SB 12

RELATING TO RENEWABLE ENERGY. Amends the renewable energy technologies income tax credit to improve consistency with the Internal Revenue Code, require tax credits to be certified by DBEDT, establish an aggregate tax cap, and specify that the tax credit applies to energy properties placed in service from 1/1/2013 through 12/31/2018. Authorizes independent power producers not currently regulated by the public utilities commission that have submitted an agreement with an electric utility company for approval by the public utilities commission by 3/31/2013 to receive tax credits authorized in calendar year 2012 for energy properties placed into service after 12/31/2012, as part of the agreement.

NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
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To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Energy & Environment

The Honorable Rosalyn H. Baker, Chair
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Thursday, February 7, 2013
Time: 2:45 p.m.
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. 12 Relating to Renewable Energy

The Department of Taxation (Department) appreciates the intent of S.B. 12, but prefers S.B. 1198 and provides the following summary and comments for your consideration.

Section 1 of this bill amends Hawaii Revised Statutes (HRS) section 235-12.5 by:

- Providing a renewable energy tax credit per dwelling for solar energy property that produces electricity for residential use at a rate of 30% for solar energy property placed in service between January 1, 2013 and December 31, 2013, 25% between January 1, 2014 and December 31, 2014, and 20% thereafter. The credits claimed under this provision are subject to a $12,500 cap per dwelling and $500,000 for commercial non-utility scale installations. The Department notes that the declining rates for each year will create an unnecessary rush for systems to be installed and placed in service at the end of each year. This rush will cause compliance and enforcement issues for the Department because taxpayers have an incentive to claim the credit in the earlier year. In addition, the Department does not believe that the declining rates are necessary if the credit rate is set reasonably because the actual credit amount will increase and decrease with changes in the price of the equipment and installation.

- In its current form, the Department will not be able to enforce the "per dwelling" cap because there is no definition of "dwelling". The replacement of the word "system" with "dwelling" in itself does not resolve the issues with the current statute. Where a cap is put in place, a detailed definition must also be put in place in order to be able to

effectively enforce compliance. The commercial non-utility-scale cap is also not defined in any manner. It is not clear what the cap is tied to and therefore, unenforceable. If it is necessary to retain the caps, the Department suggests that the "per system" language be retained since "system" has already been defined through administrative rules.

- Providing a renewable energy credit for wind energy property that produces electricity for use in the primary residence at a rate of 20% with no cap. For other non-utility scale wind energy property, 20% of the basis or a production credit of 1.5 cents per kilowatt hour produced and sold for a 120 month period.

- Providing a credit for residential solar water heaters at a rate of 35% capped at $2,500 and $250,000 for commercial non-utility scale solar water heaters.

- Providing a utility-scale solar production credit at 8 cents per kilowatt hour produced and sold during the first 10 years of the systems operation for ordinary utility scale solar systems. The Department notes that the federal production credit only provides 2.2 cents per kilowatt hour produced and sold. This paragraph provides for a production credit which is more than five times the amount of the federal credit. If the intent of the bill is to limit utility-scale installations to only be able to claim the production credit, the Department suggests and express provision stating that.

- Allowing full refundability of the credit for utility-scale solar and wind energy properties.

- The Department also suggests that definition of "basis" be amended so that the definition is consistent with allowable costs under Internal Revenue Code sections 25D and 48. This amendment would ease the administration of the credit.

Section 1 of S.B. 12 creates a new section in Chapter 235, Hawaii Revised statutes that sets an aggregate credit cap amount for commercial non-utility scale solar energy properties. The Department of Business, Economic Development, and Tourism (DBEDT) would be required to certify the that the solar energy property qualifies for the credit. DBEDT would then determine the order in which the credits are claimed and contact the taxpayers. The Department has serious concerns regarding aggregate caps and allowing other agencies to certify tax credits. Issues arise when the certifying agency provides erroneous advice or wrongfully certifies the credit. In these cases, the Department is placed in a difficult situation that is difficult to resolve. The aggregate cap system in this bill also does not seem to limit the credit amount that one taxpayer could claim. Thus, it is conceivable that the first taxpayer in the order of qualification could claim the entire amount. This is likely to create taxpayer uncertainty and defeat the purpose of providing the credit.

Part II, Section 2, of this bill allows independent power producers not currently regulated by the Public Utilities Commission that have submitted an agreement for approval with a

public utility by March 31, 2013 to claim the credit as authorized in 2012. The Department is strongly opposed to the grandfathering aspect of this provision. This provision presents substantial compliance and enforcement problems for the Department due to the lack of clarity prior to the issuance of the administrative rules.

Thank you for the opportunity to provide comments.

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

Lowell Kalapa

SUBJECT: INCOME, Renewable energy technology tax credit

BILL NUMBER: SB 12

INTRODUCED BY: Gabbard

BRIEF SUMMARY: **PART I:** Amends HRS section 235-12.5 to provide that: (1) one tax credit may be taken for each dwelling at 30% of the basis of the solar energy property installed and placed in service after December 31, 2012, but before to January 1, 2014, with a cap of $12,500; (2) one tax credit may be taken for each dwelling at 25% of the basis of the solar energy property installed and placed in service after December 31, 2013, but before January 1, 2015, with a cap of $12,500; or (3) one tax credit may be taken for each dwelling at 20% of the basis of the solar energy property installed and placed in service on or after January 1, 2015, with a cap of $12,500.

For solar energy property that heats water for residential use: one tax credit may be taken for each dwelling at 35% of the basis of the solar energy property, with a cap of $2,500.

