HB 2867 HD1

EDT

HAWAII
COUNCIL OF
MAYORS

Testimony of

Hawaii Council of Mayors
Bernard Carvalho, Jr., Mayor of Kauai County
Mufi Hannemann, Mayor of the City and County of Honolulu
William P. Kenoi, Mayor of Hawaii County
Charmaine Tavares, Mayor of Maui County

Before a Hearing of the
Senate Committee on Economic Development and Technology

March 12, 2010

House Bill 2867, HD 1, Relating to Taxation

The Hawaii Council of Mayors (HCOM) supports the Legislature's efforts to review and consider all avenues for revenue stabilization and enhancement, including HB 2867, HD 1.

Like the State, the four counties are suffering the consequences of a stalled economy. The lowered tourism numbers, along with the collapse of the financial and housing markets not only have resulted in higher unemployment, but have affected real property sales and values, the underpinning for our county revenue stream. The resultant budget shortfalls have been excruciatingly painful to deal with. We all have applied widespread restrictions on spending, eliminated funding for positions, and executed specific programmatic cuts. We have reviewed our fees and fares structure, along with real property tax rates. And, we will be proposing furloughs for employees next fiscal year.

Mayor Billy Kenoi
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Mayor Mufi Hannemann
City and County of Honolulu
530 South King Street
Honolulu, Hawaii 96813

Mayor Bernard Carvalho, Jr.
County of Kauai
4444 Rice Street, Suite 235
Lihue, Hawaii 96766

Mayor Charmaine Tavares
County of Maui
200 South High Street, 9th Floor
Wailuku, Hawaii 96793

We empathize with the State's financial plight and fully comprehend the magnitude of the State's financial challenges. As we counties have done, we recognize the Legislature's need to consider everything on the table in balancing the budget. And, we would hope the State Administration can appreciate why it is important for the Legislature not to summarily dismiss all options.

Given these considerations, HCOM believes it important for the Legislature to continue to review and consider all legislative options to stabilize and enhance revenues and balance the State budget, including HB 2867, HD1.

Mahalo.

Aloha,

Bernard P. Carvalho, Jr.
Mayor of Kauai

Mufi Hannemann
Mayor of Honolulu

William P. Kenoi
Mayor of Hawaii

Charmaine Tavares
Mayor of Maui

DENNIS "FRESH" ONISHI
Council Member
District 4

PHONE: (808) 961-8396
FAX: (808) 961-8912
EMAIL: *donishi@co.hawaii.hi.us*

HAWAI'I COUNTY COUNCIL

Mailing Address: 25 Aupuni Street, Hilo, Hawai'i 96720

March 10, 2010

TESTIMONY OF DENNIS "FRESH" ONISHI
HAWAI'I COUNTY COUNCIL MEMBER
ON
HB. NO. 2867, HD1, RELATING TO TAXATION
HB. NO. 2962, HD1, RELATING TO TAXATION
HB. NO. 2984, HD2, RELATING TO TAX CREDITS

Senate Committee on Economic Development and Technology
March 12, 2010 1:30 p.m.
Conference Room 016

Dear Chair Fukunaga, Vice-Chair Baker and Members of the Senate Committee on Economic Development and Technology:

Thank you for the opportunity to provide testimony on the above Bills.

HB No. 2867, HD1 imposes a temporary tax ceiling for certain tax credits, and reduces certain allowable tax credits for taxable years beginning on or after January 1, 2010 and ending before January 1, 2012.

HB No. 2962, HD1, temporarily disallows tax liabilities from being reduced by credits under the Technology Infrastructure Renovation Tax Credit and High Technology Business investment Tax Credit, beginning on July 1,

HB No. 2984, HD2 extends the tax credit for research activities for one year and repeals remaining tax credit provisions of Act 221, Session Laws of Hawai'i 2001, effective July 1, 2020.

The State as well as the Counties face a severe budget crisis. Hard decisions must be made and measures taken to alleviate this. We have all cut spending, eliminated positions and cut programs. Fees, fares and real property tax rates are being reviewed, and employees will be furloughed. HD No. 2867, HD1 and HB No. 2962, HD1 are temporary measures, and the state needs revenue to support operations.

Consequently, I believe it is important the Legislature be given the opportunity to consider all options, including the aforementioned Bills.

Once again, thank you for the opportunity to submit testimony on this matter.

J YOSHIMOTO
Chair & Presiding Officer
Council District 3

Phone: (808) 961-8272
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Email: jyoshimoto@co.hawaii.hi.us

HAWAI'I COUNTY COUNCIL

County of Hawai'i
Hawai'i County Building
25 Aupuni Street, Suite 1402
Hilo, Hawai'i 96720

March 11, 2010

The Honorable Carol Fukunaga, Chair and Members
Senate Committee on Economic Development and Technology
Twenty-Fifth Legislature
State Capitol
Honolulu, Hawaii 96813

RE: HB 2867, HD1 Relating to Taxation

RE: HB 2962, HD1 Relating to Taxation

RE: HB 2877, HD1 Relating to Taxation

Dear Chairs Fukunaga and Baker and Committee Members:

Thank you for the opportunity to testify in support of the Legislature's efforts to review and consider all avenues for revenue stabilization and enhancement, including: HB 2867, HD1; HB 2962, HD1; and HB 2877, HD1. I am testifying in my capacity as an individual Hawai'i County Council Member; the current County Council, as a body, has not taken any position on this matter.

Like the State, our County is suffering the consequences of a stalled economy. The lowered tourism numbers, along with the collapse of the financial and housing markets not only have resulted in higher unemployment, but have affected real property sales and values, the underpinning for our county revenue stream. The resultant budget shortfalls have been excruciatingly painful to deal with. We have applied widespread restrictions on spending, eliminated funding for positions, and executed specific programmatic cuts. We have reviewed our fees and fares structure and are raising our real property tax rates. In addition, we will be furloughing our employees.

I empathize with the State's financial plight and fully comprehend the magnitude of the State's financial challenges. As I have done, I recognize the Legislature's need to consider everything on the table in balancing the budget. I would hope the State Administration can appreciate why it is important for the Legislature not to summarily dismiss all options.

J YOSHIMOTO
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Council District 3

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HAWAI'I COUNTY COUNCIL

County of Hawai'i
Hawai'i County Building
25 Aupuni Street, Suite 1402
Hilo, Hawai'i 96720

Given these considerations, I believe it is important for the Legislature to continue to review and consider all legislative options to stabilize and enhance revenues and balance the State budget, including: HB 2867, HD1; HB 2962, HD1; and HB 2877, HD1.

Sincerely,

J Yoshimoto, Council Chair
Hawai'i County Council
JY/so

To:	**Senator Fukunaga, Chair** **Senate Committee on Economic Development and Technology**
From:	**Sopogy, Inc.**
Date:	**Friday, March 12, 2010, 1:30 PM** **State Capitol, Conference Room 016**
Subject:	**Opposition of HB 2867 HD 1 – Relating to Taxation**

To Chair Fukunaga, Vice Chair Baker, and Members of the Senate EDT Committee:

Sopogy is a solar power technology company based in Hawaii specializing in the research and development of various MicroCSP™ solar technologies that bring the economics of large solar energy systems to the commercial, industrial, and utility sectors.

As an active member of the Hawaii's renewable energy community, Sopogy strongly **OPPPOSES** HB 2867, H.D. 1, as written, because it will be detrimental to the State of Hawaii's commitment to the Hawaii Clean Energy Initiative (HCEI) and developing renewable energy industry.

HB 2867, H.D. 1, proposed to limit all "business credits," defined as tax credits allowable under HRS chapter 235, 239, 241 and 431, to 80 percent of a taxpayer's tax liability for tax years between January 1, 2010 and January 1, 2012, and further prohibits carryovers of any business credit generated between January 2010 and December 2011 and delays the ability to claim carryovers of business credits generated prior to January 1, 2010 to January 1, 2010.

Hawaii's Renewable Energy Investment Tax Credit, set forth in HRS Section 235-12.5 ("HI REITC"), provides for a 20% credit (subject to total credit caps) for wind energy systems and 35% credit (subject to total credit caps) for solar energy systems. The introduction of these credits and subsequent refundability of the solar energy system credit resulted in a number of renewable energy installations and increased level of renewable energy interest and business in the State of Hawaii. The HI REITC also stimulates Hawaii's economy by creating thousands of new jobs in the renewable energy sector and encouraging individuals and organizations to invest in achieving Hawaii's Clean Energy Initiative.

If passed, as written, HB 2867 will discourage individuals and organizations from investing and/or continuing to invest in Hawaii renewable energy projects and will likely result in the termination of a number of projects currently in development.

P: (808) 233-4747 F: (808) 356-0565 | 2660 Waiwai Loop Honolulu HI 96819 | www.sopogy.com

First, unpredictable changes to Hawaii's primary renewable incentive will certainly decrease parties' confidence in our State's commitment to renewable energy and the HCEI, and will cause them to attribute greater risk, specifically legislative risk, to investments in Hawaii (thus causing investors to demand greater returns on projects or to withdraw from Hawaii altogether). Since many other states offer renewable energy incentives that are equal to or more generous than the HI REITC. Hawaii must remain steadfast in its commitment to the HCEI and reliable in its incentives. In fact, Sopogy has already experienced these concerns with a number of investors, making it much more difficult to attract investment and business partners to the State.

Second, due to the cost of renewable energy technology and other market expenses (such as the high cost of land and labor in Hawaii) current levels of returns on renewable energy installations are modest, at best. In many cases, local developers are barely able to make projects "pencil out," and do so in reliance on the current HI REITC. The HI REITC serves to bridge some of the economic cost of project expense and development thereby improving the economics of renewable energy technologies and accelerating market adoption. Given the long development cycles for many renewable energy projects (in the order of years), a sudden curbing of the HI REITC benefit could be fatal to projects that are well into the development process and have used the current HI REITC to develop financial models to attract potential investors. The effect of HB 2867 could serve to invalidate these models, ultimately causing developers to lose their project financing.

In conclusion, if HB 2867, H.D.1, if adopted, construction and operations jobs in Hawaii's clean energy sector will be lost and progress towards Hawaii's goal of 70% renewable energy by 2030 per the HCEI will be slowed severely.

As such, Sopogy strongly opposes HB 2867 and respectively requests that your committee either not pass HB 2867, or amend the bill to add Section 235-12.5 "Relating to renewable energy technologies; income tax credit" to the list of tax credits excepted from the bill's limitations. It is important to note that unlike many other tax credits, the current HI REITC contains its own tax credit caps, and is thus already subject to its own budgetary controls.

Thank you for this opportunity to testify.

Jon Ishikawa
Hawaii Project Development Manager
(808) 457-5345 or jishikawa@sopogy.com

Pamela Ann Joe
VP Public Policy and General Counsel
(808) 237-2424 or pjoe@sopogy.com

CENTRAL PACIFIC BANK

P.O. Box 3590
Honolulu, HI 96811-3590
Telephone (808) 544-0500

March, 10, 2010

The Honorable Carol Fukunaga
Chair – Committee on Economic Development and Technology
State Capital, Room 216

Re: In Opposition to HB 2867, HD 1 Relating to Taxation

Dear Chair Fukunaga and Committee members:

I am Roy Amemiya, Director of Governmental Relations at Central Pacific Bank, testifying in opposition to HB 2867. We are Hawaii's 4th largest financial institution with a 55 year history of serving the community. ***The impact of this bill would have a much greater negative impact for our bank than our major competitors.***

While CPB realizes the budgetary challenges facing the State of Hawaii and that the intent of the bill is to reduce the impact of tax credits, we believe that it will result in the unintended consequence of being punitive to businesses that are unprofitable at this time. There are two major reasons for this.

Credit Carryover Disallowance. The first has to do with Section 1c which disallows credit carryover in subsequent taxable years. Our bank will earn sizable QHTB credits both this year and next for investments made in the past. But unlike profitable businesses, we will not be able to utilize these credits because we will not have any taxable liability during this period. However, when our fortunes improve in future years, the disallowance of credit carryover means that the tax benefit we relied on when making the initial investment would be completely lost if the proposed legislation is passed. Therefore we object to the disallowance of credit carryovers.

Capital Goods Refundable Credit. Similar to the QHTB credits, our bank would not be able to claim the credit because we will not of tax liability as an offset. But the difference with this specific tax is that it is designed as a return of taxes already paid. This is because the purchaser of the capital goods, which can be computers, furniture and so on, is paying the State the general excise tax at the time of purchase. The capital goods credit is in essence a refunding of what has already been paid. This is different than many of the other tax credits.

The capital goods excise tax refunding serves as an incentive for owner to reinvest proceeds into their businesses. By returning 4% of the 4.5% GET that has been paid, more capital goods can be purchased thereby stimulating our economy.

We are opposed to this portion of the bill because businesses like ours that have experienced losses would be unable to claim the refunding. However, profitable businesses that have tax liabilities would be able to claim the credit. In short, the capital goods tax refund will not be available to the businesses that need it the most.

Banks are constantly investing in furniture, fixtures and equipment and this bill will be an additional cost to overcome. To compound our situation, banks like CPB that offer equipment leasing services will be impacted even more. In a lease transaction, the bank is the owner of the equipment being leased back to the customer, therefore we are paying the GET for equipment being used by our customer. The impact of this bill is therefore even greater for our bank than most businesses.

Accordingly, we ask that HB 2867 be amended to take into account the situation of businesses that are unprofitable at this time in the two areas cited above. Thank you for the opportunity to testify.

