for renewable energy systems installed and placed in serviced after December 31, 2021. Generally speaking, income tax amendments should be made effective by taxable years, however, for the RETITC, making the amendments effective by taxable year actually creates an unfair advantage between calendar and fiscal year taxpayers because the fiscal year taxpayer would have extra time to claim the credit under the old law which has higher caps.

Finally, the Department notes that P.L. 117-2, commonly known as the American Rescue Plan Act of 2021 (ARPA), provides State Coronavirus Fiscal Recovery Funds with certain limitations. Specifically, Section 9901 of the ARPA prohibits these funds from being used to, "either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase." The "covered period" is defined as beginning on March 3, 2021 and ending on the last day of the state's fiscal year in which the State's stimulus funds are completely expended.

If the State fails to comply with this restriction on use of funds, it is required to repay an amount equal to the lesser of: (1) the amount of the applicable reduction to net tax revenue attributable to such violation; and (2) the amount of funds received by such state under Section 9901 of the ARPA.

The Department cautions that the enactment of any tax measure resulting in a revenue loss during the covered period may result in the State having to repay an amount equal to the projected revenue loss from the State Coronavirus Fiscal Recovery Funds that Hawaii receives.

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



HAWAII STATE ENERGY OFFICE
STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

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Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

Monday, March 22, 2021
3:30 PM
State Capitol, Conference Room 224 & Videoconference

Comments in consideration of
HB 1174, HD1, Proposed SD1
RELATING TO TAXATION.

Chair Wakai, Vice Chair Misalucha, and Members of the Committee, the Hawaiʻi State Energy Office (HSEO) offers comments on the section of HB 1174, HD1, Proposed SD1, which would reduce by half the renewable energy technologies income tax credit cap amounts for most residential and commercial systems, beginning in January of 2021.

HSEO's comments are guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy.

Incentives have proven to be an effective mechanism to achieve these goals. A change of this degree could cause a significant disruption in the industry for behind-the-meter and grid-scale projects as well as for homeowners and businesses looking to reduce their expenses at this challenging time.

HSEO also notes that the proposed start date is retroactive to January first of this year. A retroactive change of this type would not allow the difference to be factored into existing agreements or contracts and could cause customer prices to increase. Furthermore, based on amendments to the renewable energy technologies income tax credit in Act 61, Session Laws of Hawaiʻi 2020, projects have moved forward with

contracts and agreements based on the availability of the tax credit at is present amount. Reducing the tax credit would have detrimental effects on project financing and the construction of renewable energy projects to achieve the State's renewable energy goals.

If the Legislature proceeds with this measure, HSEO recommends reviewing potential projects affected by this and changing the effective date to one that is after the bill takes effect. HSEO notes that the Committee previously heard a similar measure, SB 1237, and amended that measure by changing the effective date to January 1, 2022. HSEO defers to the Department of Taxation on the bill's implementation.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR

GWEN S. YAMAMOTO LAU
EXECUTIVE DIRECTOR

HAWAII GREEN INFRASTRUCTURE AUTHORITY

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Testimony of
Gwen Yamamoto Lau
Executive Director
before the
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM

Monday, March 22, 2021
Time: 3:30 P.M.
State Capitol, Conference Room No. 224 & Videoconference

In consideration of
HOUSE BILL NO. 1174, HD 1, Proposed SD1
RELATING TO TAXATION

Chair Wakai, Vice Chair Misalucha, and Members of the Committee on Energy, Economic Development and Tourism:

Thank you for the opportunity to offer comments on House Bill 1174, HD1, proposed SD1 relating to taxation. This bill proposes to amend the motion picture, digital media and film production income tax credit, and reduce the applicable cap amount of credit for each eligible renewable energy technology system, per section 235-12.5, Hawaii Revised Statutes, by half.

It is understandable, given the state's current fiscal crisis, to seek opportunities to decrease incentives, such as the solar tax credit. However, it is equally important, because of the state's current economic situation, to leverage fiscal policy tools, such as the solar tax credit, to spur continued and increased investments in green infrastructure, which will support our construction industry, stimulate economic recovery and drive higher paying green jobs. This is likely one of the reasons Congress passed the Energy Act of 2020 in late December as part of its omnibus package, which amongst other things, extended the federal Investment Tax Credit to benefit solar energy projects for two more years. Additionally, the injection of Federal funds provided by The American Rescue Plan Act of 2021, may provide fiscal relief sufficient to allow Hawaii's solar tax credit incentives to remain at its current levels, to drive projects and help Hawaii's displaced workers be re-tooled and re-employed with green jobs.

Further, it's no secret that Hawaii has the highest energy cost in the nation, coupled with a high cost of housing. Democratizing clean energy for our underserved[1] ratepayers to lower their energy costs will take the collective efforts of government, private capital providers, and energy stakeholders.

HGIA defers to DBEDT's Creative Industry Division on the proposed changes to the motion picture, digital media and film production income tax credit and Department of Taxation on implementation.

Thank you for this opportunity to provide comments for House Bill 1174, HD1, proposed SD1.

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[1] Underserved ratepayers are defined as low and moderate-income households, renters, nonprofits, small businesses (as defined by the U.S. Small Business Administration) and multi-family rental projects.

TESTIMONY BEFORE THE SENATE
COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

HB 1174, PROPOSED SD 1
Relating to Taxation

Monday, March 22, 2021
3:30 p.m., Agenda Item #2
State Capitol, Conference Room 224 & Via Videoconference

Kaiulani Shinsato
Director, Customer Energy Resources Programs
Hawaiian Electric Company

Chair Wakai, Vice Chair Misalucha, and Members of the Committee,

My name is Kaiulani Shinsato and I am testifying on behalf of Hawaiian Electric Company with comments on HB 1174 Proposed SD1, Relating to Taxation. Hawaiian Electric respectfully requests consideration **in opposition to reducing the tax credit for commercial properties, supports the inclusion of a tax credit for Community-Based Renewable Energy ("CBRE") projects on a commercial property, and takes no position on the reduction of the tax credit for residential properties in this bill.**

HB 1174 Proposed SD1 proposes amending subsection (b)(2)(C) to HRS Section 235-12.5, which would reduce the solar energy system cap amount for commercial properties from $500,000 to $250,000 per system taking effect on January 1, 2022. Hawaiian Electric opposes a reduction of the tax credit for utility scale projects with power purchase agreements approved by the Public Utilities Commission that will benefit all customers. Hawaiian Electric opposes such a change because the tax credit allows for the procurement of lower cost energy, which is needed if Hawaii is to reach our 100% renewable energy goals in a cost-effective manner. Reducing the tax credit

for new commercial projects will raise the cost of energy for our customers, primarily impacting those who do not have rooftop solar. To this end, Hawaiian Electric supports tax credits for solar projects dedicated to helping customers with low to moderate incomes. Hawaiian Electric is currently working on developing these types of programs through, for example, its CBRE Program.

