L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Renewable energy technologies income tax credit

BILL NUMBER: SB 464, HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

BRIEF SUMMARY: Amends HRS section 235-12.5 to reorganize and regroup the renewable energy tax credits. Deletes the term "photovoltaic" and separates the solar energy systems into two types - one that uses the sun to heat water and the other that includes photovoltaic systems.

In the case of solar energy systems, a taxpayer may elect to reduce the eligible credit by 30% and if this reduced tax credit exceeds the amount of income tax, then any excess credit shall be refunded; provided that tax credits properly claimed by a taxpayer with no income tax liability shall be paid to the taxpayer provided such amount is over $1.

For any renewable energy technology system, an individual taxpayer may elect to have any excess of the credit over payments due refunded to the taxpayer, if: (1) all of the taxpayer's income is exempt from taxation under section 235-7(a)(2) or (3); or (2) the taxpayer's adjusted gross income is $20,000 or less (or $40,000 or less if filing a tax return as married filing jointly.)

A taxpayer shall not be allowed to claim a credit under this section for a solar water heater system required by HRS section 196-6.5 that is installed and placed in service on any newly constructed residence authorized by a building permit issued on or after January 1, 2010. This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after July 1, 2009.

EFFECTIVE DATE: January 1, 2090; applicable to tax years beginning after December 31, 2090

STAFF COMMENTS: The proposed measure: (1) makes the solar energy tax credit refundable if the taxpayer reduces the amount of credit they are eligible to claim by 30%; or (2) makes any renewable energy tax credit refundable if the taxpayer only has tax exempt income, or the taxpayer's AGI is under $20,000 ($40,000 for joint returns). While this measure will allow residential taxpayers with no tax liability or those with low incomes to purchase such a system to help offset the up front cost, it underscores the fact that such renewable energy systems are still not affordable to everyone.

It appears that there are some taxpayers for whom there is no state tax liability and, therefore, a nonrefundable tax credit, such as the renewable energy tax credit, provides no incentive. Again, this is one of the inherent flaws of using tax credits to entice certain behaviors. To change the credit now for some people and not for others from a nonrefundable to a refundable credit sets poor tax policy as it lacks consistency.

As an alternative to the income tax credits, consideration should be given to a program of low-interest loans available to all income levels. The combination of a low-interest loan which can be repaid with energy savings would have a much more broad-base application than a credit which amounts to nothing more than a "free monetary handout" or subsidy by state government for those taxpayers who more than likely can afford to make the conversion. Such a pay-as-you go program was initiated by the Public Utilities Commission late last year with 600 available slots over the next three years. All of those slots were filled in a matter of months, demonstrating the need to help low-income homeowners make the shift to solar energy.

A plus in this measure is that it gets rid of the provision that denies the solar credit to a taxpayer who secures a building permit after January 1, 2010. This was an obvious error in Act 204, SLH 2008, as it took away the incentive for existing homeowners to install solar water heating after 2010.

Digested 4/8/09

LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132

Via Capitol Website

April 8, 2009

House Committee on Finance
Hearing Date: Wednesday, April 08 2009, 4:30 p.m. in CR 308

Testimony in Support and Proposed Amendments to SB 464 SD2, HD1 – Relating to Taxation (Renewable Energy Technologies Income Tax Credit)

Honorable Chair Marcus Oshiro, Vice Chair Marilyn Lee and House Committee on Finance Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF and its members support and employ solar energy or comparable renewable energy devices and support the general intent of this bill and its intent to establish energy efficient initiatives. The current HD1 version highlights the importance of renewable energy tax credits, which will allow home developers that have current projects to take advantage of this tax credit during these hard economic times and to install solar devices on new homes at a lower cost. These cost savings would be passed on to new homebuyers and would allow them to take advantage of the use of clean energy solutions with solar water heaters.