Sincerely,

Roy K. Amemiya, Jr.
Senior Vice President

Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn Baker, Vice Chair

Subject: House Bill No. 2867 H.D. 1
Hearing: March 12, 2010, 1:30 p.m.

My name is Wendell Lee, and I am a certified public accountant and Tax Partner in Charge with Accuity LLP, a Hawaii tax and accounting firm. We OPPOSE this measure for the reasons that I outline below.

Credit Limitations are Overly Expansive: The scope of this bill is shocking. In its current form, this bill proposes to, in one fell swoop, limit the ability to utilize a wide array of tax credits and/or credit carryovers that serve a multitude of purposes. The credits proposed to be limited by this bill include:

- HRS § 235-12.5 Renewable energy technologies; income tax credit;
- HRS § 235-55.91 Credit for employment of vocational rehabilitation referrals;
- HRS § 235-110.2 Credit for school repair and maintenance;
- HRS § 235-110.51 Technology infrastructure renovation tax credit;
- HRS § 235-110.7 Capital goods excise tax credit;
- HRS § 235-110.9 High technology business investment tax credit;

- HRS § 235-110.93 Important agricultural land qualified agricultural cost tax credit;
- HRS § 241-4.5 Capital goods excise tax credit;
- HRS § 241-4.6 Renewable energy technologies; income tax credit;
- HRS § 241-4.8 High technology business investment tax credit;
- HRS § 431:4A-101 Credit allowed a domestic ceding insurer;
- HRS § 431:7-206 Domestic company credit for retaliatory taxes paid other states;
- HRS § 431:7-207 Tax credit to facilitate regulatory oversight;
- HRS § 431:7-209 High technology business investment tax credit.

Social and Economic Implications: While the State of Hawaii undoubtedly currently finds itself in a difficult budgetary situation, we must not lose sight of the underlying policy reasons for which the potentially affected credits were originally enacted.

- Stimulation and Diversification of the Local Economy: Credits such as: (1) the technology infrastructure renovation credit (HRS § 235-110.51), (2) the capital goods excise tax credit (HRS §§ 235-110.7 and 241-4.5); the high technology business investment tax credit (HRS §§ 235-110.9, 241-4.8 and 431:7-209), (3) the credit allowed a domestic ceding insurer (HRS § 431:4A-101), and (4) domestic company credit for retaliatory taxes paid other states were enacted to spur economic growth and diversification by creating an environment attractive to businesses. In particular, these incentives were created specifically to attract high technology startup companies and certain insurance businesses in order to diversify our local economy away from tourism. Numerous taxpayers have relocated to or started their business operations in Hawaii in reliance on such incentives. Taking away these incentives in the current economic climate would undoubtedly cause many businesses to consider moving their operations to less expensive states with more favorable tax laws such as Nevada or Utah. In addition, the proposed measure will cause businesses that choose to remain in

Hawaii to incur higher costs that will undoubtedly be passed on to Hawaii residents, and will limit the businesses' ability to expand and create more job opportunities.

- Improving Hawaii Schools: With a public school system that routinely ranks near the bottom of the national rankings, it does not make sense to limit the credit for school repair and maintenance (HRS § 235-110.2). Clearly limitation of this credit has much broader implications as it affects the children of Hawaii who will be the next generation of leaders for our State.

- Green Initiatives: Hawaii, being a lush tropical paradise has an inherent interest in cultivating green initiatives. Limitation of the renewable energy technologies credit (HRS § 235-12.5) would signal the State's apathy toward climate change and the associated green initiatives. In addition, local companies that manufacture and install the solar energy and wind-power energy systems would also be negatively impacted.

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

Hawaii Farm Bureau
FEDERATION
2343 Rose Street, Honolulu, HI 96819
Phone: (808) 848-2074; Neighbor Islands: 1-800-482-1272
Fax: (808) 848-1921; e-mail: info@hfbf.org

TESTIMONY

RE: HB2867 HD1 RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of our member farm and ranch families and organizations **requests that HRS 235-110.93, provisions of the IAL tax credits be added to the exempted list** of credits in HB2867HD1.

HFBF worked for nearly 30 years to finally begin the implementation of Hawaii's Constitutional Mandate regarding Important Agricultural Lands. It was a historical action by the legislature, recognizing that agriculture is a viability issue not just a land use issue. The measure emphasized that support mechanisms to ensure viable farms and ranches was what is needed ....and thereby Hawaii will have Important Agricultural Lands. These lands would be productive, not just sitting, waiting for a farmer or rancher ..but adding to Hawaii's ability to provide for itself.

These tax credits are a cornerstone to this measure. HFBF is aggressively working with landowners to designate their lands as IAL. This voluntary designation will mean there are no "takings" issues or other private property rights disputes.

While many of the IAL designations are expected to be from large landowners, we also **expect some of our smaller farmers to designate their lands.** The 80% limit may be a disincentive to these landowners. The impact period falls within the voluntary designation time period. We are rushing to have landowners voluntarily designate their lands before the deadline.

Agriculture has stepped forward volunteering fees and other mechanisms to address budgetary shortfalls. The majority of these self imposed fees will not be felt by the average person in Hawaii ...they will only affect the bottom line of our regulated farmers and ranchers. **We cannot continue to give to the effort and measures taking away opportunities leaving the industry at a double loss.**

We respectfully request to add HRS 235-110.93 to from the list of tax credits to be exempted from the 80% limit. If there are any questions, please contact Luella Costales at 848-2074. Thank you.

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 10, 2010 6:46 PM
To: EDTTestimony
Cc: alan.hayashi@baesystems.com
Subject: Testimony for HB2867 on 3/12/2010 1:30:00 PM

Testimony for EDT 3/12/2010 1:30:00 PM HB2867

Conference room: 016
Testifier position: support
Testifier will be present: Yes
Submitted by: Alan S. Hayashi
Organization: Individual
Address: 207-4 Kawaihae Street Honolulu, Hawaii 96825
Phone: 808-255-6699
E-mail: alan.hayashi@baesystems.com
Submitted on: 3/10/2010

Comments:
I mistakenly submitted prior testimony in opposition to this HB2867 HD1 bill. I am desirous of correcting my position on this measure by recinding my opposition and submitting my SUPPORT. I would appreciate your deleting my mistaken opposition.

The Chamber of Commerce of Hawaii
The Voice of Business in Hawaii

Testimony to the Senate Committee on Economic Development and Technology
Friday, March 12, 2010
1:30 p.m.
Conference Room 016

SUBJECT: HOUSE BILL 2867 HD1 Relating to Taxation

Chair Fukunaga, Vice Chair Baker, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state the Chamber's support for passage of House Bill 2867 HD1, specifically in support of Section 235(b)(10) relating to a tax credit for research activities.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber also has a role in the military industry in Hawaii. The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the US military and its civilian workforce and families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The large presence of all of the Nation's military services in Hawaii has attracted the top defense prime contractors, small and large, to establish operations in the state. It has also spurred local companies to form and emerge into this industry. This has served as a source of funding and contracting opportunities for Hawaii's growing R&D sector, and there is considerable opportunity for even greater growth. There are literally millions of dollars that could be directed to Hawaii R&D businesses via military channels and through the prime defense contractors.

Recognizing the strong ties between the military and dual-use companies, and the tremendous opportunities they provide to our economy, the Chamber recently formed the Defense and Dual-Use Technology Committee. The mission is to create and build business opportunities in Hawaii by linking together the technology capabilities of Hawaii's entire business community; showcase technology-related products and services ready and nearly ready for the market; leverage these technologies to promote stronger partnerships with the military, state and county governments and to create business opportunities with state, federal, and international institutions; and provide advocacy for a healthy and nurturing environment for Research and Development in Hawaii.

We understand the difficult financial condition of the State of Hawaii. With that said, the Defense and Dual Use industry can and will play a vital role in stabilizing the state's economic climate. One of the best ways for the industry to help is to maintain and grow the workforce. Without job creation, cost cutting and tax increases will only create a downward spiral, requiring more costs and more tax increases. The state must maximize its return by spending money that generates multiples of increased spending, garnering the most return from the least amount of tax dollars.

Research and development is one of those areas. In comparing the R&D tax credit to other credits, we observe that the R&D tax credit is one of the most effective in generating and maintaining jobs per tax dollar, generating higher tax revenues for dollar spent, and stimulating measurably more economic activity in the state per dollar of tax credit. Additionally, companies leveraging the R&D tax credits tend to be more mature companies; many on the cusp of significant expansion, which will accelerate the hiring of new employees and concomitant tax revenue.

Additionally, research and development is a highly critical component to a sustainable economy. R&D provides well-paying jobs to highly-educated employees. These employees pay significant taxes back to the state and spend considerable amounts of income within the state for goods and services. Additionally, as the R&D matures it creates product companies that increase the number of jobs and tax base significantly.

Some important facts related to R&D tax credits are:

(1) The cost of the R&D tax credit is between $13 and $14 million per year, but R&D employees are highly paid and pay income taxes at high rates and generate significant other economic activity within the state. For example, the average salary for technology jobs is $66,000.
(2) R&D funds are highly leveraged by imported monies, thus generating more economic activity than economic activities that just move money from one in-state entity to another,
(3) R&D tax credits are only received after the company has expended the funding, generating tax revenues to the state first,
(4) R&D tax credits typically go back into additional R&D through additional salaries,

While these positive aspects are fairly defined, some have expressed concerns about the competitiveness of Hawaii's R&D tax credit levels and their refund capability. However, several factors that are not considered in those concerns include:

(1) Comparisons are only made to other states and not to other countries. R&D is becoming a economic driver worldwide and Hawaii companies compete worldwide,
(2) The entire cost of doing R&D is the most important factor. Hawaii has a number of competitive disadvantages such as high income tax rates, high cost of living, high unemployment insurance costs, and high transportation costs, and
(3) R&D returns are highest after several years when R&D turns into products, resulting in significant growth in job opportunities, increased intellectual property owned by Hawaii residents, and increased travel to the state by customers and technology related conferences.

In summary, the Hawaii R&D tax credit has been effective in generating new taxes, creating new companies and employing a number of residents. Therefore, it is important that a gap does not exist in the R&D tax credit while the 2011 legislature addresses the longer term impact of R&D on the state. Companies need to make long term plans when doing R&D. It is critical to the industry that the tax credit be in place long enough to encourage R&D and its commensurate high paying jobs, job growth, and its direct impact on the sustainability of the state's economy.

Therefore, we urge the committee to pass this measure. Thank you for the opportunity to express our views.

HAWAII PV COALITION

March 12, 2010	**Senate**	**EDT**
1:30PM	**TESTIMONY IN OPPOSITION**	**HB2867**

Aloha Chairs Fukunaga and Baker and Members of the Committee:

My name is Bradley Albert and I represent The Hawaii PV Coalition. HPVC's member companies are well placed to comment on this particular measure because they install the majority of net-metered PV systems on Oahu, Hawaii Island, and Maui. In addition the HPVC has done extensive community outreach to educate the public about NEM and State and Federal energy tax credits.

The solar industry showed strong growth and job creation in 2009. We need to have a tax credit in place that is stable and meaningful to keep this trend going.

It seems as if the PV industry is under assault both by utility proposed moratorium and circuit limits and now by HB2867 to limit the state renewable energy tax credit. HPVC is totally aware of the difficult financial position that the state is facing, but renewable energy is one of the bright spots that is growing and creating jobs. Our industry is just getting its legs largely due to the federal and state tax incentives. On Maui we are more than 2% powered by small distributed PV systems. On Lanai we are over 25% PV powered. If incentives stay in place and we continue to have grid access, PV will soon account for 5% of the Maui Grid and similar growth on the other Islands.

Solar is a policy driven industry. If abrupt policy changes are made, the industry has no time to react and ultimately the state would bear the cost of lost jobs, less GET, and employment tax revenue from our growing industry. In addition the state would lose a great deal of momentum in attaining its HCEI goals. Finally, making the bill retroactive to the beginning of 2010 is unfair to those customers who purchased systems with the understanding that the state tax credit would be a large part of what they bargained for. It is unethical for Hawaii to tell people we are setting a clean energy goal, save energy and invest in renewable energy and then re-nig on their end of the deal.

Please exempt the renewable energy tax credit from HB2867.

Brad Albert
President, Hawaii PV Coalition

The Sun At The Source Of Life
Mary Kawena Pukui

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P 808 579 8288 **info@hawaiipvcoalition.org**
F 808 575 9878 **www.hawaiipvcoalition.org**

March 11, 2010

TO: Committee on Economic Development and Technology, Senator Carol Fukunga, Chair

FROM: Bill Spencer, President, Hawaii Venture Capital Association

SUBJECT: Testimony in Opposition to HB2867, HD 1 being heard March 12, 2010, 1:30p Room 016

Dear Chair and Committee Members:

HVCA strongly opposes this bill.

Hawaii based qualified high tech businesses have made contractual commitments with investors that rely on Act 221/215 as it exists. Changing the terms of the law as proposed in this bill, interferes with such agreements and imposes a significant burden on these businesses. Likewise, it imposes a burden on investors who relied on the law in making an investment decision.

The HVCA understands the dire circumstances faced by the State's budgetary crisis, but we believe it is truly pennywise and pound foolish to interfere with agreements made between companies and their investors who relied on the law to make a long term investment decision.

Finally, this bill would seriously harm the credibility o f the State of Hawaii by retroactively changing a law that so many have relied on.

We encourage this committee to kill this bill.