The largest procurement of renewable energy in the State's history is currently ongoing. If developers are eligible for the tax credit, they will be required to pursue and remit the tax credit proceeds they receive to Hawaiian Electric, and Hawaiian Electric would pass such proceeds through to customers directly and without mark-up, resulting in a reduction to customers' electric bills. If the tax credit were to be reduced for future projects, these projects would be more costly. We also note that tax credits for utility scale generation allow those who cannot afford rooftop solar or who live in condos or rental units the ability to benefit from the low-cost renewable energy.

HB 1174 Proposed SD1 also proposes the inclusion of a cap amount of $500,000 per system for a commercial property used for an eligible CBRE project pursuant to HRS Section 269-27.4. Hawaiian Electric supports this tax credit cap because commercial properties, including rooftops, parking structures and open land, that host CBRE projects can generally be operational faster than larger utility-scale projects and thus providing more timely renewable energy benefits to those segments needing it the most, including low-to-moderate income customers. This tax credit would grow the number of these types of projects, which are often overlooked because of the advantages in economies of scale of larger projects which can take much longer to become operational.

HB 1174 Proposed SD1 also proposes amending subsection (b)(2)(A) and (b)(2)(B) to HRS Section 235-12.5, which would reduce the solar energy system cap amount for single-family residential property from $5,000 to $2,500 per system and multi-family residential property from $350 to $175 per unit per system taking effect on January 1, 2022.

At this time, Hawaiian Electric takes no position on whether the tax credit for residential systems should be reduced. The segment of our customers who have generally benefited from this tax credit are homeowners who are financially able to invest in a rooftop solar system. Moreover, residential income tax credits were intended to spur early adoption in a nascent industry, but they have arguably served their purpose now that Hawaii is leading the nation in customer adoption of rooftop solar. In the current environment of a State budget shortfall due to COVID-19, the Company recognizes that it may be prudent to decrease this tax credit that benefits customers with a relatively higher income demographic. That said, the Company is relying heavily on customer-sited renewable energy to reach the State's 100 percent clean energy goals by 2045 and views renewable energy as a catalyst to economic recovery from COVID-19. Thus, the current amount of tax credit may have a stronger incentive for customers to invest in private rooftop solar, which then supports the local solar industry, provides jobs, supports our economy, and advances Hawai'i's renewable energy goals. For these reasons, at this time, Hawaiian Electric defers to the Legislature to more holistically weigh competing budgetary priorities during this economic climate and takes no position on the residential tax credit.

Accordingly, Hawaiian Electric opposes reducing the tax credit for commercial properties, supports the inclusion of a tax credit for CBRE projects on a commercial

property, and takes no position on the reduction of the tax credit for residential properties in HB 1174 Proposed SD1. Thank you for this opportunity to testify.

Testimony Before the Senate Committee on Energy, Economic Development and Tourism

By David Bissell
President and Chief Executive Officer
Kauai Island Utility Cooperative
4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766-2000

Monday, March 22, 2021; 3:30 pm
Conference Room #224

House Bill No. 1174 HD1 Proposed SD1 - Relating to Taxation

To the Honorable Sen. Glenn Wakai, Chair, Sen. Bennette E. Misalucha, Vice Chair and Members of the Committee:

Kauai Island Utility Cooperative (KIUC) is a not-for-profit utility providing electrical service to more than 33,000 commercial and residential members. Over the past 10 years, KIUC has made great strides in achieving the state mandate of 100% renewable generation by the year 2045. In 2020, KIUC's energy mix included more than 60% renewable generation, leading the state. Also in 2020, KIUC operated the Kauai electric grid at 100% renewable generation on 280 separate days for a total of 1,497 hours.

KIUC believes that HRS §235-12.5 has successfully incentivized the energy sector's movement toward 100% renewable energy generation, especially through the use of credits for eligible renewable energy technology systems for commercial properties.

KIUC has utilized the tax credits allowable under HRS §235-12.5 to develop projects that boosted its renewable production from 11% in 2013 to more than 60% in 2020. Seventy-one megawatts (MW) of utility-scale solar and solar-plus-storage facilities have been added during that period. KIUC has seen significant stabilization in its rates over the past five years, in large part due to replacing the volatile pricing of fossil fuels with the stability of long-term power purchase agreements (PPA) for renewable energy resources that have benefited from these tax credits.

Last year, HRS §235-12.5 was amended to include credits for a solar pumped storage hydro project, which applies to the West Kauai Energy Project. In order to comply with the amendment, KIUC filed a power purchase agreement for the project with the Hawaii Public Utilities Commission in December 2020. We do not expect these credits to be claimed until 2025, when WKEP is projected to be complete.

WKEP, which will provide long-duration storage and push KIUC above 80% renewable, is critically important in our strategic plan to meet the State of Hawaii mandate of 100% renewable by 2045. If successful, this project will invest more than $100 million in the rehabilitation and maintenance of state-owned infrastructure – namely diversion structures, ditches and reservoirs – from Kokee to Mana. It will allow the Department of Hawaiian Home Lands to put hundreds of acres of agricultural land back into use, while ensuring that the instream flow standard recently established for the Waimea River and its tributaries is met.

The cost to build and maintain WKEP will be financed over a period of 50 years by the sale of electricity to KIUC members. The power purchase agreement pending PUC approval includes the assumption that these credits will remain available to the project. Rescinding the tax credits would result in an increase in project costs, which will ultimately be passed on to KIUC's member-owners.