SB 464 SD2, HD1. This measure proposes to amend Section 201N-4 of the Hawaii Revised Statutes. SB 464 SD2, HD1 has been amended several times and most recently by the House Committee on Energy and Environmental Protection, which gutted and replaced the SD2 version with the contents of a different bill (SB 1173). The purpose of this bill is to, conform to the Internal Revenue Code by amending the renewable energy technologies income tax credit to encourage use of solar and wind energy systems and permitting a portion of the excess of the credit over payments due to be refunded to the taxpayer in certain circumstances.

LURF's Position. LURF and its members agree that we, as a community, should work to conserve more energy, and we believe that the choice of renewable energy devices should be voluntary and governed by market forces and government incentives, and not by government regulations or mandates. LURF and its members support and employ solar energy or comparable renewable energy devices and we also support the general intent of this bill.

However, we are proposing the following amendments to the bill, instead of striking subsection (g) – please keep subsection (g) with the following amendments:

> (g) For systems installed and placed in service, ~~in 2009, no~~ a residential home developer shall be entitled to claim the credit under subsections (a)(1) ~~(A)~~, (a)(2) ~~(A)~~, and ~~(a)(3)(A)~~ (b)(1), (b)(2) and (b)(3). A residential home developer is defined as a person who holds more than one residential dwelling for sale as inventory.

These **proposed amendments in SB 464 SD2, HD1 would allow residential home developers to claim the renewable energy technology tax credits for the costs of installation of systems they place in service.**

The changes proposed by LURF will allow home developers that have current projects to take advantage of this tax credit during these hard economic times and to install solar devices on new homes at a lower cost. These cost savings would be passed on to new homebuyers and would allow them to take advantage of clean energy solutions with solar water heaters.

We respectfully request that the House Committee on Finance consider our proposed amendments to SB 464 SD2, HD1.

Thank you for the opportunity to provide **testimony in support** of regarding **SB 464 SD2, HD1**.

Testimony before the House Committee on

Finance

S.B. 464 SD2 HD1– Relating to Renewable Energy

Wednesday, April 08, 2009
4:30 pm, Conference Room 308

By Arthur Seki
Director of Technology
Hawaiian Electric Company, Inc.

Chair Oshiro, Vice Chair Lee, and members of the Committee:

My name is Arthur Seki. I am the Director of Technology for Hawaiian Electric Company. I am testifying on behalf of Hawaiian Electric Company (HECO) and its subsidiary utilities, Maui Electric Company (MECO) and Hawaii Electric Light Company (HELCO). We support the intent of S.B. 464 SD2 HD 1 which amends the renewable energy tax credit. The proposed changes in this bill will make it more attractive for more entities to take advantage of this benefit thus creating more jobs and helping stimulate the sluggish economy.

Thank you for the opportunity to testify.

Room # 308 April 8, 2009

House Committee on Energy & Environment Protection

SB464 SD2 HD1 RELATING TO TAXATION

Chair Oshiro, Vice-Chair Lee and Committee Members:

Introduction: My name is Riley Saito Senior Manager, Hawaii Projects for the SunPower Systems Corporation. Thank you in advance for accepting **strong support of SB464**

SunPower Systems Corporation ("SunPower") has been a member of the Hawaii Energy Policy Forum since it convened in 2003 and a member of the Energy Generation working group for the HCEI. SunPower is in the business of designing, manufacturing, and delivering the highest efficiency solar electric technology worldwide.

The current tax credit policy is financially restrictive to the point that the photovoltaic industry in the Hawaii has virtually come to a stand still in attracting out of state investors to participate in Hawaii PV projects. This has resulted in out of state financed contracts that could not be executed due to absence of a Hawaii financial partner capable of partnering into a project finance agreement. The DOTA alone accounts for 12+ MW which could have been installed, saving the State of Hawaii tens of millions of dollars over the life of the project. The projects would have reduced the importation of 600,000 barrels of oil and related export of dollars to foreign entities. It has also resulted in major players in the PV industry to shutdown it's operations in Hawaii, waiting for something to change. This includes out of state investors willing and able to finance PV installation in Hawaii providing over 75% of the funding need.

Hawaii's immediate economic stimulus desires requires a REFUNDABLE option that has been reduces the current tax credit by 30% in order to remain revenue neutral according to DOTAX testimony in previous version on this language.