Sincerely,

Bill Spencer

President

Hawaii Venture Capital Association

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 11, 2010 5:09 PM
To: EDTTestimony
Cc: manis1350@gmail.com
Subject: Testimony for HB2867 on 3/12/2010 1:30:00 PM

Testimony for EDT 3/12/2010 1:30:00 PM HB2867

Conference room: 016
Testifier position: support
Testifier will be present: No
Submitted by: LAURA MANIS
Organization: Kokua Council
Address: 1350 ALA MOANA #1511 honolulu, HI 96814
Phone: 597-8838
E-mail: manis1350@gmail.com
Submitted on: 3/11/2010

Comments:
During one of the worst times of economic crisis and revenue shortfalls for our state government, we need to find alternative revenue in a way that assures that everyone shares in the cost rather than to further cut the programs and services needed by our most vulnerable populations.

Maintaining needed human services and health services is essential to our future and to preventing expensive social problems and health consequences.

HB 2867HD1 looks to modifying tax credits and deducations which privilege particular groups at a time when everyone needs to contribute their share to our common public responsibilities.

Thank you for allowing me to testify.

Sierra Club
Hawai'i Chapter
PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

March 12, 2010, 1:30 P.M.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO HB 2867 (HD1)

Aloha Chair Fukunaga, Vice Chair Baker, and Members of the Committee:

The Hawai`i Chapter of the Sierra Club ***opposes*** HB2867 (HD1) as currently written. The Sierra Club understands the need to conserve money during this tough economic time as it relates to the State's budget. However, the solar and wind industries are critical to Hawai`i's ability to reach it's clean energy goals and stimulate green job creation - both of which the Sierra Club supports.

A stop or brief disruption in tax incentives will cripple both of these industries.

As a result, the Sierra Club strongly urges this committee to amend HB2867 HD1 to reflect section 235-12.5 Renewable Energy Technologies Income Tax Credit (RETITC) be added to the list of exempt credits.

Thank you for the opportunity to testify on this measure.

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, PUBLIC SERVICE COMPANY, BANKS AND OTHER FINANCIAL INSTITUTIONS, INSURANCE PREMIUMS, Temporary tax credit reduction

BILL NUMBER: HB 2867, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to provide that for tax years beginning on January 1, 2010 and ending before January 1, 2012, any business tax credit that may be claimed against a taxpayer's net income tax liability under HRS chapters 235, 239, 241, or 431, including carryover business credit from prior taxable years, shall not exceed 80% of a taxpayer's tax liability for the taxable year in which the credit is claimed. "Business credit" means all tax credits allowable under HRS chapters 235, 239, 241, or 431, except the following tax credits:

(1) HRS section 235-15 (relating to a tax credit for child passenger restraint systems);
(2) HRS section 235-17 (relating to a tax credit for motion picture, digital media, and film production);
(3) HRS section 235-55 (relating to a tax credit for resident taxpayers);
(4) HRS section 235-55.6 (relating to a tax credit for household and dependent care services);
(5) HRS section 235-55.7 (relating to a tax credit for low-income household renters);
(6) HRS section 235-55.85 (relating the refundable food/excise tax credit);
(7) HRS section 235-110.3 (relating to a tax credit for ethanol investment);
(8) HRS section 235-110.6 (relating to a fuel tax credit for commercial fishers);
(9) HRS section 235-110.8 (relating to a tax credit for low-income housing);
(10) HRS section 235-110.91 (relating to a tax credit for research activities);
(11) HRS section 239-6.5 (relating to a tax credit for lifeline telephone service subsidy); and
(12) Any credit against any tax required by the Constitution or laws of the United States.

Any business credit generated from January 1, 2010 to December 31, 2011, shall not result in a credit carryover in subsequent taxable years. Stipulates that any business credit generated and applicable to a tax year beginning before January 1, 2010 that resulted in a credit carryover, shall be subject to the limitation on credit claims; provided that such credits may be used against a tax liability in taxable years beginning on or after January 1, 2012, until exhausted.

In ordering credit claims pursuant to this section, credits generated during taxable years beginning on or after January 1, 2010 and ending before January 1, 2012, shall be claimed first, and credits generated in taxable years beginning prior to January 1, 2010, shall be claimed thereafter; provided that, with regard to any business tax credit properly claimed for a taxable year beginning before January 1, 2010, the specified period of time established to exhaust that business tax credit shall be tolled until such time that business tax credits accrued for the period beginning January 1, 2010, and ending before January 1, 2012, have been exhausted.

EFFECTIVE DATE: Tax years beginning on or after January 1, 2010

STAFF COMMENTS: This proposal represents a reasonable response to the dire financial situation of the state as it would reduce the amount of tax credits that could be claimed by any one taxpayer. However, it is curious that some of the credits that would be excluded by this limitation on the amount of credit claim include some major business tax credits, such as those for digital media, the ethanol investment credit and commercial fishers' fuel tax credit. In the case of the latter, if lawmakers wish to continue the fuel tax credit, the credit should be charged against the fund that benefits from the fuel taxes paid by commercial fishers.

It should be noted that while this measure would retain the child passenger restraint tax credit, consideration should be given to repeal this credit since the state's seat belt law is now mandatory and requires children to be property restrained in a motor vehicle.

Many of the other tax credits that would be excluded from the limitation exist to offset an undue burden imposed by other taxes such as the low-income household credit or to alleviate the cost of dependent care for a worker. Again, whether or not this measure alone will help solve the state's financial situation is anyone's guess without a careful evaluation of how much revenue this measure would generate.

Lawmakers should take special note of this measure as it indicates the impact that such unbridled tax credits have on the state's financial situation. The basic lesson to be learned here is that such tax incentives merely skew the market and run counter to good economic sense and the basic laws of supply and demand. Tax credits should only be employed to alleviate an excessive tax burden and not to mold socio-economic behavior.

Digested 3/10/10

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LATE

HB 2867 HD1
RELATING TO TAXATION

PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.

MARCH 12, 2010

Chair Fukunaga and Members of the Senate Committee on Economic Development & Technology:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and Hawaiian Commercial & Sugar Company, one of its agricultural companies, on HB 2867 HD1, "A BILL FOR AN ACT RELATING TO TAXATION."

After over twenty five years of debate, negotiation, and compromise, the IAL Law was finally implemented in July 2008. After years of pursuing a land-use approach to this constitutional mandate, the IAL law that was successfully passed was one premised on the principle that the best way to preserve agricultural lands is to preserve agricultural businesses and agricultural viability. As such, the IAL Law not only provides the standards, criteria, and processes to identify and designate important agricultural lands (IAL) to fulfill the intent and purpose of Article XI, Section 3 of the Hawaii State Constitution, it also provides for a package of incentives designated to support and encourage sustained, viable agricultural activity on IAL. With the enactment of this comprehensive package of IAL incentives, the long awaited IAL identification and designation process was finally started in July 2008.

The present IAL Law authorizes the identification and designation of IAL in one of two ways --- by voluntary petition by the farmer/landowner to the State Land Use Commission (LUC); or subsequently by the Counties filing a petition to designate lands as IAL pursuant to a County identification and mapping process—and provides incentives to the landowner and/or farmer to conduct agricultural activities on IAL lands. In either case, the LUC must find that the lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law prior to designation.

The IAL Tax Credit is an integral part of the comprehensive package of IAL incentives enacted in July 2008. This tax credit serves an important role in encouraging investment in agricultural infrastructure and operations on IAL, which will greatly assist farmers with the basic costs of farming and enhance their viability which is particularly key as many have been badly weakened financially by the impacts of the past two years of unprecedented drought in Hawaii. Furthermore, this tax credit, as part of the comprehensive package of IAL incentives, is central to the IAL law—intended to encourage farmers and landowners to consider the voluntary designation of their agricultural lands as IAL, a process that is currently ongoing and will provide for much quicker designation of IAL.

To date, the present IAL Law, primarily in part to its comprehensive incentive package which includes this tax credit, has resulted in the designation by the LUC of over 30,000 acres of agricultural lands as IAL from voluntary petitions for Alexander & Baldwin owned lands on Maui and Kauai and we believe significantly more acreage will be designated IAL over the next few years through the voluntary landowner and County petition process.

This bill imposes a tax credit ceiling of not more than eighty percent of a taxpayer's tax liability for various tax credits, including the IAL Qualified Agricultural Cost Tax Credit. While we understand the fiscal constraints that the Legislature must deal with, we believe that impacting the core aspects of the IAL law may negatively impact the outcome. While we note that this bill excludes various other tax credits from the purview of this bill, we respectfully request that the IAL Qualified Agricultural Cost Tax Credit be added to this list of tax credits excluded from this tax credit ceiling.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
PEARL IMADA-IBOSHI
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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LATE

Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Friday, March 12, 2010
1:30 p.m.
State Capitol, Conference Room 016

in consideration of

HB 2867, HD1
RELATING TO TAXATION

Chair Fukunaga, Vice Chair Baker, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) understands the intent of this measure, however, due the downturn in Hawaii's economy, the closing of so many businesses and the loss of thousands of jobs, we have serious concerns about the impact of this measure as it would repeal many of the tax incentives that were designed to stimulate business in the State. As this measure relates to Creative Industries, energy activities, and the development of Hawaii's economy, we oppose the repeal of sections: 1) Section 235-7.3, HRS, Royalties derived from patents, copyrights, or trade secrets excluded from gross income; 2) Section 235-9, HRS Exemptions; and 3) Section 235-12.5, HRS, renewable energy technologies income tax credit.

As an example, the repeal of Section 235-7.3, HRS, Royalties derived from patents, copyrights, or trade secrets excluded from gross income. The heart of Hawai`i's creative industry is driven by intellectual property creation. As such, the products created in music, software development and applications, digital media, art, engineering designs, literature and inventions – are all core to transitioning Hawai'i to an economy based on innovation and human capital. We should be encouraging industry growth in these sectors, which is what Section 235-7.3 HRS does. These businesses would be seriously compromised by the repeal of this section. In the upcoming "Hawai'i's Creative Industries 2010 Report" developed by DBEDT's Research and Economic Analysis Division (READ), these industries represent base-growth and transitioning industry groups, with average earnings in 2008 of $49,950 – an amount well above the statewide average of $43,900. The repeal of this section will adversely affect the current and future businesses that are integral to Hawaii's creative economy. As a testament to their potential, collectively these sectors contributed $4 billion to Hawaii's gross domestic product in 2008. Tax credits are invaluable and have been responsible for attracting substantial business investment to the Hawaiian Islands - spurring economic activity, and supporting high-paying job creation while recognizing their direct affect on providing economic stimulus necessary for Hawaii's short- and long-term recovery.

Hawaii's $4 billion dollar creative sector is part of the solution to the economic challenge we are currently facing. Not only does this sector provide skilled, well-paying jobs, it works to support the State's visitor industry infrastructure and provides valuable exposure the State might not otherwise be able to afford. Further, in times of economic downturn, many of the industries in this sector continue to thrive.

The renewable energy technologies income tax credit was evaluated and found to have a positive revenue impact, with the State realizing an internal rate of return on the tax credit (due to increased economic activity) of approximately 18.1%.   The installation of renewable energy systems also improves Hawaii's energy security; diversifies our energy mix; creates jobs; and reduces emissions.

Thank you for the opportunity to provide these comments.

blue planet FOUNDATION

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
March 12, 2010, 1:30 P.M.
Room 016

LATE

(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO HB 2867, SUGGESTED AMENDMENT

Chair Fukunaga and members of the Committee:

The Blue Planet Foundation opposes House Bill 2867 HD1, a measure that, as currently written, reduces the Renewable Energy Technologies Income Tax Credit (RETITC) for two years. The enactment of such a policy has the potential to substantially damage to the solar and wind industries in Hawaiʻi and deliver a major setback to the state's clean energy efforts.

While Blue Planet appreciates the need to reduce the state budget during these challenging fiscal times, cutting the clean energy tax credits today would be pennywise and pound foolish. The solar tax credit has been extremely effective at making Hawaiʻi a leader in solar water heating installations—creating local jobs and providing steady revenue from its business creation. Moreover, the installation of solar water heaters, photovoltaic systems, and wind systems helps to plug the leak of billions of dollars out of the islands' economy.

A reduction or disruption in these tax incentives could cripple the solar and wind industries in Hawaiʻi.

SUGGESTED AMENDMENT

<u>Blue Planet respectfully requests that this committee to amend HB 2867 HD1 by including HRS Section 235-12.5 as one of the exempt tax credits from this policy.</u>

Thank you for the opportunity to testify.

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org
55 Merchant Street 17th Floor • Honolulu, Hawaiʻl 96813 • 808-954-6142 • blueplanetfoundation.org

LATE

Hawaii Solar Energy Association
Serving Hawaii Since 1977

March 12, 2010 **1:30 P.M.**	**Senate** **COMITTEE ON ENCONOMIC DEVELOPMENT AND TECHNOLOGY** **SB 2867 HD1**	**Mark Duda** **President**

TESTIMONY IN OPPOSITION, WITH PROPOSED AMENDMENT

Chair Fukunaga and Vice Chair Baker:

My name is Mark Duda and I represent the Hawaii Solar Energy Association (HSEA), a group of more than 40 Hawaii-based solar contractors and associated providers of good and services to the solar industry.

HSEA is extremely concerned about the inclusion of Section 235-12.5 tax incentive for solar and wind installations among the credits whose scope would be temporarily reduced by HB 2867 HD1. Although it is gathering strength, the solar industry remains in a very fragile early stage of its development and still relies on tax incentives for survival. Without the credit in its current form, the solar industry, one of the few bright spots in Hawaii's construction sector will collapse. Fortunately, two analyses of the credit indicates economic impact indicate that it is not only an engine of economic development and job creation/retention but is also fiscally positive. The remainder of my testimony explains these claims in more detail.