We ask for your consideration of the long-term benefits of WKEP not just to KIUC, but to the State of Hawaii as well, and **urge you to adopt the following amendment to HB 1174 HD1 Proposed SD1, under Part II, Section 3. (2) (C):**

(C) [~~$500,000~~] $250,000 per system for commercial property [~~.~~]; provided that the cap amount shall be $500,000 per system for commercial property used for an eligible community-based renewable energy project pursuant to section 269-27.4 or for each solar energy system integrated with a pumped hydroelectric energy storage system pursuant to section 235-12.5 (a) (1) (C); and

Thank you for your consideration.

SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

March 22, 2021, 3:30 p.m.
(*Testimony is 3 pages long)*

TESTIMONY IN OPPOSITION TO HB 1174 (Proposed SD1)

Aloha Chair Wakai and Members of the Committee:

Hawaii PV Coalition respectfully OPPOSES the proposed SD1 of HB 1174, specifically the portion that cuts the renewable energy income tax credit after December 31, 2020. HPVC takes no position on sections 1, 2, 4, and 5.

This bill is particularly alarming because it eliminates the tax credit this year, potentially retroactively pulling the credit from residents who relied upon it to purchase a renewable energy system. This type of retroactive legislation is bad policy and potentially exposes the state to unnecessary liability.

Moreover, coming out of the COVID pandemic, smart renewable energy policy is critical to economic growth. On a national level, 1 out of 20 new jobs currently arise from the clean energy sector. Here, in Hawaii, nearly 2,500 jobs come out of the solar industry alone currently, and we know this amount can increase. During the last great recession hitting Hawaii, solar activity accounted for over 25% of the total construction activity in the state, generating substantial governmental revenue, economic growth, and substantial savings to Hawaii residents.

Rooftop solar benefits all Hawaii residents**. Since 2011, the average electric bill has dropped by over 15%, largely as a result of the wide-spread deployment of rooftop solar**.[1] In state where the high cost of living is a foremost concern, Hawaii's renewable

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[1] *See* Hawaii Energy Facts & Figures at 5 (July 2019), available at https://energy.hawaii.gov/wp-content/uploads/2019/07/2019-FF_Final.pdf.

energy income tax credit is an incredible success story. Hawaii residents, on average, see $30 to $40 more in their pocket per month because of rooftop solar.

Adoption of utility-scale renewable energy resources has ***not*** similarly reduced the cost of living. Despite the overall reduction in the worldwide cost of oil and numerous new wind and utility-scale solar farms, the overall electricity rate — the amount people pay for electricity — has stayed largely the same since 2011.[2] Put another way: while utility-scale renewable energy is important to Hawaii's energy and environmental goals, it has not yet and is unlikely in the near term to decrease the highest electrical rates in the country (more than 2-3 times the national average).

Hawaii's renewable tax credit has empowered residents to install rooftop solar from Aiea to Wahiawa. ***One in three homes in Hawaii now has rooftop solar.*** It has become ubiquitous. In turn, rooftop solar has become the single largest contributor of renewable energy in Hawaii — nearly 40% of all renewable energy in Hawaii now comes from rooftop solar.

While the renewable energy tax credit could be weaned down over time, such a reduction must be coordinated with Hawaii's clean energy goals and be fair to the remaining residents who have not yet had a chance to adopt rooftop solar. This is particularly true of multifamily and affordable housing, where equity and fairness principles come into play as new technology comes online to address these types of units.

Despite a great deal of progress, the goals of the renewable energy tax credit remain the same:

> Hawaii's dependence on petroleum for about ninety per cent of its energy needs is more than any other state in the nation. This makes the State extremely vulnerable to any oil embargo, supply disruption, international market dysfunction, and many other factors beyond the control of the State. Furthermore, the continued consumption of conventional petroleum fuel negatively impacts the environment. At the same time, Hawaii has among the most abundant renewable energy resources in the world, in the form of solar, geothermal, wind, biomass, and ocean energy assets.

Act 240 (2006). Further "increased . . . use of renewable energy resources would increase Hawaii's energy self-sufficiency, achieving broad societal benefits, including increased energy security, resistance to increases in oil prices, environmental sustainability, economic development, and job creation." *Id.*

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[2] In 2011, the average residential rate was $0.32 per kilowatt hour on Oahu. In 2018, the average residential rate was $0.31 kWh. *See id.*

Hawaii residents strongly support more rooftop solar. A 2015 SMS poll demonstrated that 77% of Hawaii residents "strongly support" and 20% "somewhat support" more rooftop solar in Hawaii. Only 1 per cent "somewhat oppose" rand no one polled "strongly opposed" more rooftop solar. Few issues have ever resulted in such an unanimous concurrence among Hawaii residents.

Hawaii PV Coalition welcomes a discussion about the future of Hawaii's solar tax credit. Nonetheless, in light of the federal income tax credit step down, and the ambitious nature of Hawaii's clean energy goals, we propose taking this step in conjunction with a broader clean energy plan. We recommend this Committee direct DBEDT to conduct a study on how Hawaii can best achieve its 100% RPS with a nod towards related policy goals such as equity, average bill reduction, job stimulus, and economic development.

Mahalo for the opportunity to submit these comments.

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.

Hawaii Solar Energy Association
Serving Hawaii Since 1977

Testimony of The Hawaii Solar Energy Association Regarding HB1174 SD1 Proposed, Relating to Taxation, Before the Senate Committee on Energy, Economic Development, and Tourism

Monday, March 22, 2021

Chair Wakai, Vice Chair Misalucha, and members of the Committee, my name is Rocky Mould and I am the Executive Director of the Hawaii Solar Energy Association (HSEA). Our membership includes the majority of locally owned and operated renewable energy companies in the State of Hawaii.

HSEA **strongly opposes HB1174 SD1.** In particular, we oppose Section 3, which reduces by 50% the State Renewable Energy Investment Tax Credit (ITC) cap for residential, commercial, industrial, and utility-scale solar and wind investments.

The scope of this measure will include affordable housing projects and other segments of the market for residents and small businesses that have not yet been able to participate in, or directly benefit from, Hawaii's transition to clean, affordable, and renewable sources of energy. These relatively underserved sectors represent an important opportunity to expand rooftop solar, energy storage, electric vehicles, and other technologies that will help the State achieve its critical renewable energy, carbon neutrality, and resilience goals in a more equitable, affordable, and sustainable manner.