Our Presidential and Congressional leadership recognize that in the current business environment TAX CREDITS do not work. Thus on the Federal level the 30% tax credit is now a 30% grant, making it refundable.

We need to set the state up to receive out of state funding sources that will provide an economic stimulus and paid to partner at a 24.5% level.

Mahalo for the opportunity to submit testimony.

1414 Harbour Way South
Richmond, CA 94804 USA

SUNPOWER
www.sunpowercorp.com

P: 1.510.540.0550
F: 1.510.540.0552

Hawaii Solar Energy Association
Serving Hawaii Since 1977

April 8, 2009	**House Committee on Finance SB464 SD2 HD1**	**Mark Duda President**

SB464 SD2 HD1: Testimony in Strong Support

Dear Chair Oshiro, Vice Chair Lee and Members of the Committee:

Summary

- Making the Renewable Energy Technologies Income Tax Credit (RETITC) refundable at a reduced rate will create thousands of jobs in Hawaii during this recession. (The solar industry in Hawaii already accounts for 2,000 jobs.)

- Under SB464 proposed changes, the State of Hawaii would not disburse a single penny of refundable credit until 6-12 months after: (1) the project is completed; (2) the entire project has been paid for; (3) the system is fully operational and producing renewable energy; (4) the system is interconnected to the utility grid; (5) federal 30% grant has been paid. The stimulus benefits of the policy change and much of the induced tax revenues would occur prior to outflow.

- The fiscal impact of instituting refundability is positive – every dollar out will return $1.48.

- Obama Administration has (1) set direction for stimulus activity as renewable energy, and (2) made unlimited funds for solar available to just a handful of states that have viable solar markets (California, New Jersey, Massachusetts, Oregon, Connecticut) – this 'national' policy is designed for Hawaii but we need refundability to take advantage.

- SB464 SD2 HD1 has broad support, including from the IBEW, environmental groups, HECO companies, renewable energy finance community, property developers, the local and national solar industry groups (HSEA & Solar Alliance) and many other institutions in the business and homeowning communities.

- Research conducted in Hawaii shows that solar is the form of renewable energy that Hawaii residents prefer over all others by a wide margin.

P.O. Box 37070 Honolulu, Hawaii 96837
SOLAR HOTLINE (808)521-9085

Detailed Discussion

By making the Renewable Energy Technologies Income Tax Credit (RETITC) refundable at a reduced level, SB464 will enable the solar industry in Hawaii to expand its role as an engine of economic stimulus and job creation in the current recessionary environment. Last year, the solar industry grew 500% - albeit from a very low base – and has much more room to grow. At present, solar is responsible for about 2,000 jobs in Hawaii but the market is artificially capped by inconsistencies in the tax code that make it virtually impossible for most would-be investors to use the credit. Without access to the RETITC, solar projects in Hawaii are not financially viable.

Investors seeking to use the RETITC face a number of challenges that limit their ability to deploy solar on the roofs or grounds of non-profit entities, county/state/federal facilities, and tenanted commercial buildings. These same challenges also severely restrict the ability of Hawaii's local banks to finance solar projects. And, they make it extremely difficult to form financing entities that could make solar photovoltaics available to middle- and lower-middle income homeowners. SB464 would eliminate these problems by reducing the value of the credit from 35% to 24.5% for investors that would take the credit as refundable rather than non-refundable.

In recognition of the fact that tax credits are of limited impact in a recessionary environment when corporate profits are down and unemployment is up, the federal government has recently converted its solar tax credit to a grant. This grant delivers federal monies to the project developer within 60 days of a project's completion. This change not only has stimulating economic effects because of the improved timing of the payout but also by expanding the eligible investor base. In the current economic environment, many investors are anxious to invest in solar projects because they have very low risk profiles. The power user is already paying for energy – consuming solar energy would simply replace a grid power bill with a lower solar power bill with a modest, known rate of annual increase that is totally unrelated to the cost of oil.