The Solar Industry and Tax Incentives

It is not an exaggeration to say that solar markets in the United States today are a function the availability of a workable state-level incentive. In fact, having a workable state incentive swamps both the cost of grid power and quality of the solar resource as factors determining the viability solar market. The states that have sufficient incentives such as California, New Jersey and Hawaii have solar markets. The ones without these incentives do not. This is because homeowners and business owners do not buy solar systems without state-level incentives that bridge the gap between the savings that can be had purely by offsetting the expense of grid power and the net system cost after receiving federal tax credits and federal accelerated depreciation allowances.

Currently, Hawaii's Section 235-12.5 tax credit for solar and wind (the Renewable Energy Technologies Income Tax Credit or RETITC) is quite effective for this purpose. This effectiveness is due in large part to the 30 percent reduction in the RETITC – from 35 to 24.5 percent – that was sponsored by the solar industry, and that ultimately passed as Act 154 (SB 464) during the 2009 legislative session. Note that last session the solar industry also testified against two measures that proposed raising the credit to 50 and 70

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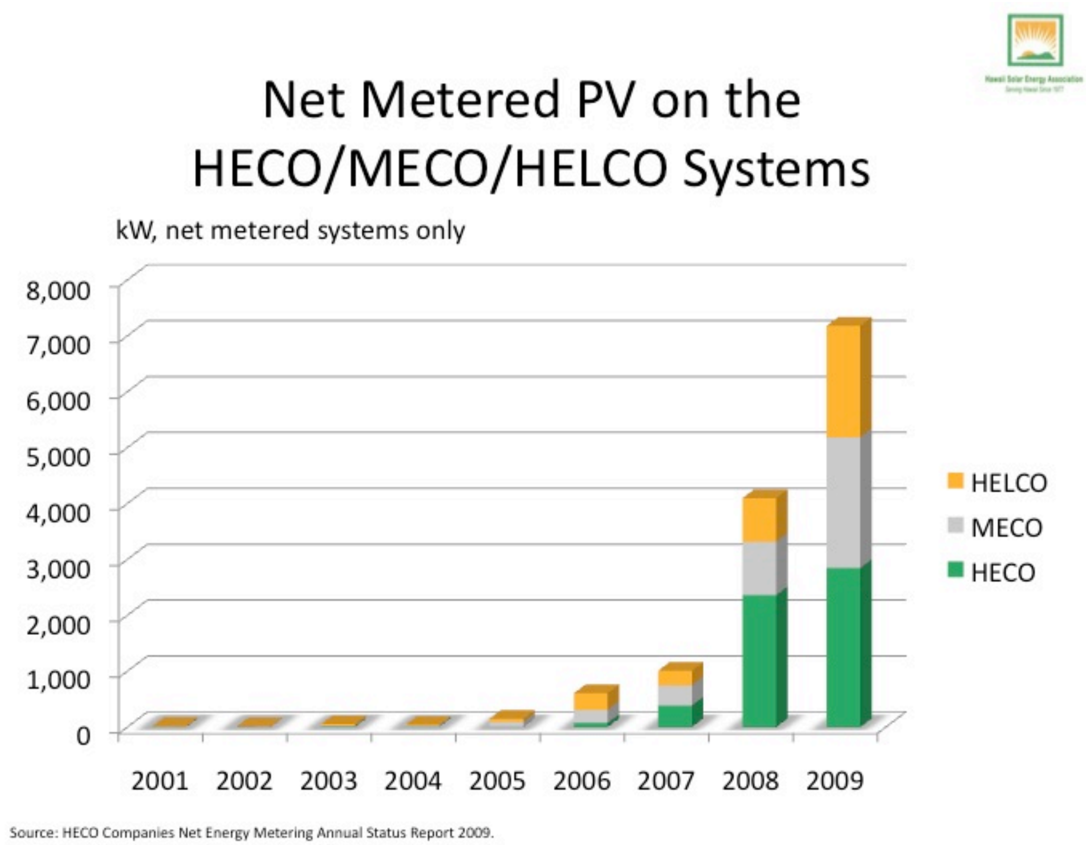
percent. Also note that HSEA testified against raising the RETITC to 50 percent during this session. As a policy, HSEA discourages its member companies from advocating for benefits that are unnecessary for the success of the solar industry and its customers, and takes steps to ensure that others in the solar industry uphold the same standard.

Hawaii's Solar Industry in the Economic Downturn

As a result of the RETITC, in combination with federal tax incentives, Hawaii's solar industry has managed to survive this difficult economic period in relatively good shape. This has made it possible for the industry to continue providing jobs – at last estimate more than 2,000 – and generating tax revenues statewide. This success of the industry amid broader economic problems is particularly noteworthy because the recession of 2009 started in the credit markets. As such it has tended to have its most direct impact on industries that rely on capital-intensive projects.

Solar projects are, by definition, capital-intensive. The industry is built on the premise that buying a system with a high up front cost but that subsequently avoids the need to purchase fuel or energy will be more cost effective than relying on power from the utility grid. Yet, Hawaii's solar industry managed modest growth in 2009, even amid massive global de-leveraging that made borrowing for capital projects extremely challenging. As you probably know, the home equity lending market has simply not come back from the global financial crisis. Data on total solar installs in the state are hard to come by but Oahu solar permits were up from $85 million in 2008 to $118 million in 2009.



The figure above shows growth trends for a portion of the market – net metered systems on the HECO, MECO and HELCO grids. It also indicates steady performance for the solar industry in 2009. I believe that this growth is directly attributable to the existence of the RETITC.

Research on the Relationship between the RETITC and State Revenues

Several efforts have been made to study the fiscal impact of Hawaii's solar tax credit over time. The first of these was by Dr. Thomas Loudat in 1997 and updated in 2000. The study was conducted under contract to DBEDT and funded by a grant provided by the US Department of Energy and HSEA.[1]

The study looked at a precursor to the RETITC called the Energy Conservation Income Tax Credit (ECITC) that applied to solar water heating systems. The report generally found significant positive employment effects of the credit and positive net fiscal impacts. The following were among Dr. Loudat's primary research findings:

- The ECITC serves as a market signal to consumers that stimulate investment in solar systems. The number of solar systems purchased would decrease by 90% if the ECITC is eliminated. This effect could be due to economic, informational and/or behavioral factors.

- With the ECITC (*i.e.* the status quo is maintained), there is a positive fiscal impact to the State over the life of a solar system purchased of $1,842 per system. This is due to an average annual positive expected fiscal impact of a solar system of $99 per year from years 2-25 of the life of a system. This positive net fiscal impact is due to the energy savings from solar systems the value of which is exogenous to Hawaii's economy.

- The ECITC employment impact over the life of a solar system is positive. That is, by stimulating investment in solar systems, the total State ECITC expenditure increases the total number of jobs in the state. For year 1 the increase in total jobs is a net of about 1 job per 13 solar systems installed. The average annual increase in total jobs for years 2-25 is 1.5 jobs per solar 100 systems installed. Correspondingly, labor income increases due to the ECITC.

- If the ECITC is eliminated, the State is estimated to incur direct fiscal expenditures in the form of unemployment insurance costs in excess (by $7.5 million) of the cost of the ECITC the assumed year of its elimination. Direct fiscal costs could continue after year 1 if workers who lose their jobs due to the elimination of the ECITC are unable to find alternative jobs in the period assumed for this analysis (16.6 weeks). Such costs are "avoided" by not eliminating the ECITC.

I should note that HSEA is currently contracted with Dr. Loudat to produce a version of the study updated through 2009. Results of the study are not yet ready for release but preliminary indications are that they support the earlier study's findings that state revenues are positive from the perspective of the general fund.

[1] Loudat, T. 2000. *The Economic and Fiscal Impacts of The Hawaii Energy Conservation Income Tax Credit*. Report prepared for DBEDT.

In addition to Dr. Loudat's work, as part of HSEA's effort to get the revision to the RETITC discussed earlier in my testimony passed, I conducted a much simpler exercise to assess the same questions of job creation and net fiscal impact myself. My calculations relied on industry size/cost date for 2008 and the State of Hawaii's macroeconomic input-output model. Using parameters from the State model, my analysis showed that for every dollar the state forgoes through the RETITC, it receives back $1.48 in return.

The table below shows the flows associated with a sample $1m project. (In the interest of transparency I have included the assumptions underlying the model as an appendix.) What drives the result is the fact that every dollar of spending on a solar project triggers nearly $2 of additional construction spending and another almost 50 cents in direct federal money (credits, grants, and accelerated depreciation allowances).

Fiscal Effect of Refundability is Positive

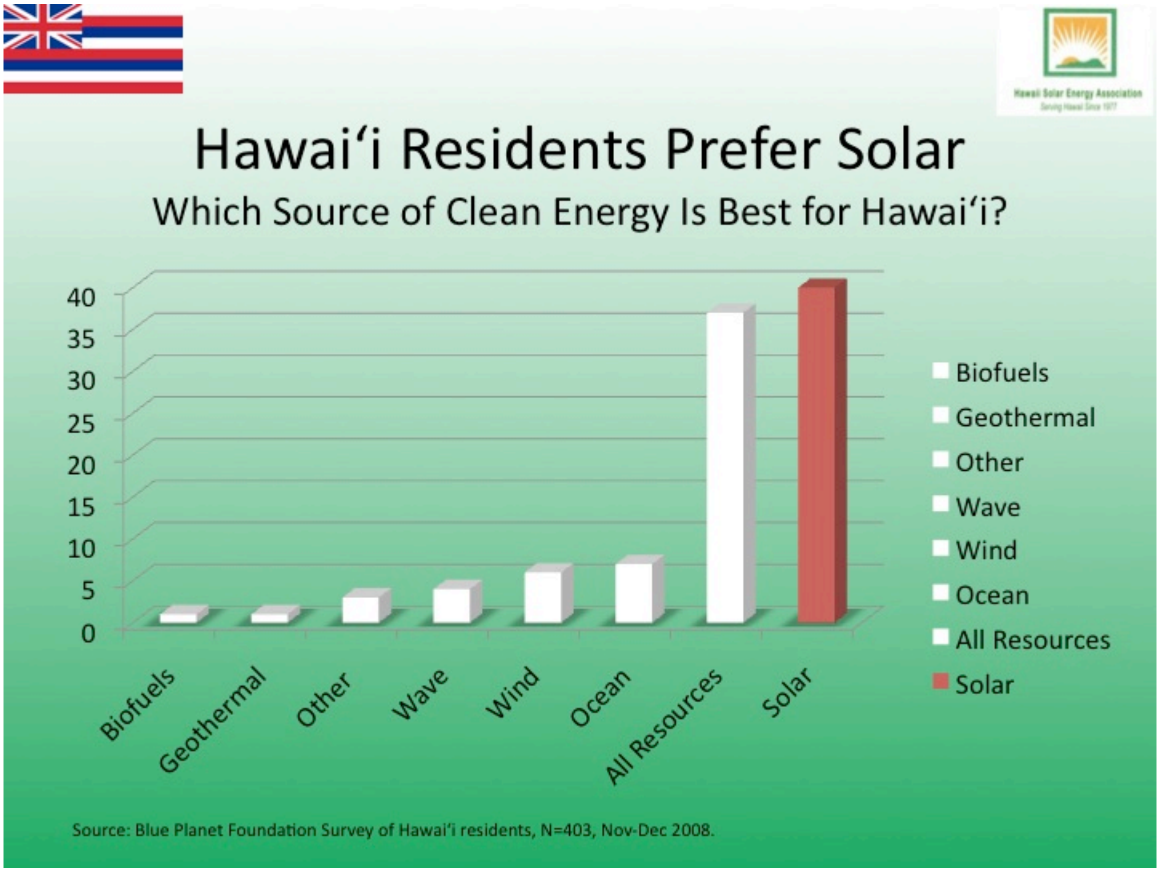
Refundable Credit on a $1,000,000 Project		
Outflows		$245,000
Inflows		
GET	$223,124	
Payroll taxes	$78,131	
Corporate income tax	$60,611	
Subtotal (inflows)	$361,866	
Net fiscal Impact	**+ $116,866**	

****** The state receives $1.48 for each dollar in tax revenue than it puts out under refundable credit*

Source: State input/output model (calculations and shown in Appendix)

Summary

In closing my testimony let me please note that there is a general embrace of solar energy by the citizens of the State of Hawaii. Blue Planet Foundation recently conducted a study that ranked peoples' preferences for various forms of clean energy. It showed that roughly 40 percent of people in the Hawaii believe that solar energy is the best form of clean energy for Hawaii. This level of support placed it first, beating out even the catch all response option "all sources of clean energy" as shown in the table below.



In light of all of the foregoing comments, I respectfully ask on behalf of the solar industry and its many customers – Hawaii's homeowners and business owners - that the Committee add the Section 235-12.5 credits to the list of credits exempted from the provisions of HB 2867 HB1.

Thank you for the opportunity to testify on this measure.

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.