And the negative impacts on construction and investment will exacerbate and deepen Hawaii's current economic distress, harming all residents and businesses, and hamstringing one of Hawaii's leading job creating industries just when we need it most. During times of recession, losses from every dollar pulled out of our economy are multiplied by a factor as large as three (3x);[1] and at the 24.5% refundable tax rate, each dollar of tax expenditure attracts an additional three in private investment, further stimulating our economy both directly and indirectly. We also note that the measure appears to potentially be retroactive, which could potentially impose clawbacks for some investments and projects already installed.

According to the Hawaiian Electric Company's most recent Renewable Portfolio Standard (RPS) reporting, across all its island systems, solar currently makes up over 60% of total renewable generation,

[1] For a discussion of the impacts of green investment during the COVID-19 pandemic see *Hepburn, C., O'Callaghan, B., Stern, N., Stiglitz, J., and Zenghelis, D. (2020)*, 'Will COVID-19 fiscal recovery packages accelerate or retard progress on climate change?', Smith School Working Paper 20-02.

with rooftop solar alone making 47%.[2] The solar industry in Hawaii employs thousands of local individuals in a diverse set of well-paying jobs including, but not limited to, contractors, designers, electricians, engineers, financiers, installers, salespeople, and service technicians.

Investments in rooftop or on-site solar systems paired with energy storage and other technologies not only create jobs and help reduce the high cost of electricity across the State,[3] but they also contribute to grid reliability and overall resiliency. Halving the ITC will seriously impair the solar industry's ability to provide valuable grid services when called upon by the State of Hawaii.

The local rooftop renewable energy industry is a true Hawaii-grown success story and has been a main driver keeping Hawaii's economy going throughout the COVID pandemic. Without continued near-term investment in projects and jobs that align with our longer-term priorities, progress may be put at risk, and our economy and the people it serves may take longer to recover.

The HSEA **opposes HB1174 SD1** and we ask the committee to vote against advancing the measure.

Thank you for the opportunity to testify.

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[2] See Hawaiian Electric's Key Performance Metrics for Renewable Energy here: https://www.hawaiianelectric.com/about-us/key-performance-metrics/renewable-energy

[3] See Hawaiian Electric Company's Key Performance Indicators, which indicate an overall decline in the cost of delivered energy from 2012 to 2020 here: https://www.hawaiianelectric.com/about-us/key-performance-metrics/rates-and-revenues .

INTER-ISLAND
SOLAR SUPPLY

Serving Hawaii and the Pacific Islands Since 1975

Testimony of Inter-Island Solar Supply Regarding HB1174 SD1 Proposed, Relating to Taxation, Before the Senate Committee on Energy, Economic Development, and Tourism

Monday, March 22, 2021

Chair Wakai, Vice-Chair Misalucha, and members of the Committee, my name is Brian Gold and I am the President of Inter-Island Solar Supply (IISS). IISS was incorporated in 1975 and is Hawaii's oldest & largest supplier of renewable energy equipment. We operate from 5 branch locations in Hawaii and employ over 70 local residents.

IISS has no comments regarding the motion picture, digital media, and film production income tax credit portions of this bill but we respectfully **OPPOSE HB1174 SD1** in its current form because of the inserted language that will cut the renewable energy tax credit dollar cap by 50%.

Hawaii's renewable energy industry is a locally grown success story and we've been a main pillar of Hawaii's economy throughout the COVID pandemic. We employ thousands of workers in diverse, well paying jobs. Our products reduce electric bills for all ratepayers[1], not just those who install renewable energy systems on their homes. Further, we account for the vast majority of the State's progress towards the 100% RPS goal to date[2] and all energy stakeholders agree that our industry needs tools to increase speed of renewable deployment. This measure would do exactly the opposite.

As an equipment wholesaler, IISS has a unique perspective on the impact of structural change to the marketplace. The numerous policy impacts over the years – federal tax credit change, interconnection program changes, permitting rule changes, etc. – each pair with a significant implementation gap in the market. This gap represents the time it takes for consumers, isntallers, engineers, financers, wholesalers, and manufacturers to digest change, understand implications, and re-frame the advantages of renewable energy within the new rule scope. Most importantly, considering the State's current efforts towards economic recovery, each of these implementation gaps result in consumers spending more on energy and significant job & local invenstment loss.

If the legislature intends to modify an investment that has been proven to provide an over 100% return into the local economy, we propose taking this step as part of a broader clean energy plan. We welcome a discussion about the future of Hawaii's renewable energy tax credit and recommend that this Committee direct DBEDT to conduct a study on how Hawaii can best balance the tax credit, our 100% RPS goal, and the broad policy goals of economic development, job creation, consumer cost savings, and ratepayer equity.

Mahalo for the opportunity to submit these comments.

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[1] See Hawaiian Electric Company's Key Performance Indicators, which indicate an overall decline in the cost of delivered energy from 2012 to 2020 here: https://www.hawaiianelectric.com/about-us/key-performance-metrics/rates-and-revenues

[2] See Hawaiian Electric's Key Performance Metrics for Renewable Energy here: https://www.hawaiianelectric.com/about-us/key-performance-metrics/renewable-energy

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The Senate
The Thirty-First Legislature
Regular Session of 2021

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM
Sen. Glenn Wakai, Chair
Sen. Bennette E. Misalucha, Vice Chair

RE: HB 1174, HD1 Proposed SD1 RELATING TO TAXATION

Date: Monday, March 22, 2021
Time: 3:30 p.m.
Conference Room 224 & Videoconference
State Capitol
415 South Beretania Street

March 21, 2021

From: Roy Tjioe and Ricardo Galindez
Island Film Group
99-1245 Halawa Valley St.
Aiea, HI 96701
808-536-7955

Aloha Chair Wakai and Vice Chair Misalucha, and Members of the Committee:

Our Background
We are a locally owned and operated production company. We began working in Hawaii's film and television industry in 2001 as attorneys at Goodsill Anderson Quinn & Stifel, where we represented filmmakers and other production companies. Since our formation of Island Film Group in 2007, we have been working full-time as producers of feature films such as "Princess Ka`iulani" and "Soul Surfer", network and cable television movies and series, as well as a variety of commercial productions.