One of the primary beneficiaries of these changes would be the State of Hawaii itself. SB464 SB2 HD1 would in fact be a form of 'long term cost cutting' because renewable energy finance companies would immediately move in to propose power purchase agreements offering immediate and long term savings to the State with no capital investment required. (The DOTA's 13 MW solar project collapsed last year due only to the inability to access the RETITC.)

As the Committee is no doubt aware, the State of Hawaii state spent $165 million on power last year - up $60 million since 2005 despite a modest reduction in energy use over that period. Within two years, deploying solar systems at state facilities could save $25-40 million annually at today's power rates. The most immediate opportunities for cost savings come through the State's two largest power consuming departments – the UH system and the Department of Education. This savings will continue for at least 20 years and, as noted above, will be achievable without any capital investment from the state.

Finally, please note that the RETITC is the right kind of tax incentive for a recessionary environment when state resources are low, the demands on these resources to pay social services are high, and there are limited opportunities for substantial multipliers from stimulus activities. This is the case because the probably that economic stimulus and job creation will ensure from PV projects is 100%. As noted above, no state money is allowed to flow out until a project is completed. From the State's perspective, this means that expanding access to the RETITC is not a tax credit designed to achieve a laudable social goal with no economic return, nor is it a gamble on future success of an industry with an unknown probability of success. Rather it is an investment with an extremely low risk profile and return that is known in advance.

Thank you for the opportunity to testify on this bill.

Mark Duda

President, Hawaii Solar Energy Association

About Hawaii Solar Energy Association
Hawaii Solar Energy Association (HSEA) is comprised of installers, distributors, manufacturers and financers of solar energy systems, both hot water and PV, most of which are Hawaii based, owned and operated. Our primary goals are: (1) to further solar energy and related arts, sciences and technologies with concern for the ecologic, social and economic fabric of the area; (2) to encourage the widespread utilization of solar equipment as a means of lowering the cost of energy to the American public, to help stabilize our economy, to develop independence from fossil fuel and thereby reduce carbon emissions that contribute to climate change; (3) to establish, foster and advance the usefulness of the members, and their various products and services related to the economic applications of the conversion of solar energy for various useful purposes; and (4) to cooperate in, and contribute toward, the enhancement of widespread understanding of the various applications of solar energy conversion in order to increase their usefulness to society.

Hawaii's Solar Industry Can Create Jobs, Stimulate the Economy, and Yield Immediate Progress on Clean Energy