APPENDIX

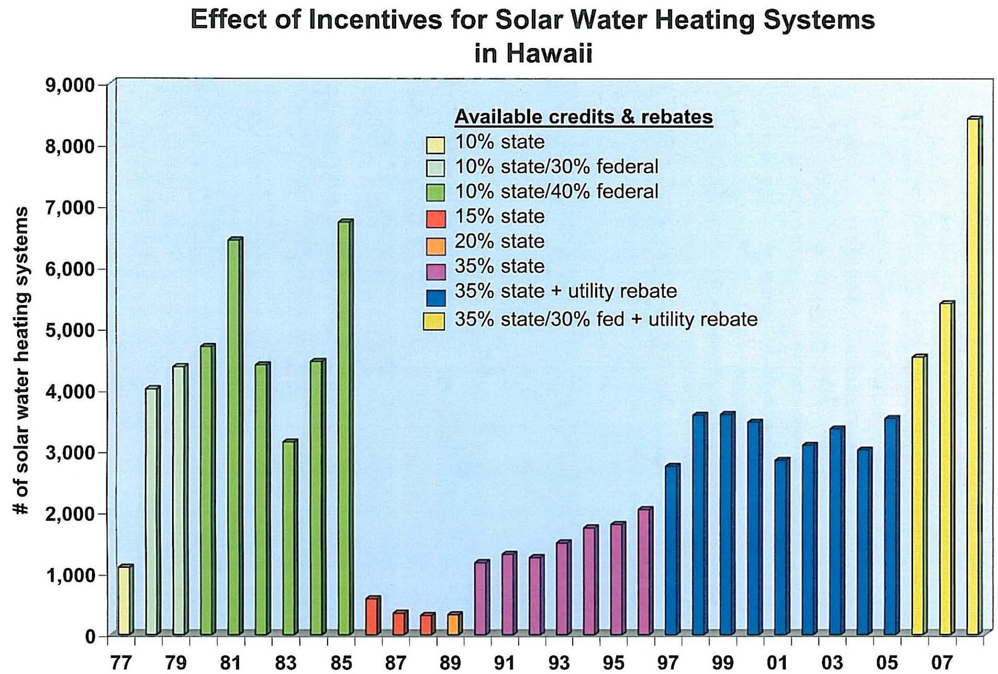


Chart '77-'08 Tax Credits Chart 1977-2008

Appendix: Calculating Fiscal Impact

Assumptions used in model

1. RETITC made refundable at <u>reduced</u> 24.5% rate
2. Projects split 60% Oahu, 40% Neighbor Islands
3. Payroll taxes at 8.25 %
4. Corporate income tax at 6.4%
5. MACRS project depreciable basis 85%
6. State input/output model construction industry spending multiplier 1.98
7. Labor share of project cost is 20%

Expenditures Triggered by $1 million Project	
Project cost	$1,000,000
Federal solar credit (ITC)	$300,000
Federal MACRS	$289,000
Subtotal:	$1,589,000
Project Spending at State Input/Output Model Multiplier Rate (1.98)	$4,735,220
Refundable Credit amount	*($245,000)*

LATE

March 12, 2010

The Honorable Carol Fukunaga, Chair
The Honorable Rosalyn H. Baker, Vice Chair
Senate Committee on Economic Development and Technology
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: HB2867 HD1 Relating to Taxation

Dear Chairwoman Fukunaga, Vice Chair Baker and Members of the Committee:

On behalf of the Entertainment Software Association (ESA) and its members[1], I am writing you in support of Hawaii's current incentive program to encourage entertainment industry growth including digital media development and production (Hawaii Revised Statutes §235-17). The ESA is the U.S. trade association representing companies that publish computer and video games for video game consoles, personal computers, and the Internet.

This program has been successful in helping to grow the entertainment industry in the state. According to the Hawaii Department of Business, Economic Development and Tourism, the creative sectors in the state, including digital media, have grown 14% since 2002 and in 2008 they contributed $4 billion to Hawaii's gross domestic product.

Hawaii should continue to offer incentives for digital media production. States are aggressively competing for the highly-skilled, high-tech jobs that the entertainment software industry creates. Currently, twenty states offer tax incentives for video game development and production. This year, twenty states are considering legislation that would either create or increase tax incentives for computer and video games and digital media development and production.

Not only are these states looking to grow the entertainment software industry and the new and innovative products it creates, but they also see the significant contributions it makes to other sectors of the economy such as health care, human resources, and defense. Increasingly, these sectors are using video games and game technology to train physicians, emergency medical personnel and the military, as well as provide workforce training.

Incentive programs are increasingly important for growing the entertainment software sector since the costs of conducting business have increased substantially. The average cost to develop a video game in the 1990's was roughly $40,000. In the 2000's that figure has climbed

[1] ESA's members: 505 Games; Capcom USA, Inc.; Crave Interactive; Deep Silver; Disney Interactive Studios, Inc.; Eidos Interactive; Electronic Arts; Epic Games, Inc.; Her Interactive, Inc.; KOEI Corporation; Konami Digital Entertainment; Microsoft Corporation; MTV Games; Namco Bandai Games America Inc.; Natsume Inc.; Nintendo of America Inc.; Playlogic Entertainment, Inc.; SEGA of America, Inc.; Slang; Sony Computer Entertainment of America; Sony Online Entertainment, Inc.; SouthPeak Interactive Corporation; Square Enix, Inc.; Take-Two Interactive Software, Inc.; THQ, Inc.; Trion World Wide Network, Inc.; Ubisoft Entertainment, Inc.; Warner Bros. Interactive Entertainment Inc.; and XSEED Games.

to an average of $10 million, and is expected to increase further to between $15-25 million in the next few years.

In addition, incentives for computer and video game production provide significant economic returns. According to a recent analysis by the Texas Film Commissioner, the state's return on investment (ROI) from video game development and production incentives is 31.4%, far exceeding that for film, television and commercials. [2] According to another analysis of the program by the Texas Comptroller of Public Accounts, video game production has a ripple-effect spreading technological innovations to other industries, such as defense and medicine.[3]

To help Hawaii remain competitive with other states, we urge you to maintain the current successful tax credit program to help encourage the growth of the entertainment industry in the state.

Thank you for your time and consideration.

Sincerely,

Sally Jefferson
Vice President, State Government Affairs

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[2] See *Texas Moving Image Industry Incentive Program Status Report: January 15, 2009*
[3] See *The Current and Potential Economic and Fiscal Impacts of Texas' Moving Media Industry Report*: December 2008

Hawaii Bankers Association

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LATE

Presentation to the Senate Committee on Economic Development and Technology

Friday, March 12, 2010, at 1:30 p.m., Conference Room 016

Testimony on HB 2867, HD 1, Relating to Taxation

TO: The Honorable Carol Fukunaga, Chair
The Honorable Rosalyn H. Baker, Vice Chair
Members of the Senate Committee on Economic Development and Technology

My name is Neal Okabayashi testifying on behalf of the Hawaii Bankers Association (HBA). We oppose the bill in its present form because it changes the tax laws in midstream and as a matter of fairness, companies who have earned tax credits but not yet claimed them should be able to claim them at some date although perhaps not at the time it thought it could claim them.

Our opposition to this bill stems from its provision that certain tax credits, although earned, would be lost rather than deferred. Since some tax credits are claimed over five years, eliminating tax credits in mid-stream not only undermines efficient tax planning but since it reduces the tax credit for investments already made, in effect, it is a retroactive tax increase. Changing the rules that taxpayers relied on to plan its investment activity is unfair and should be avoided.

Changing the rules midstream would be counterproductive to Hawaii's economy because companies would hesitate to make the investments these credits are designed to spur if they had no confidence that they would be able to use the tax credits offered in exchange for the investment. Ultimately, this means lower tax revenue for the State.

We understand the present restrictive budgetary position of Hawaii, and as good corporate citizens, we are willing to share in the pain that must be endured. With that in mind, HBA would not object to this bill if it was amended to provide that although the credits could not be claimed until the tax year 2012, at a time when the Hawaii economy should have recovered, the tax credits would not be lost. Accordingly, we request that subsection (c) of the new section be revised to read as follows:

> (c) Any business credit generated from January 1, 2010 to December 31, 2011 shall be subject to the credit claim limitation provided in subsection (a) and shall not result in a credit carryover to any taxable year beginning before January 1, 2012. Notwithstanding any provision creating a waiver of a tax credit by failing to make a claim within a specified period of time for any business tax credit, any business tax credit carryover applicable to

credits generated from January 1, 2010 to December 31, 2011 may be used against a tax liability in taxable years beginning on or after January 1, 2012, until exhausted.

We believe that as a matter of fairness, Hawaii companies that relied on the tax laws should be entitled to receive the benefits of a law that existed at the time it made its investment decision. Deferral of the timing of claiming the tax credit is a reasonable step to accommodate the State’s economic situation.

We thank you for allow us to testify and for your consideration of this matter. We would be pleased to answer any questions you may have.

LATE

LANDTEC, INC.

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Testimony before the Senate
Committee on Economic Development and Technology
HB 2867, HD1 – Relating to Taxation
Friday, March 12, 2010, 1:30 p.m.
State Capitol, Conference Room 016
Honolulu, Hawaii 96813

March 11, 2010

Chair Fukanaga, Vice Chair Baker and Committee Members:

My name is Bob Johnston, my partner, Howard Kihune, Sr. and I are testifying on behalf of Landtec, Inc. in **opposition** to HB 2867, HD1, to the extent that it limits the application of the renewable energy technologies credit (the “RETC”) under Hawai`i Revised Statutes (“HRS”) Section 235-12.5.

Landtec has invested in a small solar photovoltaic installation company on Maui that designs, develops and installs commercial photovoltaic (“PV”) energy systems in Hawaii. The systems range in size from 5 to 200 kilowatts. All of these PV systems rely on the ability to utilize Federal and State of Hawaii economic benefits and incentives available to owners of PV systems.

HB 2867, HD1, seeks, among other things, to limit certain allowable tax credits for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012. HB 2867, HD1, also seeks the imposition of ceilings for certain tax credits.

The major tax credit with which Landtec is concerned is the RETC. Under HRS Section 235-12.5, owners of commercial PV systems are entitled to a tax credit of 35% of the cost of a PV facility, equipment, apparatus or the like, or $500,000, whichever is lower. Under HRS Section 235-12.5(g), a taxpayer may elect to reduce the eligible tax credit amount by thirty percent and claim the resulting amount as a refund.

The installation of PV systems, whether by the owner of the property (direct) or third parties (PPA), is driven almost entirely by the Federal and State economic incentives offered to owners. The RETC is a significant factor in this economic equation. The RETC has had a significant impact in creating the growing the entire renewable energy industry in Hawai`i. In the PV sector alone, jobs have grown from a handful in 2006 to approximately 2,000 in 2008 and perhaps double that amount in 2010. Given the

Hawai`i Clean Energy Initiative and other legislation designed to move Hawai`i off its dependence on imported fossil fuels, the renewable energy industry is one of the bright spots in Hawaii's economy.

It is also important to note that the solar PV industry in Hawaii is just now gaining momentum in the market place. Companies like ours are at the leading edge of providing new jobs and leading Hawaii out of its current recession. This bill will irreparably harm companies like ours just as we ramp up our efforts to expand and hire new employees. Many new PV installations are funded through Purchase Power Agreement. These PPA's rely solely on the ability to monetize the tax credits, both State and Federal. PPA market primarily serves non-profit organizations, such as State and County agencies and facilities, hospitals, cultural centers, retirement homes, etc. that cannot afford to install PV systems because they (1) do not have the significant capital to commit to these projects and (2) cannot take advantage of the Federal and State economic incentives because the institution is not a taxable organization. Without the PPA mechanism, the financing of which is driven in large part by HRS Section 235-12.5, these institutions will not be able to have a PV system.

The PV industry is ready now to provide badly needed jobs in Hawaii. There is not lag period between conception and installation once a contract has been signed. There is no surer way to promote this new and important green industry than making sure that all tax incentives and initiatives are maintained. But the potential passage of HB 2867 will harm this industry that it may never recover from.

Landtec understands the difficult challenges facing Hawaii as it grapples with a falling economy and dwindling revenue sources. It seems, however, ill-advised to discourage business growth and job creation, which will be the two main pillars that will reverse the State's economic condition.

For the foregoing reasons, Landtec is opposed to HB 2867, HD1, as it relates to HRS Section 235-12.5 and we urge the Senate to opt HRS Section 235-12.5 from HB 2867, HD1.

We thank you for the opportunity to testify.

Sincerely,

G. Robert Johnston
Partner

Howard S. Kihune, Sr.
Partner

HB2867 HD1 - Relating to Tax Credits

LATE

DATE: March 12, 2010
TIME: 1:30 P.M.
PLACE: Room 016
TO: Senate Committee on Economic Development and Technology
Senator Fukunaga, Chair
Senator Baker, Vice Chair

FROM: James P. Karins
President and CEO
Pukoa Scientific

Re: Comments on HB2867 HD1

Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to submit comments on HB2867 HD1. My name is Jim Karins and I am the President of Pukoa Scientific. Pukoa Scientific is a 17 person company started in 2004 specializing in the interpretation of image and signal data to identify objects, threats or targets for military, security, medical and industrial applications. Pukoa Scientific is in the dual use sector which has proven to be one of the fastest growing technology sectors. Even during the trying year of 2009 we were able to grow to 17 employees; 13 of our 17 employees are full time and 16 of those 17 reside in Hawaii. Of the 12 full time staff in Hawaii, 10 graduated from high schools in Hawaii, 10 graduated from the University of Hawaii or Hawaii Pacific University and at least 4 worked on the mainland prior to finding work in Hawaii. We currently generate more than $2.5M in revenue and pay over $1.5M in compensation.

All of us understand the difficult financial condition of the state and want to help. HB2867 HD1 attempts to add revenue by limiting tax credits. I ask that the committee carefully consider unintended consequences and amend the bill to ameliorate those consequences. Two tax credits, the investment tax credit and the SPIF credits, could be greatly affected by this bill. Because of the unique nature of the investment tax credit, which accrues over 5 years, this bill should exempt tax credits from prior investments to avoid potential constitutional issues and therefore potential lawsuits. The SPIF credits are needed for other legislation being considered this year and this bill could make those credits worthless. I would therefore recommend that an exemption for SPIF credits be added to HB2867 HD1.