We SUPPORT the following provisions of HB 1174, HD1, proposed SD1:

1. **Characterizing qualified productions with qualified production costs up to $3 million as "manufacturing" and taxing gross revenue (i.e. total production budgets) at .5% for General Excise Tax purposes**.

   Compared to the Department of Taxation's position, which stood for 11 years (from 2008-2019) through TIR 2008-02, the Department's new position (TIR 21-01) increases GET from 0.5% to 4.5% (an 800% increase), which substantially harms local production companies. The change will effectively reduce the Production Tax Credit (PTC) by more than 25% for those projects that qualify for the PTC (since the total budget will be taxed at 4.5% even though not all budget items are eligible for the PTC) while placing a substantial burden on local production companies for projects that do not meet the $200,000 spending threshold to qualify for the PTC. To the extent that clients are unwilling to pay the additional amount, local production companies will be required to absorb the tax increase from their typical production fee of 10%, effectively reducing their fee to 6% (a 40% decrease).

   The Department has signaled its openness to legislative guidance and action on this matter in TIR 21-01 by stating that "[i]t is subject to change at the Department's discretion or because of a future change in law. The Department notes that it was not able to find any measures addressing the issues discussed in this TIR introduced during the 2020 or 2021 Regular Session of the Hawaii State Legislature."

2. **Allowing the tax credit to be carried over and applied to a taxpayer's future state tax liability**.

   This will save the State money by incentivizing taxpayers not to take excess tax credit in cash and will benefit local taxpayers since the use of the tax credit to pay for state tax liability will not be subject to federal income tax.

   The language in SD1 as written appears ambiguous, however, and should be amended to clarify that the taxpayer may elect to receive the tax credit excess over liability as a refund or to carry it forward against future liability.

   SECTION 2. Section 235-17, Hawaii Revised Statutes, is amended as follows:

   1. By amending subsections (c) and (d) to read:

   "(c) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credits over liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than $1[~~.~~]; provided that, for qualified productions where the total qualified production costs do not exceed $3,000,000, if the tax credit exceeds the taxpayer's income tax liability, the excess of credits over liability ~~shall not be refunded, but~~ may be carried forward until exhausted.

3. **We propose allowing the disproportionate allocation of the tax credits, making it easier to raise money for qualified productions.**

   The Department of Taxation currently requires that tax credits be allocated in proportion to a taxpayer's investment in a production. The disproportionate allocation of the tax credit would allow greater flexibility in the negotiation among investors for a film project and allow qualified productions to attract greater investment from Hawaii investors.

   We therefore respectfully propose the following amendment to section 235-17:

   In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified production costs incurred by the entity for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. With respect to a partner's distributive share, Section 704 of the Internal Revenue Code shall be operative for purposes of this chapter, except that section 704(b)(2) shall not apply.

Me ke aloha,

Roy Tjioe and Ricardo Galindez
Co-Founders
Island Film Group

The Senate
The Thirty-First Legislature
Regular Session of 2021

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM
Sen. Glenn Wakai, Chair
Sen. Bennette E. Misalucha, Vice Chair

RE: HB 1174, HD1 Proposed SD1 RELATING TO TAXATION

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We are a locally owned and operated production company. We began working in Hawaii's film and television industry in 2001 as attorneys at Goodsill Anderson Quinn & Stifel, where we represented filmmakers and other production companies. Since our formation of Island Film Group in 2007, we have been working full-time as producers of feature films such as "Princess Ka`iulani" and "Soul Surfer", network and cable television movies and series, as well as a variety of commercial productions.

I SUPPORT the testimony submitted by Ricardo Galindez on behalf of Island Film Group.

Me ke aloha,

Roy Tjioe
Island Film Group

HB-1174-HD-1
Submitted on: 3/21/2021 12:00:55 PM
Testimony for EET on 3/22/2021 3:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandie Wong	Individual	Support	No

Comments:

I support the written testimony of Island Film Group to the proposed SD1. Thank you.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, Motion Picture Credit Modification and Extension, Reduces Cap Amounts of Renewable Energy Credit

BILL NUMBER: HB 1174, SD1 Proposed

INTRODUCED BY: Senate Committee on Energy, Economic Development, and Tourism

EXECUTIVE SUMMARY: Amends the motion picture, digital media, and film production income tax credit by: (1) Reducing the cap amount and aggregate cap amount of the credit; (2) Requiring the department of business, economic development, and tourism to publish on its website the names of the qualified productions and the amount of the tax credits claimed per qualified production per filing year; (3) Adjusting the general excise tax from 4% to .5% per cent for qualified productions costing less than $3,000,000 per qualified production; and (4) Allowing the tax credit for qualified productions costing less than $3,000,000 to be carried over and applied to the taxpayer's future state tax liability. Extends the repeal date of the tax credit from 1/1/2026 to 1/1/2033. Effective 7/1/2050. Reduces the cap amounts of the renewable energy technologies income tax credit.

SYNOPSIS:

Part I: Motion Picture, Digital Media, and Film Production

Adds a new section to chapter 237, HRS, providing that a motion picture, digital media, or film production company that engages in a qualified production where the total amount of qualified production costs do not exceed $3,000,000 shall be subject to the tax rate applied to manufacturers on the gross income received from the qualified production.

Amends section 235-17, HRS.

Provides that for qualified productions where qualified production costs do not exceed $3,000,000, the credit is nonrefundable but may be carried forward.

Eliminates the requirement that the taxpayer using products or services from outside Hawaii show that reasonable efforts were unsuccessful to secure and use comparable products or services from within Hawaii.

Requires DBEDT to publish on its website the names of the qualified productions and the amount of tax credits claimed per qualified production per filing year.

Lowers the ceiling on the aggregate amount of tax credits to $45 million per year.

Extends the sunset date of the credit to December 31, 2032.

Part II. Renewable Energy Technologies Credit

Amends section 235-12.5, HRS, to halve the per-system cap amounts for solar heating, other solar (photovoltaic, for example), and wind energy systems.

Extends the repeal date of the credit to January 1, 2033.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS:

Part I: Motion Picture, Digital Media, and Film Production

General Excise Tax Provisions

When we see Hawaii's General Excise Tax or GET, it is usually on a sales receipt and the tax shown is 4.712% or 4.166%, depending on the island you are on. That rate is driven by what we call the retail tax rate, which is applied to sales from a seller to an end user.