Hawai'i Solar
Energy Association

Mark Duda
President

Contact:
mark@sunetric.com
808.735.1467

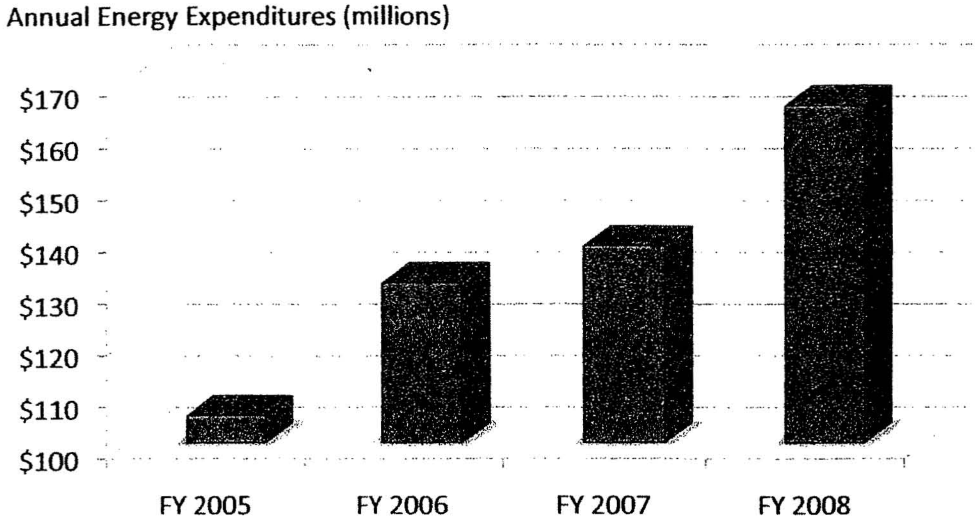
Updated: April 6, 2009

What the Solar Industry Can Deliver for Hawaii

1. 10,000 sustained jobs
2. $500 million dollars in <u>annual</u> direct expenditures, $1.5 billion in total economic activity
3. Reduce State of Hawaii electricity expenditures $25-$40 million annually immediately, and by much more in the future
4. Generate <u>positive</u> fiscal cash flow
5. Access to generous federal stimulus money & private capital
6. Keep more money churning in Hawaii's economy than any fossil fuel or renewable energy alternative
7. Channel investment capital directly to Hawaii business
8. Deliver cost savings directly to Hawaii homeowners
9. Provide immediate and sustained reduction in oil dependence
10. Increase in energy security

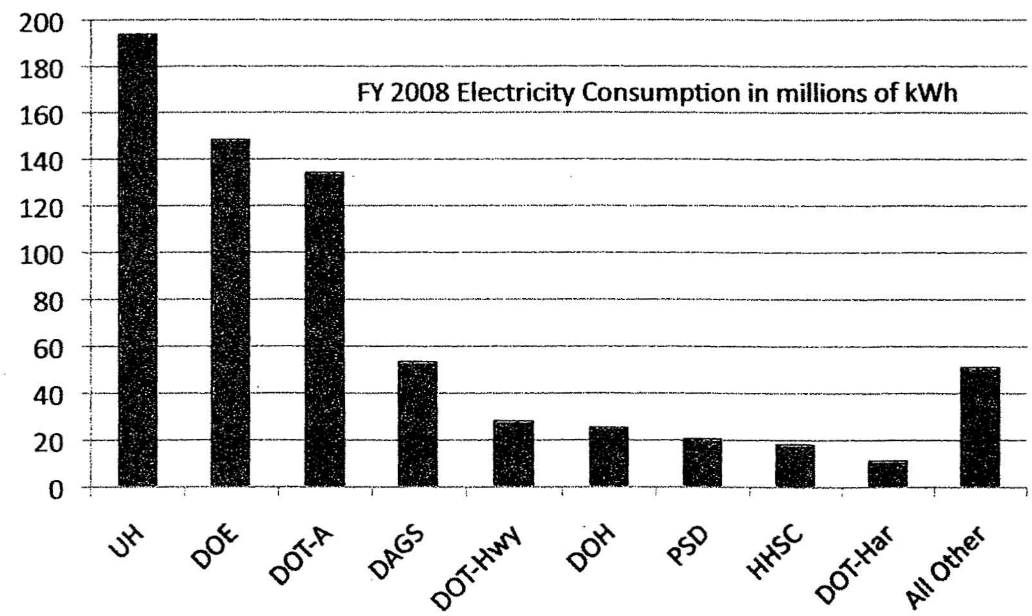
State Energy Expenditures

Increased $60 million (57%) since 2005



Source: State of Hawaii Energy Resources Coordinator's Annual Report, page 5. http://hawaii.gov/dbedt/info/energy/publications/erc08.pdf

Opportunities for Cost Savings by Department



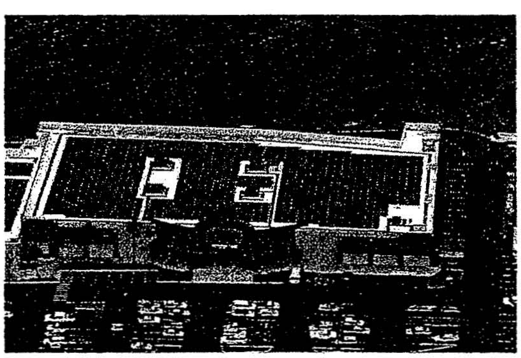
Source: Report to Hawaii State Legislature. *Lead by Example State of Hawaii Agencies' Energy Initiatives FY 2007-2008.* DBEDT. Jan. 2009.