I therefore encourage the committee to amend this bill to avoid unintended consequences by exempting investment tax credits due to previous investments and SPIF credit.

Thank you for the opportunity to testify.

/s/James P Karins

James P. Karins
President and CEO
Pukoa Scientific
karins@pukoa.com

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
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LATE

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY
TESTIMONY REGARDING HB 2867 HD 1
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 12, 2010
TIME: 1:15PM
ROOM: 016

As amended, this measure caps the amount of certain credits that may be utilized to offset income taxes. It also disallows credits to be carried forward for the 2010 and 2011 tax year. The measure also suspends carry-forward credits generated from prior years during this same period.

The Department of Taxation (Department) **has concerns** regarding this legislation because of the impact this measure may have on businesses that have relied on these tax incentives.

EVERYONE PAYS SOMETHING—Essentially this measure ensures that everyone pays something with regard to their taxes. Under currently law, many taxpayers that take advantage of generous tax credits reduce their tax liability to zero. This measure would ensure that, notwithstanding any credits generated, everyone has to pay some tax—20% of their liability—during the 2010 and 2011 tax years, and that credits can be utilized to offset not more than 80% of their tax liability.

THIS MEASURE CAPS NONREFUNDABLE BUSNINESS CREDITS ONLY—As written, this measure caps business-related nonrefundable credits. It is important not to impact refundable credits because many people who are entitled to a refundable credit have little or no tax liability. As a practical matter, these taxpayers with no tax liability have nothing to offset if the refundable credits were capped. The Department approves that refundable credits remain unaffected.

USE OF CREDITS FOR UNLIMITED OFFESET WAS IMPORTANT AT SOME POINT—Chapter 235, Hawaii Revised Statutes, contains several generous credits relating to income taxation. In its policy-making capacity, the Legislature at some point deemed these credits to be important incentives to encourage growth or behavior of businesses in Hawaii by allowing an unlimited offset. As such, the Department suggests carefully considering the limitations contemplated by this measure and the potential impacts on those that have relied on these credits.

REVENUE GAINS—Given the current budget issues, the Department appreciates the revenue gain that this measure generates. This measure results in the following revenue gains—

- FY 2011-2012: $22.3 million per year
- FY 2013: $31.2 million
- FY 2014: $13.4 million

Stan's Electrical Service LLC

1272 Kawili Way
Makawao, Maui, Hawaii 96768
Phone: (808) 573-7575
Facsimile: (808) 572-1791

LATE

Testimony before the Senate
Committee on Economic Development and Technology
HB 2867, HD1 – Relating to Taxation
Friday, March 12, 2010, 1:30 p.m.
State Capitol, Conference Room 016
Honolulu, Hawaii 96813

March 12, 2010

Chair Fukanaga, Vice Chair Baker and Committee Members:

My name is Stanley Dillon, owner of Stan's Electrical Service LLC and I am in **opposition** to HB 2867, HD1, to the extent that it limits the application of the renewable energy technologies credit (the "RETC") under Hawai`i Revised Statutes ("HRS") Section 235-12.5.

Stan's Electrical Service LLC is a solar photovoltaic installation company on Maui that designs, develops and installs residential and commercial photovoltaic ("PV") energy systems in Hawaii. The systems range in size from 5 to 200 kilowatts. All of these PV systems rely on the ability to utilize Federal and State of Hawaii economic benefits and incentives available to owners of PV systems.

HB 2867, HD1, seeks, among other things, to limit certain allowable tax credits for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012. HB 2867, HD1, also seeks the imposition of ceilings for certain tax credits.

The major tax credit with which Stan's Electrical Service LLC is concerned is the RETC. Under HRS Section 235-12.5, owners of commercial PV systems are entitled to a tax credit of 35% of the cost of a PV facility, equipment, apparatus or the like, or $500,000, whichever is lower. Under HRS Section 235-12.5(g), a taxpayer may elect to reduce the eligible tax credit amount by thirty percent and claim the resulting amount as a refund.

The installation of PV systems, whether by the owner of the property (direct) or third parties (PPA), is driven almost entirely by the Federal and State economic incentives offered to owners. The RETC is a significant factor in this economic equation. The RETC has had a significant impact in creating the growing the entire renewable energy industry in Hawai`i. In the PV sector alone, jobs have grown from a handful in 2006 to approximately 2,000 in 2008 and perhaps double that amount in 2010. Given the

Hawai`i Clean Energy Initiative and other legislation designed to move Hawai`i off its dependence on imported fossil fuels, the renewable energy industry is one of the bright spots in Hawaii's economy.

It is also important to note that the solar PV industry in Hawaii is just now gaining momentum in the market place. Companies like ours are at the leading edge of providing new jobs and leading Hawaii out of its current recession. This bill will irreparably harm companies like ours just as we ramp up our efforts to expand and hire new employees. Many new PV installations are funded through Purchase Power Agreement. These PPA's rely solely on the ability to monetize the tax credits, both State and Federal. PPA market primarily serves non-profit organizations, such as State and County agencies and facilities, hospitals, cultural centers, retirement homes, etc. that cannot afford to install PV systems because they (1) do not have the significant capital to commit to these projects and (2) cannot take advantage of the Federal and State economic incentives because the institution is not a taxable organization. Without the PPA mechanism, the financing of which is driven in large part by HRS Section 235-12.5, these institutions will not be able to have a PV system.

The PV industry is ready now to provide badly needed jobs in Hawaii. There is not lag period between conception and installation once a contract has been signed. There is no surer way to promote this new and important green industry than making sure that all tax incentives and initiatives are maintained. But the potential passage of HB 2867 will harm this industry that it may never recover from.

Stan's Electrical Service LLC understands the difficult challenges facing Hawaii as it grapples with a falling economy and dwindling revenue sources. It seems, however, ill-advised to discourage business growth and job creation, which will be the two main pillars that will reverse the State's economic condition.

For the foregoing reasons, Stan's Electrical Service LLC is opposed to HB 2867, HD1, as it relates to HRS Section 235-12.5 and we urge the Senate to opt HRS Section 235-12.5 from HB 2867, HD1.

We thank you for the opportunity to testify.

Sincerely,

Stanley P Dillon
Owner

LATE

Bill	**HB2867 HD1**
Date	**March 12, 2010**
Time	**1:30pm**
Place	**Conference Room 016**
Committee	**EDT**
Chair	**The Honorable Senator Carol Fukunaga**
Vice Chair	**The Honorable Senator Rosalyn Baker**

Aloha Chair Fukunaga, Vice Chair Baker and Members of the Committee,

Hawaii Science and Technology Council (HSTC) would like to provide comments for HB2867 HD1

We believe that tax credits represent a tool that governments can use to effectively stimulate economic growth and support the creation of sustainable, high-paying jobs. The Qualified High-Tech Business investment and research credits have been key contributors to making Hawaii's high-tech sector one of the fastest-growing in the state.

However, we also recognize the fiscal realities currently facing the state, and the critical, near-term need to balance the state's budget and provide essential social services. Regrettably, in order to meet immediate economic needs, not all initiatives that build long-term economic growth and prosperity may survive without modification or curtailment. The people of Hawaii look to our elected officials to make these difficult, no doubt unpleasant tradeoff decisions.

Curtailment of such long-term growth initiatives is regrettable, but some changes cause more damage than others. Cancellation of tax credit initiatives means investor money will be left on the table going forward, and fewer high-tech jobs will be brought to the state. More damaging than this by far, however, is changing how tax credits for previously made investments will be treated. Investors place money into Hawaii companies and hire local engineers and scientists with the understanding that the State will continue to issue credits as promised. Once their money is in, they cannot retrieve it, and are reliant on the State to keep its end of the bargain. If tax credits for previously made investments are curtailed, delayed, or capped, Hawaii will earn an unwelcome reputation as a place with uncertain investment and political risk. This will make it more difficult to raise funds for all sectors of Hawaii's economy, not just the high-tech sector, and may increase the costs for the State to raise bond monies.

We are concerned that HB2867 HD1, if passed into law, would potentially create such retroactivity issues. By limiting the application of carryover credits to 80% of a taxpayer's current-year tax liability, those who invested in Hawaii high-tech jobs prior to 2010 will find themselves with a significant reduction in value for investments they have already made. Future investors contemplating hiring in Hawaii will have reason to pause and contemplate whether the risks are too great.

HSTC and its member companies and employees understand the need for compromise and shared sacrifice. We request that elected officials carefully consider the damaging effects of retroactivity, and urge the adoption of measures that do not retroactively change the rules of the game for investments already made into Hawaii's economy.

Thank you for your time and consideration.

Respectfully yours,

Jamie Ayaka Moody
Government Relations
Hawaii Science & Technology Council
733 Bishop Street. #1800
Honolulu, HI 96813

LATE

HEA Hawaii Solar, LLC

Testimony before the Senate
Committee on Economic Development and Technology
HB 2867, HD1 – Relating to Taxation
Friday, March 12, 2010, 1:30 p.m.
State Capitol, Conference Room 016
Honolulu, Hawaii 96813

March 11, 2010

Chair Fukanaga, Vice Chair Baker and Committee Members:

My name is Jack Naiditch and I am testifying on behalf of HEA Hawai`i Solar, LLC ("HEA") and its affiliate, South Maui Renewable Resources, LLC ("SMRR") in **opposition** to HB 2867, HD1, to the extent that it limits the application of the renewable energy technologies credit (the "RETC") under Hawai`i Revised Statutes ("HRS") Section 235-12.5.

HEA is a Maui-based company that designs, develops and installs commercial photovoltaic ("PV") energy systems in Hawaii. The systems range in size from 15 kilowatts to 3.25 megawatts. Some of the systems installed by HEA are owned by the owner of the property on which the system is installed. Some of the systems are owned by HEA or its affiliates through a financing mechanism referred to as "Power Purchase Agreements", or "PPA's".

SMRR is currently developing a 3.25 megawatt PV farm in Kihei, Maui. HEA is in the initial stage of development of two additional 3.25 megawatt PV farms in the West side of Maui. All of these PV systems are being financed by third party investors who rely on their ability to utility Federal and State of Hawaii economic benefits and incentives available to owners of PV systems.

HB 2867, HD1, seeks, among other things, to limit certain allowable tax credits for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012. HB 2867, HD1, also seeks the imposition of ceilings for certain tax credits.

The major tax credit with which HEA and SMRR are concerned is the RETC. Under HRS Section 235-12.5, owners of commercial PV systems are entitled to a tax credit of 35% of the cost of a PV facility, equipment, apparatus or the like, or $500,000, whichever is lower. Under HRS Section 235-12.5(g), a taxpayer may elect to reduce the eligible tax credit amount by thirty percent and claim the resulting amount as a refund.

The installation of PV systems, whether by the owner of the property (direct) or third parties (PPA), is driven almost entirely by the Federal and State economic incentives offered to owners. The RETC is a significant factor in this economic equation. The RETC has had a significant impact in creating

8 Kiopa'a Street, Suite 103, Pukalani, Hawaii 96768 Tel: (808) 572-6163, Fax: (808) 572-6173

the growing the entire renewable energy industry in Hawai`i. In the PV sector alone, jobs have grown from a handful in 2006 to approximately 2,000 in 2008 and perhaps double that amount in 2010. Given the Hawai`i Clean Energy Initiative and other legislation designed to move Hawai`i off its dependence on imported fossil fuels, the renewable energy industry is one of the bright spots in Hawai`i's economy.

It is also important to note that the PPA market primarily serves non-profit organizations, such as State and County agencies and facilities, hospitals, cultural centers, retirement homes, etc. that cannot afford to install PV systems because they (1) do not have the significant capital to commit to these projects and (2) cannot take advantage of the Federal and State economic incentives because the institution is not a taxable organization. Just on Maui alone, non-profit projects of note that are using or plan to use a PPA for financing their PV installations include the Kamehameha Schools' Maui Campus, Maui Economic Development Board, the Maui Arts & Cultural Center, Maui Food Bank, Seabury Hall, YMCA, Big Brothers Big Sisters, Hale Makua and the Cameron Center. Without the PPA mechanism, the financing of which is driven in large part by HRS Section 235-12.5, none of these institutions will be able to have a PV system.

The PV industry is a "shovel-ready" business. But the potential passage of HB 2867 as presently written has cast a pall over the industry. Throughout the State, there are numerous projects of all sizes which are now on hold until the fate of HRS Section 235-12.5 is resolved.

The changes proposed by HB 2867, HD1, would effectively kill the commercial PV business in Hawai`i. Most PV systems do not generate taxable income for their owners in the first several years of the business after installation of the system; the HB 2867, HD1, version of the RETC would make the tax credit virtually useless, because the credit cannot be carried forward to future years so that it might be utilized by the direct owner or PPA owner. Moreover, a reduction in the credit by 20% has a significant, chilling impact on the viability of commercial PV projects to developers and their employees because the currently tight margins in the PV business will not support any reduction in current incentives.

If the commercial PV business is derailed by HB 2867, HD1, it is unlikely to be revived by the businessmen, businesswomen and lenders who nurtured this industry into the vibrant force it is today. It will be difficult to attract capital to a business which can be so easily destroyed.

HEA and SMMR understand the difficult challenges facing Hawaii as it grapples with a falling economy and dwindling revenue sources. It seems, however, ill-advised to discourage business growth and job creation, which will be the two main pillars that will reverse the State's economic condition.

For the foregoing reasons, HEA and SMRR are opposed to HB 2867, HD1, as it relates to HRS Section 235-12.5 and we urge the Senate to opt HRS Section 235-12.5 from HB 2867, HD1.