The GET also is applied to intermediate stage products and services, namely those that are sold not to an end user but to a retailer, or someone further up the production chain. For example, consider a farmer selling vegetables to a market, or a fashion designer selling artwork to a manufacturer who will be making aloha shirts with that artwork. There, the GET is imposed at the "wholesale rate" of 0.5% instead.

When movie and TV productions are made, not all of the people participating in the production are on the payroll. A few, such as principal cast, the director, and others in key roles like the director of photography, are independent contractors to the production. Many of them have entities they own, known as "loan-out entities," which then contract out to the production.

What, then, is the GET rate that applies when a loan-out entity is paid by the production company?

In 2008, the Department of Taxation published proposed rules containing several key GET interpretations. In Proposed Admin. Rule sections 18-237-13-01.01(b) and 18-237-13(6)-10(b), which appeared in Tax Information Release 2008-02, the Department said that a production company is in the business of manufacturing, and a loan-out entity providing services to the production company qualified for the 0.5% wholesale rate. The proposed rules were reproposed in modified form in Tax Information Release 2009-05, but in the same proposed rule sections the Department reaffirmed that the GET interpretations above were still good and could be relied upon by taxpayers.

During the next ten years, the Department decided not to finalize these proposed rules, instead publishing revised temporary rules that only addressed the income tax credit for productions and did not include any GET rules. After finalizing the rules, the Department published an Announcement in November 2019 ostensibly to summarize the rules that were adopted, but it added a note, seemingly out of right field, saying that a "production company is not considered to be in the business of 'manufacturing' [for GET purposes]."

Tax Information Release 2021-01, published on February 16, 2021, explains that "the Department reviewed its position on deeming a motion picture or television film production company to be engaged in the business of manufacturing. Through this review, the Department determined that this prior position was inappropriate." In other words, the Department changed its mind, and loan-out entities are now taxable at the full retail GET rate. Neither the Release nor the prior announcement showed any reasoning from the applicable law (which did not change in the meantime) even attempting to justify the Department's about-face.

The American Rescue Plan Act of 2021, signed into law by President Biden on March 11, 2021, contains provisions disqualifying or restricting federal aid that otherwise could be available to the State if new or extended tax incentives are enacted after March 3, 2021. Section 9901 of the Act enacts a new section 602(c)(2)(A) in Title VI of the Social Security Act which states:

> A State or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.

Section 602(g)(1) defines the "covered period" as beginning on March 3, 2021 and ending on the last day of the State's fiscal year in which all federal aid dollars are either spent, returned, or recovered against the State by the Treasury.

Because this federal provision generally prohibits new state tax incentives, this proposed general excise tax provision may run afoul of ARPA's prohibition unless it is a technical clarification of a previous enactment. If it is to be the latter, however, the interpretation cannot apply only to a newly created subclass; it must apply to everyone subject to the former enactment.

Income Tax Provisions

The credit in section 235-17, HRS, was enacted as Act 107, SLH 1997, as a of the costs incurred in the State in the production of motion picture or television films. As enacted, the credit was 4% of regular production costs plus 6% of transient accommodations, mirroring the GET and TAT rates at the time. Act 156, SLH 1988, raised the TAT credit to 7.25% while also raising the TAT rate to 7.25%.

After a period where this credit took a back seat to the qualified high tech business program enacted by Act 221, SLH 2001, this credit was next amended by Act 88, SLH 2006, which added credits for digital media and replaced the GET and TAT bifurcation with a unified credit of 15% of qualified production costs incurred in the C&C of Honolulu and 20% in any other county. The act added a per-production cap of $8 million and sunset the credit on Jan. 1, 2016.

Act 89, SLH 2013, changed the credit percentages to 20% in Honolulu and 25% in any other county; raised the per-production limit to $15 million; and extended the sunset date to Jan. 1, 2019.

Act 143, SLH 2017, extended the sunset date for the credit to Jan. 1, 2026, and first imposed an aggregate cap of $35 million. Act 275, SLH 2019, raised the aggregate cap to $50 million.

We in Hawaii have had our production credit since 1997, so it's been more than twenty years. Have there been any studies about what the program has done for Hawaii's economy or Hawaii's tax revenue? None were cited to the Legislature when the Hawaii production tax credit was increased in 2013. Maybe we don't care as much about the hard dollars as we do about other intangible effects like local jobs, the development of a skilled workforce, or robust media education programs that simply weren't around at the turn of the century. Even if so, lawmakers should have data on these intangibles, and other cost-benefit information, so they can make intelligent decisions on this matter.

Certainly, the film industry promises increased opportunities. Some of them certainly have materialized. But chasing these opportunities needs to be balanced against the cold hard reality of solving the problems at hand. Lawmakers need to ask whether production tax credits create sustainable economic development. It's well known that most productions shoot for a while and then wrap; the crew that supports the production then jumps to the next one. A case may be made for the production credits if they keep the productions rolling in and contributing to the economy. But the people of Hawaii need to see that case to justify continued redirection of resources to these credits while those resources could instead lower the overall tax burden not only for families but for the businesses that provide long-term employment for Hawaii's people.

As a technical matter, the requirement that DBEDT publish taxpayer credit information on its website is not consistent with the return information confidentiality law, HRS section 235-116. DBEDT's compliance with the provision would be punishable as a Class C felony unless appropriate modifications are made to section 235-116.

We are also concerned that the extension of the credit as proposed by the bill, if enacted, may be considered to be a credit within the covered period, and thus subject to federal recovery against the State.

Part II. Renewable Energy Technologies Credit

The tax system is there to raise revenue to keep the government moving. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

Furthermore, tax credits are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

For these reasons, we believe this part of the bill is a step in the right direction. Section 235-12.5, HRS, can be traced back to Act 207, SLH 2003. The argument that the industry is a

fledgling industry still needing mother's milk vaporized years ago. This bill would help to wean the industry away from credits and toward economic survival in the marketplace.

Digested 3/20/2021

SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
Senator Glenn Wakai, Chair
Senator Bennette E. Misalucha, Vice Chair

DATE: Monday, March 22, 2021
TIME: 3:30pm
PLACE: CR 224 & Videoconference

Theodore (Ted) Peck
President, Holu Hou Energy
1003 Bishop Street Suite 1840
Honolulu, HI 96813

RE: HB1174_SD1_PROPOSED RELATING TO TAXATION.