Why Solar = Stimulus in Hawai'i

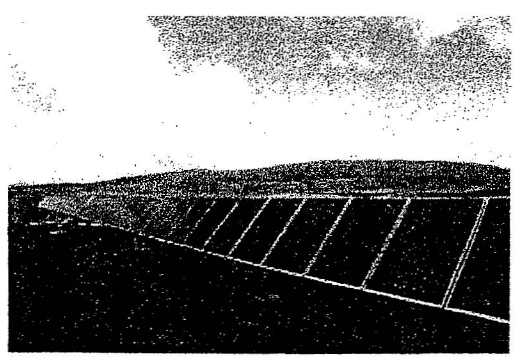
- Solar is a proven industry that is already responsible for 2,000 jobs in Hawai'i and could provide many more
- Solar is "shovel ready" – funded projects begin stimulating the economy immediately, money is spent in months not years or decades
- $1 of Hawai'i RETITC directly leverages $4 of private capital/ federal money
- All spending occurs and project complete before any State of Hawaii monies can be claimed

➔➔ Fixing the solar tax credit (RETITC) will unlock substantial economic benefits and reduce vulnerability to external factors

Built in 2008: Hawai'i's Largest Roof- and Ground-Mounted PV Systems

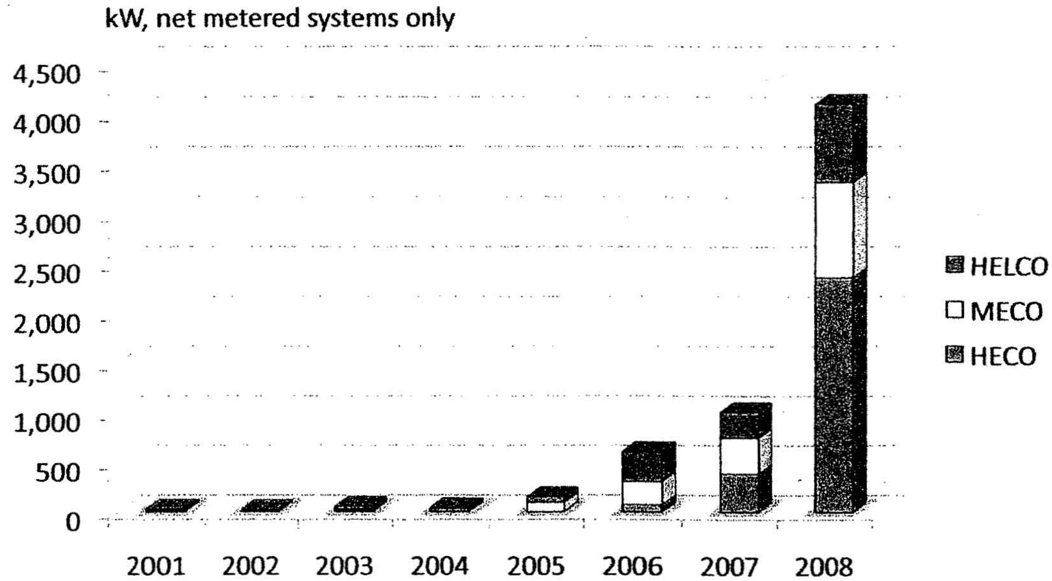


Kona Commons, Hawai'i Island
803 kW
Sunetric



La Ola, Lanai
1.5 MW
SunPower Systems

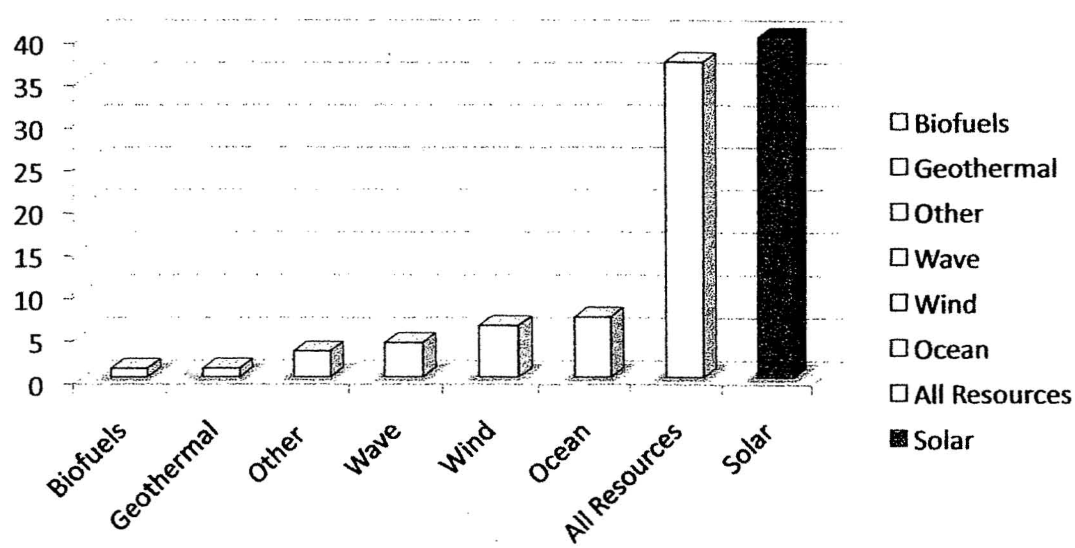
Solar PV is Growing Exponentially



Source: HECO Companies.

Hawai'i Residents Prefer Solar

Which Source of Clean Energy Is Best for Hawai'i?



Source: Blue Planet Foundation Survey of Hawai'i residents, N=403, Nov-Dec 2008.

Federal Approach to Renewable Energy Emphasizes Immediate Stimulus

Pre-stimulus solar investment tax credit (ITC) covers 30% of installed project cost (2009 – 2016)