HEA and SMRR thank you for the opportunity to testify.

Sincerely,

Jack R. Naiditch

Jack R. Naiditch
Chief Executive Officer

LATE

PACIFICAP GROUP

PACIFICAP GROUP, LLC
820 Mililani Street, Suite 600
Honolulu, HI 96813
Direct: 808.237.5388 Fax: 808.537.2188

March 12, 2010

Testimony for Hearing before the
Senate Committee on Economic Development and Technology
Friday, March 12 , 2010, 1:30 pm

State Capitol, Conference Room 308
415 South Beretania Street
Honolulu, Hawaii 96813

Re: Testimony in STRONG OPPOSITION to HB 2867 HD1
Relating to Taxation

Chair Fukunaga, Vice-Chair Baker, and Committee Members:

Thank you for the opportunity to submit testimony in STRONG OPPOSITION to HB 2867 HD1.

This bill appears to attempts to limit the ability to claim High Technology Business Investment Tax Credits, commonly known as the "Act 221 Investment Credit" under Section 235-110.9, Hawaii Revised Statutes ("HRS") to 80% of tax liability, while prohibiting carry over credits for calendar years 2010 and 2011.

I strongly oppose this bill because:

1. This bill is unconstitutional to the extent that it restricts the ability to claim Act 221 Investment Credits for investments that have already been made prior to the bill's enactment. This bill could trigger litigation against the State from hundreds of Act 221 companies and thousands of their investors.

2. Any retroactive restrictions on investments already made will severely undermine investor confidence in the private sector's ability to trust and work with the State for all economic development initiatives for many years to come. Our State's economy will be severely damaged for many years beyond the end of the current recession.

3. It is HIGHLY UNLIKELY that this bill will result in the budgetary savings for FY 2011-2013 that were submitted to the House Finance Committee.

4. This bill could severely damage Act 221 companies who are nearing profitability but need just a small amount of additional capital to reach self-sufficiency.

You should also note that the 80% of tax liability limitation and prohibition of credit carryovers for Act 221 Investment Credits contemplated by this bill ALREADY BECAME LAW last year with SB 199. The difference with this bill is that it would unconstitutionally retroactively apply these restrictions to investments already made.

You may also recall that this retroactivity flaw was also included last year in a prior version of SB 199, which caused the bill to be recommitted to Conference Committee from the Senate Floor in order to remove the retroactive application to pre-existing investments.

Trying to pass this bill to re-create this year the retroactivity problem that was already solved in the final version of SB 199 last year would be a tremendous waste of the Legislature's and taxpayers' time and resources.

Any projected cost savings from this bill cannot be achieved if this bill is struck down by the courts as unconstitutional due to their retroactive restrictions on investments already made.

And even if, hypothetically the courts were to ultimately uphold the constitutionality of this bill, the litigation and appeals process, which potentially could involve lawsuits against the State brought by hundreds of Act 221 companies and thousands of their investors, would likely take much longer than three years to settle before the State could actually collect the tax revenues from this bill.

Thus, the ultimate result of this bill would be to damage local high tech and media companies who are currently in the process of trying to raise needed capital, while wasting potentially millions of dollars in legal fees from litigation that could be triggered by this bill, while severely alienating and creating cash flow problems for investors who invested in good faith, souring Hawaii's investment environment and undermining the private sector's ability to trust the Legislature and our State government for many, many years to come. In short, a "lose lose" scenario for all parties involved.

Our State should not be in the business of using tax credits to attract investment from private investors, and then playing "bait and switch" and changing the rules of the game AFTER they have invested in Hawaii in good faith.

This would be neither fair, legal nor financially prudent, and repeatedly trying to insert such unfair and unconstitutional provisions into the law after the Legislature clearly rejected such retroactivity in SB 199 last year is a tremendous waste of the Legislature's and taxpayers' time and money.

Thank you for the opportunity to testify.

Respectfully submitted,

Jeffrey K. D. Au
Managing Director and General Counsel
PacifiCap Group, LLC

HB 2867 HD1
RELATING TO TAXATION

KEN HIRAKI
VICE PRESIDENT – GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM

MARCH 12, 2010

Chair Fukunaga and Members of the Senate Economic Development and Technology Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on HB 2867 HD1, "Relating to Taxation." Hawaiian Telcom is opposed to provisions of this measure.

HB 2867 HD1 establishes the reduction of certain tax credits beginning on January 1, 2010 with a sunset on January 1, 2012. While recognizing the need to address the current budget shortfall, reductions in tax credits as is being proposed in this measure must be approached very cautiously so both lawmakers and the public are fully informed of the negative financial and social consequences that may likely follow.

Hawaiian Telcom specifically opposes language limiting Section 239-6.5, Hawaii Revised Statutes (page 2, lines 19-20), which provides a tax credit for lifeline telephone service. Responding to the growing problem of "shut-ins", the Legislature in 1986 established the lifeline telephone program to provide discount telephone rates to those who are either physically disabled or seniors with annual household income below $10,000.

For many of those enrolled in the program, the landline telephone serves as the sole "lifeline" (especially in times of emergency or during an electrical power outage), connecting those who are disabled or seniors to their doctors, 911, or loved ones. There are currently over 3,000 lifeline beneficiaries enrolled statewide. If this program were eliminated, many will likely be forced to forego telephone service and may be left without any means of communication in case of emergency.

Based on the aforementioned, we respectfully request that HB 2867 HD1 be held in your committee. If, however, it is the intent of the committee to move this measure, we respectfully ask that the committee delete the specific provision related to Section 239-6.5, Tax Credit for Lifeline Telephone Service.

Thank you for the opportunity to testify on this measure.

HB2867 HD1 - Relating to Taxation
HB2962 HD1 - Relating to Taxation
HB2984 HD2 - Relating to Taxation

LATE

DATE: March 12, 2010
TIME: 1:30pm
PLACE: Conference Room 016

TO:

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

FROM: Roy Tjioe, Principal and Founder, Island Film Group

RE: Testimony in Opposition to HB2867 HD1, HB 2984 HD2 and HB 2962 HD1.

Aloha Madam Chair, Madam Vice Chair, and Members of the Committee:

Thank you for the opportunity to testify in STRONG OPPOSITION to HB 2867 HD1, which threatens to ruin the ability of local filmmakers to seek local investment to fund their film and television productions, by (a) retroactively and prospectively restricting the amount of investment tax credits that may be claimed between January 1, 2010 and January 1, 2012, including credits generated prior to January 1, 2010; and (b) retroactively and prospectively restricting the ability to carry over tax credits generated between January 1, 2010 and January 1, 2012. For the same reasons, I also STRONGLY OPPOSE HB 2984 HD2, to the extent it seeks to repeal the investment tax credit incentive.

I am a principal and founder of Island Film Group, a local film and television production company that to date has produced the television series BEYOND THE BREAK for the N Network, television movies SPECIAL DELIVERY, FLIRTING WITH FORTY and DEADLY HONEYMOON for Lifetime Channel, and the independent feature films PRINCESS KAIULANI (which will be released nationally on May 14) and SOUL SURFER (currently in production on the North Shore), **ALL** of which were financed using Act 221. As you know or should know, these productions resulted in the hiring of thousands of local tax paying workers in a dedicated effort to build our local film and television industry. We have been working hard to actively develop other projects for production in Hawaii, in reliance on our ability to utilize Hawaii's tax incentives to raise production capital. Indeed, we seek an extension for an additional year of Act 221, which is scheduled to sunset at year end.

If those in support of the present measures believe that Act 88 (the 15/20% refundable production tax credit) will be sufficient to sustain our efforts, they are proceeding under a false assumption. Act 88 is a refund, which means that the production must already have its production budget raised and in place before the refund can be claimed. While Act 88 is attractive to large studio productions (which already have the money), independent film and television productions such as those we produce cannot benefit from Act 88 unless and until they have raised money to produce their projects. The investment tax credit of Act 221 is critical to the survival of local independent filmmakers. The present measures impair our ability to raise money, and sends a clear message that local independent filmmakers that seek to produce local stories and hire local workers are unwanted.

As an attorney with 19 years of litigation experience at Hawaii's largest firm, I would also like to testify that, apart from eroding investor confidence in the State, the retroactive elements of HB 2867 HD1 are very likely to trigger lawsuits from investors who materially relied on the State's promises in regards to the benefits of Act 221 when they decided to invest in film and television productions. It is my understanding that hundreds of local individuals and entities are affected by the current measures, and I estimate that it will be several years before those lawsuits are resolved. I also believe that the litigation will be resolved in favor of the investors.

Although Hawaii is not immune to the national economic recession, this is exactly the right time to strengthen and promote our economic incentives, not weaken them. This is a time when we have the best opportunity to attract film and television productions, which will bring employment to our local workers and publicity for our islands. It would be a huge mistake for the Legislature to pass these measures in their present form, which would strongly discourage independent producers from looking to Hawaii as a production locale and for co-production capital. In fact, the proper remedy is to extend Act 221 for an additional year and enact strong infrastructure tax credit legislation.

In that regard, the original legislation underlying HB 2962 HD1 proposed to enact HRS 235-110.51, creating a technology infrastructure renovation tax credit, in a commendable effort to spur development of much needed infrastructure supporting the local film and television industry. HB 2962 HD1 seeks to delay the tax benefits that may be received until July 1, 2013, making it a much less attractive incentive, at a time when our infrastructure needs to grow and set itself apart as a production locale. Too many other jurisdictions have beautiful tropical locations and a cheaper currency/labor force on top of generous tax incentives (Puerto Rico, Florida, Fiji), and many also have strong infrastructure elements already in place (Australia, New Zealand). We must elevate our infrastructure base merely to compete with those other locations. Accordingly, I support the intent of the legislation, but OPPOSE the limitations contained in the current version of the bill.

Thank you for the opportunity to testify in OPPOSITION to these pending measures as they are currently written.

Roy Tjioe
ISLAND FILM GROUP

LATE

Kulana
CAPITAL MANAGEMENT, INC.

Chair Fukanaga, Vice Chair Baker and Committee Members:

My name Cap Havekorst, CEO of Kulana Capital Management, Inc. (KCM), I am in **opposition** to HB 2867, HD1, to the extent that it limits the application of the renewable energy technologies credit (the "RETC") under Hawai`i Revised Statutes ("HRS") Section 235-12.5.

Kulana Capital Management, Inc., has invested in a small solar photovoltaic installation company on Maui that designs, develops and installs commercial photovoltaic ("PV") energy systems in Hawaii. The systems range in size from 5 to 200 kilowatts. All of these PV systems rely on the ability to utilize Federal and State of Hawaii economic benefits and incentives available to owners of PV systems.

HB 2867, HD1, seeks, among other things, to limit certain allowable tax credits for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012. HB 2867, HD1, also seeks the imposition of ceilings for certain tax credits.

The major tax credit with which KCM is concerned is the RETC. Under HRS Section 235-12.5, owners of commercial PV systems are entitled to a tax credit of 35% of the cost of a PV facility, equipment, apparatus or the like, or $500,000, whichever is lower. Under HRS Section 235-12.5(g), a taxpayer may elect to reduce the eligible tax credit amount by thirty percent and claim the resulting amount as a refund.

The installation of PV systems, whether by the owner of the property (direct) or third parties (PPA), is driven almost entirely by the Federal and State economic incentives offered to owners. The RETC is a significant factor in this economic equation. The RETC has had a significant impact in creating the growing the entire renewable energy industry in Hawai`i. In the PV sector alone, jobs have grown from

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a handful in 2006 to approximately 2,000 in 2008 and perhaps double that amount in 2010. Given the Hawai`i Clean Energy Initiative and other legislation designed to move Hawai`i off its dependence on imported fossil fuels, the renewable energy industry is one of the bright spots in Hawaii's economy.

It is also important to note that the solar PV industry in Hawaii is just now gaining momentum in the market place. Companies like ours are at the leading edge of providing new jobs and leading Hawaii out of its current recession. This bill will irreparably harm companies like ours just as we ramp up our efforts to expand and hire new employees. Many new PV installations are funded through Purchase Power Agreement. These PPA's rely solely on the ability to monetize the tax credits, both State and Federal. PPA market primarily serves non-profit organizations, such as State and County agencies and facilities, hospitals, cultural centers, retirement homes, etc. that cannot afford to install PV systems because they (1) do not have the significant capital to commit to these projects and (2) cannot take advantage of the Federal and State economic incentives because the institution is not a taxable organization. Without the PPA mechanism, the financing of which is driven in large part by HRS Section 235-12.5, these institutions will not be able to have a PV system.

The PV industry is ready now to provide badly needed jobs in Hawaii. There is not lag period between conception and installation once a contract has been signed. There is no surer way to promote this new and important green industry than making sure that all tax incentives and initiatives are maintained. But the potential passage of HB 2867 will harm this industry that it may never recover from.

KCM understands the difficult challenges facing Hawaii as it grapples with a falling economy and dwindling revenue sources. It seems, however, ill-advised to discourage business growth and job creation, which will be the two main pillars that will reverse the State's economic condition.

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Kūlana
CAPITAL MANAGEMENT, INC.

For the foregoing reasons, KCM is opposed to HB 2867, HD1, as it relates to HRS Section 235-12.5 and we urge the Senate to opt HRS Section 235-12.5 from HB 2867, HD1.

We thank you for the opportunity to testify.