Aloha Chair Wakai, Vice Chair Misalucha and Members of the Committees

Thank you for the opportunity to provide testimony on this bill. My name is Ted Peck. I am the former Energy Administrator for the State of Hawaii, and have been working in energy development for the last 14 years. I have over thirty years of experience with energy, technology, and policy. My company, Holu Hou Energy, develops commercial, industrial, and utility energy projects in Hawaii. I have been involved in the development of solar, wind, hydrogen, biofuel, and geothermal projects over the last 15 years, both successfully and unsuccessfully. I have no comments regarding the Motion Picture, Digital Media, and Film Production Income Tax Credit portions of this bill. This testimony is focused on the language regarding reducing the caps for solar credits, which I oppose for the following reasons:

- The solar tax credit paired with the as yet-unfulfilled Renewable Portfolio Standard has been one of the most successful policies of the Legislature of the last 20 years. As of 2020 fully 47% of the renewable energy on the grid came from rooftop solar in the HECO service areas, fully 1,325,750 megawatthours out of 9,445,960 megawatthours of electricity consumed.

- The solar industry has been able to continue to work strongly through the economic catastrophy of 2020. During our last economic downturn, the solar industry rose to nearly 30% of the value of the construction industry. Tinkering with it will put a strain on unemployment rolls when it can least afford it, as well as devastating a significant player of non-tourism, technology economic activity.

- The budgetary impact of reducing the caps are very limited at best, and likely destructive. The credit, according to the Department of Taxation, is break even economically at 15%, and is functionally at 18% now due to the cap, not at the 35% which is in statute. By these numbers, the cuts proposed in this bill actually have the potential for damaging net state revenues more than helping them. Moveover, the Legislature has already

eliminated the utility scale credit, which was a wise move, as it did not create any incentives and will save the state $230M over the next 3-4 years as large-scale systems are place in service. (https://www.greentechmedia.com/articles/read/hawaiian-electric-picks-460mw-of-solar-nearly-3gwh-of-storage-to-replace-power-plants)

- The decreasing cost of solar installed per watt means that the credit is now much more effective in generating economic activity than when first passed, and and as such is more effective in moving the state towards its 100% goal than when first passed. We are only one third of the way to our 100% Renewable Portfolio Standard, and utility leaders and policy leaders are unified in saying that rooftop solar is essential in reaching our Legislatively mandated goals (https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/hawaiian-electric-says-rooftop-solar-essential-to-meet-100-clean-energy-goal-57108589). The easy roofs are done, but we need all the roofs. While the cost of solar has been dropping, that means that installs which were not economically feasible are moving into feasibility, and since the credit is capped, those projects do not cost the state any more money. City and County of Honolulu has passed Bill 58, which will help many of the LMI customers finally get a chance to get solar. If the state takes away/lowers the state tax credit we're putting them back where they were; waiting.

- A national battle continues around climate change and energy transformation, and this bill puts Hawaii on the wrong side of that battle. It is perplexing for Hawaii to consider to side with policies friendly to fossil fuel. Rooftop solar will happen only because homeowners, renters, and third party financiers have incentives to make it happen. LMI residents are in the process of getting solar due to the very policy this bill considers cutting.

Our company focuses on third party solar for non-profits and multifamily projects. As such, we are dependent on investors incented by the business proposition of a return on inventment for the project, and savings for the customer. Both the customer and investor need to have enough of an incentive to do the project. The band for pricing power purchase agreements is increasingly narrow, and this bill will close it for many projects.

If any form of this legislation passes, I request two elements be addressed:

- Any legislation passed, or even considered, with an effective date in the past is highly disruptive to business discussions. It is difficult enough to persuade investors and customers to agree to a set of terms. Regulatory uncertainty is destructive to business.
- Further in that line, there are projects under contract which will be placed in service in 2022 and even 2023, contractually closed in 2020. Such projects, if this legislation passes, should be grandfathered to the credit caps in place when those projects were agreed upon.

I am grateful for your consideration of these realities. As stated in my first point, the Hawaii Renewable Portfolio Standard and solar credit are nation-leading policy initiatives that have been highly successful not only in driving Hawaii to a clean energy future, but in impacting our Nation's clean energy policies. The policies in this bill are a step backwards for no good reason. Please pass this bill forward without the cap reductions.

Thank you again for the opportunity to testify and for your time in considering my comments.

Respectfully,

Ted Peck
President, Holu Hou Energy

TESTIMONY OPPOSING HB1174, proposed SD1, Part II.

Senate Committee on Energy, Economic Development, and Tourism
March 22, 2021 at 3:30pm

Aloha Chair Wakai, Vice Chair Misalucha and Members of the Committee:

Tesla is in opposition to Part II of the proposed SD1 to HB1174 which cuts the solar tax credit dollar cap in half for all solar projects starting on January 1st, 2022. We respectfully ask that Part II be removed from the proposed SD1.

We appreciate the difficult decisions you have to make in this budget climate. However, by dramatically reducing the value of the tax credit in a single step, the bill threatens to disrupt an entire industry that employs thousands of people in meaningful work advancing key state policy goals. This could have the unintended effect of exacerbating an already challenging fiscal outlook.

In past years, Tesla has supported a compromise proposal that would gradually step down the tax credit to zero over a 10+ year period. This would give the industry and customers adequate notice and allow all stakeholders to plan for the eventual elimination of the credit in a fair and rational manner. We respectfully ask that you consider this again.

TESLA

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LATE

Email: communications@ulupono.com

SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, & TOURISM
Monday, March 22, 2021 — 3:30 p.m.

Ulupono Initiative offers comments on HB 1174 HD 1 Proposed SD 1, Relating to Taxation.

Dear Chair Wakai and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawaiʻi-focused impact investment firm that strives to improve quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono offers comments on HB 1174 HD 1 Proposed SD 1, which, in Part II of the proposed draft, reduces the cap amounts of the Renewable Energy Technologies Income Tax Credit (RETITC) by half for each eligible renewable energy technology system defined by Section 235-12.5.