To address weak demand for all tax credits in a recession the credit was converted to a grant for 2009-2010 → reduces cash cost of projects in near real time

Result 1: Stimulus effect is more immediate because money flows out when project completes, not at tax filing

Result 2: Stimulus effect is larger – investor base is broader because investors don't need to have current year tax bill

Result 3: Broadening investor base makes government and non-profit projects viable

Result 4: Broadening investor base makes financing available for lower-income households

Hawai'i's Energy Problems Are Enormous and Unresolved

- Hawaii Clean Energy Initiative drove as much activity as possible through regulatory channel

  ➔➔ Process avoided legislative input on once-in-a-generation initiative

- Clean Energy Initiative focused on centralized instead of distributed generation

  ➔➔ Solution harms businesses and homeowners, and ignores solar which will make largest contribution to Hawai'i's renewable portfolio in next 3-5 years

- Renewable energy industry and utility/consumer advocate are far apart on issues in feed-in tariff docket

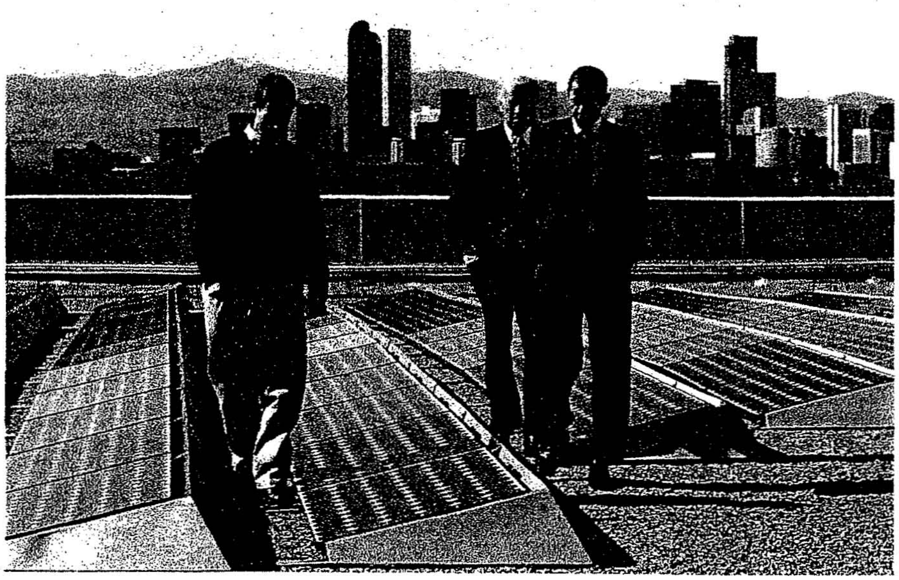
  ➔➔ RETITC fix needed to avoid stalling progress on renewable energy in Hawai'i