Sincerely,

Walter "Cap" Havekorst
CEO
Kulana Capital Management, Inc.
Managing Member
Kulana Renewable Resources, LLC

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 12, 2010 11:20 AM
To: EDTTestimony
Cc: ronmaui03@gmail.com
Subject: Testimony for HB2867 on 3/12/2010 1:30:00 PM

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Testimony for EDT 3/12/2010 1:30:00 PM HB2867

Conference room: 016
Testifier position: comments only
Testifier will be present: No
Submitted by: Ron Montgomery
Organization: Individual
Address: 68 Ka Drive Kula, HI
Phone: 808 2839079
E-mail: ronmaui03@gmail.com
Submitted on: 3/12/2010

Comments:
Please exempt the renewable energy tax credit from HB2867.

LATE

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

Via: http://www.capitol.hawaii.gov/emailtestimony

March 12, 2010

<u>Opposition</u> to HB 2867, HD1 Relating to Taxation
(Tax Credit Reduction)

Committee on Economic Development and Technology
Hearing Date: Friday, March 12, 2010 at 1:30 p.m. in CR 16

Honorable Senators Carol Fukunaga, Chair, Rosalyn H. Baker, Vice Chair and
Members of the Committee on Economic Development and Technology,

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 strongly opposes the portions of HB 2867, HD1, which reduce the tax credits for Important Agricultural Lands qualified agricultural costs, renewable energy technologies, and technology infrastructure renovations (construction of commercial buildings).

<u>HB 2867, HD1</u>. This bill reduces certain allowable tax credits for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012. Imposes a temporary tax ceiling for certain tax credits. including, among other things, limiting business credit claims to 80 percent of a taxpayer's tax liability for the taxable year in which the credit is claimed for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012; and prohibits a credit carryover of any business credit generated between January 1, 2010, and December 31, 2011.

LURF understands the intent of this measure, which is to provide more tax revenues for the state, however, due the downturn in Hawaii's economy, the closing of so many businesses and the loss of thousands of jobs, we have serious concerns about the impact of this measure as it would decrease many of the tax credits and incentives that were designed to stimulate business in the state.

LURF **<u>opposes</u>** the portions of this bill which reduce the tax credits for, among other things, Important Agricultural Lands qualified agricultural costs, renewable energy technologies, and technology infrastructure renovations (construction of commercial buildings). Thus, LURF also **respectfully <u>requests the deletion of the provisions</u> which reduce the following tax credits:**

- **HRS §235-110.93 Important Agricultural Lands qualified agricultural cost tax credit.** This bill would substantially reduce the Important Agricultural Lands (IAL) Qualified Agricultural Cost tax credit, which is an integral part of the comprehensive package of IAL incentives enacted in July 2008. This tax credit serves an important role in the provides financial assistance for basic costs of farming and encourages farmers and agricultural operators to invest in agricultural infrastructure and operations on IAL. As part of the comprehensive package of IAL incentives for both farmers and landowners, it also encourages farmers and landowners to consider the voluntary designation of their agricultural lands as IAL, a process that is currently ongoing. According to the State Department of Agriculture (DOA), the incentives are working. Within six months of the passage of the incentives, a landowner initiated the IAL designation process and now there are over 30,000 acres on Maui and Kauai designated as IAL. Other landowners are currently working on designating a portion of their lands as IAL. To eliminate this incentive at this time would destroy the momentum created by the initial IAL designations and cast doubt on the state's commitment to preserving important agricultural lands. It will also unfairly penalize the one landowner who already voluntarily designated over 30,000 acres as IAL. Now, more than ever, in these uncertain times, we need to ensure that the state will have a minimum level of food self-sufficiency which requires the utilization of our most productive lands. In both the short and long-term, protecting and using our important agricultural lands will contribute to our economic recovery and growth. Using our important agricultural lands to grow food for local and visitor consumption rather than rely on imports can make a significant impact on our economy. DOA has estimated that using our agricultural lands to replace just 10% of the food we import could generate an economy-wide impact of $188 million in sales, $47 million in earnings, $6 million in state tax revenues, and more than 2,300 jobs.

- **HRS §235-12.5 and HRS §241-4.6 Renewable energy technologies income tax credit.** HRS §235-12.5 provides for a renewable energy technologies income tax credit; and HRS §241-4.6 provides that the renewable energy technologies income tax credit shall be operative beginning after December 31, 2002; provided that the system was installed after June 30, 2003. The renewable energy technology credit was enacted to encourage the use of alternative fuels. Over the past few years, the state has established the "Hawaii Clean Energy Initiative" with the Department of Energy and the "Energy Agreement," with HECO. Both agreements are consistent with the statutory requirements set for to achieve Hawaii's independence from imported fossil fuels. The reduction in the renewable energy technologies credit could limit the number of potential renewable energy producers in Hawaii, which would have a direct impact on the ability to meet the statutory renewable energy requirements and the Energy Agreement with the state. According to DBEDT, the renewable energy technologies income tax credit was evaluated and found to have a positive revenue impact, with the State realizing an internal rate of return on the tax credit (due to increased economic activity) of approximately 18.1 %. The installation of renewable energy systems also improves Hawaii's energy security; diversifies our energy mix; creates jobs; and reduces emissions.

- **HRS §235-110.51 Technology infrastructure (commercial buildings) renovation tax credit.** Includes renovation of commercial buildings located in Hawaii. "Renovation costs" means costs incurred after December 31, 2000, to plan, design, install, construct, and purchase technology-enabled infrastructure equipment to provide a commercial building with technology-enabled infrastructure. "Technology-enabled infrastructure" means:
  (1) High speed telecommunications systems that provide Internet access, direct satellite communications access, and videoconferencing facilities;
  (2) Physical security systems that identify and verify valid entry to secure spaces, detect invalid entry or entry attempts, and monitor activity in these spaces;
  (3) Environmental systems to include heating, ventilation, air conditioning, fire detection and suppression, and other life safety systems; and
  (4) Backup and emergency electric power systems.

To reduce such incentives at this time would have numerous negative impacts, including, but not limited to, placing existing and potential projects in jeopardy; signaling to those in the investment community that there is a lack of commitment by the State to the goals of supporting viable and sustainable agricultural production, diversification of energy sources and use of renewable fuels, and weakening the progress towards the economic, agricultural and renewable energy objectives of the State.

CONCLUSION. We understand that the lack of revenue for the State is a major problem and that the State is facing a budget crisis; however, **LURF strongly opposes HB 2867, HD1**, because many businesses and residents rely on these tax credits. Due to the downturn in Hawaii's economy, the reduction in the above-mentioned tax credits until 2012 may be a factor in the demise of certain businesses. It is evident by the closing of so many businesses and the loss of thousands of jobs that we have serious concerns about the impact of this measure as it would decrease many of the tax credits and incentives that were designed to stimulate business in the state.

We appreciate the opportunity to express our **<u>strong opposition</u> to HB 2867, HD1.**

HAWAII RENEWABLE ENERGY ALLIANCE

46-040 Konane Place #3816, Kaneohe, HI 96744 – Telephone/FAX: 247-7753 – Email: wsb@lava.net

LATE

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TAXATION

HB 2867 HD1, Relating to Taxation

March 12, 2010

Chair Fukunaga, Vice-Chair Baker and members of the Committee, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of HB 2867 HD1 are to: (i) reduce certain allowable tax credits for taxable years beginning on or after January 1, 2010, and ending before January 1, 2012, and (ii) impose a temporary tax ceiling for certain tax credits.

HREA ***strongly opposes*** this bill as it does not exempt Section 235-12.5 (Renewable Energy Technologies Income Tax Credit). We can support this bill is it is amended to exempt Section 235-12.5 from the provisions of the measure. We offer the following comments in support of our request:

(1) The RETITC is a cost-effective incentive for <u>encouraging private investment in wind and solar technologies in Hawaii</u>. Over 100,000 solar hot water heaters are installed and operational in Hawaii, in large part due to the RETITC and its predecessor, the Energy Conservation Income Tax Credit. Over 10,000 solar water heating systems alone were installed during 2009;

(2) The RETITC has resulted in significant contributions to the utility's Renewable Portfolio Standard, and is vital to meeting the goals of the Hawaii Clean Energy Initiative;

(3) Moreover, we now have momentum in terms of increasing the use of renewables in Hawaii due to the RETITC in conjunction with other policies and programs such as net energy metering, RPS, and the envisioned feed-in tariff program.

(4) This momentum translates into the creation and sustenance of **new jobs**. This is vital to Hawaii's economic recovery, and helps pave the way to a long-term, green, sustainable economy for the future.

In short, HREA please include Section 235-12.5 in the list of credits in Section 1 (b) of the bill to be exempted.

Thank you for this opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 12, 2010 12:51 PM
To: EDTTestimony
Cc: doug@levinhu.com
Subject: Testimony for HB2867 on 3/12/2010 1:30:00 PM

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Testimony for EDT 3/12/2010 1:30:00 PM HB2867

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Douglas Levin, CPA
Organization:
Address:
Phone:
E-mail: doug@levinhu.com
Submitted on: 3/12/2010

Comments:
Please do not apply these restrictions to Solar Photovoltaic and other energy systems. These are one of the few bright spots in the Hawaiian economy.

Also, no tax bill should ever EVER be retroactive. You have made promises to the people of this state which you must keep. Tax law changes that effect benefits that your citizens relied upon should always go into effect on July 1st of each year, anything else simply isn't pono.

Thank you!

Room # 016 1:30 PM March 12, 2010

LATE

Senate Committee on Economic Development and Technology

HB2867, HD1 RELATING TO TAXATION

Chair Fukunaga, Vice-Chair Baker and Committee Members:

Introduction: My name is Riley Saito, Senior Manager, Hawaii Projects for the SunPower Systems Corporation. Thank you in advance for accepting these few comments on **HB2867, HD1.**

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 Hawaii Clean Energy Initiative. Also, as a member of the Solar Alliance, Sun Power has been an active participant in many Public Utilities Commission dockets that strive to deploy more renewable energy into the State of Hawaii. SunPower is in the business of designing, manufacturing, and delivering the highest efficiency solar electric technology worldwide. One of our latest projects was the 1.2 megawatt La Ola solar farm on Lanai with Castle & Cooke Hawaii.

SunPower opposes HB2867, HD1, unless it is amended to include Section 235-12.5, Hawaii Revised Statutes, tax incentive for solar and wind installations as an exception under subpart (b).

In reviewing HB2867, HD1, it appears that the House is attempting to reduce tax credits across the board, by limiting the tax credit to just eighty percent of a taxpayer's tax liability. However, the solar energy industry actually took their reduction already in 2009 when it agreed to reduce its 35% tax credit to 24.5% refundable tax credit option, a reduction of thirty percent. (SB464, CD2; Act 151.) The solar energy industry was willing to take the reduction to 24.5% because it knew that by making the credit refundable it would be able to open up the Hawaii market to investors. This includes out of State investors willing and able to finance PV installation in Hawaii, providing the balance -over 75% of the funding capital.

Economic Stimulation Enabled by the Act 151: Government Agencies Are Beneficiaries. The passage of Act 151 in the 2009 session has started to reopen the market for millions of out of state funding. This is clearly illustrated by the fact that since the enactment of Act 151 the State and Federal government has issued several Request for Proposals ("RFPs) for PV projects. These RFPs include:

- 4 MW for Department of Transportation, airports;
- 400 kW to 2 MW for Department of Education;
- Approximately 2 MW for University of Hawaii, Community Colleges;
- 1 MW for the Department of Navy; and
  300 kW for Hawaii County, West Hawaii Civic Center.

In total that equals approximately 8 MW of proposed new renewable generation that came about due to the enactment of Act 151. Moreover, the State and the other entities that are installing these systems will get a fixed price for their energy needs for the next 20 years.

Reduction in Fossil Fuel Dependency and Export of Dollars to Foreign Countries.
Additionally, 5-20 MW of proposed new renewable generation from the Private sector has been initiated because of Act 151. When you add the new government projects to the new private sector projects, this represents approximately 13-28 MW which equals approximately 650,000 to 1,000,000 barrels of oil that Hawaii does not have to import and the billions of dollars it does not have to export to purchase the oil.

Small Companies and Residence Are Beneficiaries.
This does not even include new Net Metering Projects that have been initiated because of the solar refundable income tax credit. In 2009, the number of Net Metering systems installed on the HECO grid went from 221 in 2008 to 511 in 2009; on the HELCO grid went from 115 in 2008 to 265 in 2009; and on the MECO grid went from 135 in 2008 to 238 in 2009. This is an increase in residential use of net metering and represents the expansion of small local firms providing jobs in the solar industry.

Elimination of tax credit: Against Federal Tax Policy Guidance for PV Installations.
As an added incentive to developers of solar energy generators the Federal government is offering grants to all projects that are initiated by December 31, 2010. This means that if the State enters into contracts with private developers now, they will get a better deal for their systems.

State Receives Economic Benefit prior to Tax Credit Obligation.
One of the greatest features of the tax incentive for solar and wind installation is that the State does not disburse a single penny of refundable tax credit until 6-12 months after the following:

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. The Federal 30% grant has been paid; and
6. After the taxpayer has filed its State of Hawaii income tax return.

Thus, the tax revenues and environmental benefits would occur prior to any outflow by the State. Unlike some other tax credits, the tax incentive for solar and wind installation is a safe investment in Hawaii's future.

Although solar installation is on the rise again, the market is still fragile and HB2867 now threatens to close the market again. The national PV industry is waiting and watching to see if Hawaii is really serious about reducing its dependency on fossil fuels.

Therefore, we strongly urge this committee to either hold HB2867, HD1 or to amend the bill by including Section 235-12.5, Hawaii Revised Statutes, tax incentive for solar and wind installations as an exception under subpart (b).

Mahalo for the opportunity to submit testimony.