Ulupono recognizes that the legislature is facing many difficult decisions this year to balance the budget as a result of the economic crisis created by COVID-19. It is also fair to acknowledge the significant progress that distributed energy resources (DER), specifically rooftop solar, has made in Hawaiʻi since 2014. However, several considerations should be noted prior to considering cutting the RETITC, effective January 1, 2021.

First, Ulupono does not believe it is reasonable to eliminate the RETITC this year. This action may jeopardize bringing additional renewable energy onto the electric system, as many residents have likely already relied upon the RETITC to purchase a renewable energy system or will do so prior to the end of this legislative session. Therefore, if the legislature intends to move forward with SB 1237, Ulupono recommends that it take effect at a future date, no earlier than July 1, 2021.

Second, although Ulupono is supportive of an eventual reduction of the RETITC, the legislature should be cognizant of the economic benefits provided by the clean energy sector and how it can assist in rebuilding our economy. Ulupono believes it may be an oversight to phase out the RETITC at a time when activity generated by the clean energy

ulupono INITIATIVE

sector will likely provide additional tax revenue, jobs, and energy bill savings for Hawaiʻi's residents.

Last, the Public Utilities Commission (PUC) is in the midst of working with interested stakeholders to implement longer-term program options to replace the interim DER programs (Customer Grid Supply Plus, Customer Self Supply, and Smart Export) which have credit rates set to expire in October 2022. However, as residents continue to invest in solar PV systems, there is a risk that the interim program capacity limits may be reached.[1] If so, many interested customers may discontinue their pursuit to install renewable energy generation as the economic incentives via the RETITC or interim program credit rates will no longer apply to their initial investment. Ulupono would be more comfortable with supporting a phase out of the RETITC once new, longer-term DER programs are approved by the PUC.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

[1]*See* Docket 2019-0323 – Instituting a Proceeding to Investigate Distributed Energy Resources Policies, Letter from Hawaiian Electric re Notification regarding Smart Export and Customer Grid Supply Plus Program Capacities at 2, filed January 29, 2021. "With regards to the CGS+ program, the Company is providing notice that Oʻahu has reached the 90% threshold for conditionally approved applications…Hawaiʻi Island is at 61%, Maui County is at 68% of their respective CGS+ program caps. With regard to Smart Export, Hawaiʻi Island is at 63%, Maui County is at 62% and Oʻahu is at 54% of its respective Smart Export cap for conditionally approved applications."

LATE

Testimony to the Committee on Energy, Economic Development & Tourism

Monday, March 22, 2021
3:30 PM
VIA Video Conference
Conference Room 224, Hawaii State Capitol
HB 1174 HD1

Chair Wakai, Vice Chair Misalucha, and members of the committee,

Tritium 3 **supports** HB 1174 HD1 proposed SD1.

Tritium 3 is veteran-owned, small-business involved in the development of renewable energy in Hawaii since 2012. We currently have one operating Community Based Renewable Energy ("CBRE") project and more under development.

CBRE legislation was passed in 2015 as a way to help ratepayers who are economically challenged or who would otherwise not have the resources or rooftop space to benefit from the lower cost of renewable energy. This includes consumers such as renters, seniors, and others living in multi-tenant dwellings.

The development of CBRE has been met with numerous challenges since the passage of this important legislation. It is estimated to take over four years to deliver a project from the time of initial RFP, with less than a handful of successful completions.

Tritium 3 has been diligently working to bring our projects to fruition for over three years now. The proposed decrease in the tax credit caps could negatively affect the ability to obtain financing and therefore put the completion of these projects in jeopardy. The potential to benefit hundreds of ratepayers would be lost.

Unlike residential and commercial rooftop solar which can be developed in months and do not need PUC approval, CBRE project pricing is committed to and filed with the PUC during the tariff process. That tariff application includes the benefit of the RETITC, which is passed on to the consumer in the rate. Once that tariff is committed and approved by the PUC (years before implementation), it cannot be changed. The RETITC cannot be accessed until years after that commitment. If the RETITC rate changes during this time period, those projects will be put at risk. The proposed SD 1 version of this bill mitigates that risk. Additionally, without this provision, the message of high-risk development in Hawaii will reach the investment and CBRE development community. This will put CBRE deployment in jeopardy, potentially squelching a beneficial ratepayer program before it has even taken root in Hawaii.

If the legislature requires this bill to be passed to mitigate the fiscal issues of the state, we respectfully request that the provision included in the proposed SD1 be passed.

Thank you for the opportunity to testify.

Tritium3 Renewable Ventures LLC
125 Merchant Street, Suite 102 | Honolulu, Hawaii 96813 | Phone: (808) 371-5881
www.Tritium3.com

LATE

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
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Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT AND TOURISM

Monday, March 22, 2021
3:30 PM
State Capitol, Conference Room 224
In consideration of
HB 1174 HD1, Proposed SD1
RELATING TO TAXATION.

Chair Wakai, Vice Chair Misalucha, and members of the Committee on Energy, Economic Development and Tourism. The Department of Business, Economic Development and Tourism (DBEDT) offers comments on parts of HB1174, HD1, Proposed SD1 related to the changes to the Motion Picture, Digital Media and Film Production Income Tax Credit, HRS 235-17, including a necessary extension of the current sunset date from January 1, 2025 to January 1, 2033.

The refundable production tax credit program is an important tool which delivers production revenue and jobs supporting the state's economic recovery efforts amidst the pandemic and beyond.

Never has there been such an intense demand for content worldwide. Even more so than in the past, Hawaii is a sought-after location which could be adversely impacted by some of the recommendations contained in the proposed SD1.

Many of these adjustments also impact the state's ability to attract private investment to advance the Legislature's and Administration's intent to build a new multi-stage facility to ensure our aspiring students have jobs and opportunities after graduating from universities media education programs.

DBEDT defers to the Attorney General to address the issue of allowing separate GET rates for the same qualified productions. If film production is defined as "manufacturing" than all qualified productions should be subject to the same general excise tax rate of 0.5% so long as those taxpayers meet the definition of "manufacturing" for the services, they provide the qualified production.

The department will continue to work with the Legislature and industry stakeholders on the proposed amendments to ensure the business certainty for production planning which in turn provides our residents a pipeline of opportunity in this anchor sector of Hawaii's creative economy.

The department defers to the State Energy Office to comment on Part II, related to the renewable energy technology system tax credit.

Thank you for the opportunity to testify.