➔➔ Opportunity to seize leadership on energy via practical policies that deliver certain, immediate, and sustained results

Summary

- Inability to utilize RETITC limits the solar's its ability to stimulate economic activity
- Solar is the only renewable energy technology where all project spending is immediate → federal stimulus money + induced private investment can be fully spent and yield positive spillovers today
- If properly implemented at a reduced rate, RETITC would create thousands of jobs
- Under conservative assumptions fiscal effect of RETITC fix is positive
- Solar industry can create/preserve jobs and help fill a budget hole in the current recessionary environment

Thank You for Considering This Issue



LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

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HOUSE COMMITTEE ON FINANCE
TESTIMONY REGARDING SB 464 SD 2 HD1
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: APRIL 8, 2009
TIME: 4:30PM
ROOM: 308

Among other things, this measure amends the renewable energy technologies income tax credit to reorganize and clarify categories of qualifying systems, allows any taxpayer to elect refundable treatment at a reduced rate for solar energy systems, allows a low-income taxpayer to elect refundable treatment for any system, and clarifies that any portion of a system required to be installed pursuant to the solar water heater mandate is ineligible for the credit.

The Department of Taxation **supports** this measure.

SUPPORT FOR ALTERNATIVE ENERGY—The Department strongly supports the encouragement and implementation of alternative energy systems in Hawaii in order to lessen the State's dependence on alternative energy. As fossil fuel and petroleum prices become more volatile, Hawaii's ability to generate its own energy will make the State more secure and less reliant on others.

EFFECTIVE DATE – The Department requests that the effective date for this measure be **on or after July 1, 2009**. The effective date for this particular measure does not need to be tied to any particular tax year.

REVENUE LOSS—If the effective date is amended to be current, the estimated cost of this proposal will be about $0.2 million annually.

LAND USE RESEARCH
FOUNDATION OF HAWAII
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Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132

Via Capitol Website

April 8, 2009

House Committee on Finance
Hearing Date: Wednesday, April 08 2009, 4:30 p.m. in CR 308

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These **proposed amendments in SB 464 SD2, HD1 would allow residential home developers to claim the renewable energy technology tax credits for the costs of installation of systems they place in service.**

The changes proposed by LURF will allow home developers that have current projects to take advantage of this tax credit during these hard economic times and to install solar devices on new homes at a lower cost. These cost savings would be passed on to new homebuyers and would allow them to take advantage of clean energy solutions with solar water heaters.

We respectfully request that the House Committee on Finance consider our proposed amendments to SB 464 SD2, HD1.

Thank you for the opportunity to provide **testimony in support** of regarding **SB 464 SD2, HD1**.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

April 8, 2009

Honorable Marcus Oshiro, Chair
Committee on Finance
State Capitol, Room 308
Honolulu, HI 96813

RE: SB464, SD2, HD1 "Renewable Energy Tax Credit"

Dear Chair Oshiro and Members of the Committee on Finance:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii supports SB464, SD2, HD1 "Renewable Energy Tax Credit" with a proposed amendment offered by the Land Use Research Foundation of Hawaii:

> (g) For systems installed and placed in service, ~~in 2009, no~~ a residential home developer shall be entitled to claim the credit under subsections (a)(1) ~~(A)~~, (a)(2) ~~(A)~~, and ~~(a)(3)(A)~~ (b)(1), (b)(2) and (b)(3). A residential home developer is defined as a person who holds more than one residential dwelling for sale as inventory.

BIA-Hawaii supports the goal of reducing our reliance on fossil fuels for our energy needs. This bill, if amended, will clarify that a residential home developer may claim the tax credit for installing renewable energy technology in residences.

Thank you for the opportunity to share our views with you.

Karen L. Nakamura

Chief Executive Officer
BIA-Hawaii