Solar energy property that produces electricity for commercial non-utility scale: (1) the tax credit may be taken as 30% of the basis of the solar energy property installed and placed in service after December 31, 2012, but before December 1, 2014, with a cap of $500,000; (2) the tax credit may be taken as 25% of the basis of the solar energy property installed and placed in service after December 31, 2013, but before January 1, 2015, with a cap of $500,000; or (3) the tax credit may be taken as 20% of the basis of the solar energy property installed and placed in service on or after January 1, 2015, with a cap of $500,000.

For solar energy property that heats water for commercial non-utility scale, the tax credit may be taken as 35% of the basis of the energy property, with a cap of $250,000.

For utility scale solar energy property installed and placed into service after December 31, 2012, the credit shall be 8 cents per kilowatt hour produced and sold during the first 120 months of the property's operation.

Provides that wind energy property that produces electricity for use in the primary residence of the taxpayer claiming the credit, the credit shall be 20% of the basis of wind energy property installed and placed in service.

For other non-utility scale wind energy property that produces electricity, the credit shall be 20% of the basis of the wind energy property installed and placed into service.

For utility scale wind energy property installed and placed into service after December 31, 2012, the credit shall be 1.5 cents per kilowatt hour produced and sold during the first 120 months of the property's operation.

Replaces the term "actual cost" with "basis" and provides that "basis" means costs related to the energy property, including accessories and installation, but does not include the cost of consumer incentive premiums unrelated to the operation of the energy property or offered with the sale of the energy

property and costs for which another credit is claimed under this chapter. Stipulates that any cost incurred for the repair, construction, or reconstruction of a structure in conjunction with the installation and placing in service of solar or wind energy property shall not constitute a part of the basis.

Defines "commercial non-utility scale" as energy produced for a business, excluding residences that are leased or rented, and which is not interconnected to a utility grid at sub-transmission or transmission voltage.

Replaces the term "renewable energy technology system" with "energy property" and provides that it shall mean a tangible property that captures and converts a renewable source of energy into: (1) a usable source of thermal or mechanical energy; (2) electricity; or (3) fuel. Energy property includes solar energy property or wind energy property, which includes any identifiable facility, equipment, apparatus, or the like that converts solar or wind energy to useful thermal or electrical energy for heating, cooling, or reducing the use of other types of energy that are dependent upon fossil fuel for their generation.

Defines "utility scale" as solar or wind energy property that is: (1) designed, installed, and placed into service to produce electricity; (2) interconnected to a utility grid at sub-transmission or transmission voltage; and (3) subject to a feed-in tariff or power purchase agreement approved by the public utilities commission.

Prior to claiming a tax credit for solar energy property or wind energy property, a taxpayer is required to apply for and receive tax credit certification from the department of business, economic development, and tourism (DBEDT). To qualify for certification: (1) a taxpayer, under a feed-in tariff, shall provide DBEDT with a dated copy of utility interconnection costs and requirements estimate from the applicable electric utility company; and (2) a taxpayer, under a power purchase agreement, shall provide DBEDT with documentation from the public utilities commission demonstrating the commission's approval of the power purchase agreement. DBEDT shall determine if the taxpayer qualifies for certification for the credit. Requires DBEDT to: (1) verify the number of kilowatt hours produced and sold by each taxpayer during each calendar year; (2) total all tax credits that the department certifies; (3) certify the total amount of the tax credit for each taxable year and the cumulative amount of the tax credit during the credit period; and (4) carry forward any certified tax credits in excess of the applicable aggregate cap amount for each calendar year. Requires the taxpayer that elects to claim the credit to provide DBEDT with reports from the electric utility company demonstrating the number of kilowatt hours produced and sold by the taxpayer during the calendar year.

Upon each certification, DBEDT shall issue a certificate to the taxpayer and the certificate is to be filed with the taxpayer's tax return with the department of taxation in order to claim the tax credit. DBEDT shall not qualify any taxpayer for certification after December 31, 2018.

When the annual amount of certified credits for solar energy properties reaches the applicable aggregate cap amount, DBEDT shall notify the department of taxation and carry forward all certified tax credits in excess of the applicable aggregate cap amount to the following year. The aggregate cap amount for solar energy property shall be:

Calendar Year	Aggregate Cap Amount
2013	$ 6,000,000
2014	9,000,000
2015	12,000,000
2016 and thereafter	13,500,000

When the annual amount of certified credits for wind energy properties reaches the applicable aggregate cap amount, DBEDT shall notify the department of taxation and carry forward all certified tax credits in excess of the applicable aggregate cap amount to the following year. The aggregate cap amount for wind energy property shall be:

Calendar Year	Aggregate Cap Amount
2013	$ 2,000,000
2014	4,000,000
2015	6,000,000
2016 and thereafter	10,000,000

This section shall be applicable to eligible energy properties that are installed and placed in service after December 31, 2012 and before January 1, 2019.

PART II: Independent power producers not currently regulated by the public utilities commission that have submitted an agreement with an electric utility company for approval by the public utilities commission by March 31, 2013 shall be allowed tax credits as authorized in the 2012 calendar year for energy properties placed into service after December 31, 2012, as part of the agreement.

EFFECTIVE DATE: Tax years beginning after December 31, 2012

STAFF COMMENTS: The existing renewable energy technologies income tax credit is 35% for solar energy systems or 20% for wind energy systems with dollar limits on the amount of credit that may be claimed depending on whether the system is used to heat water or generate electricity and whether the system is installed on a single or multi-family residential property or commercial property.

This measure would reduce the amount of the credit from 35% to 30% that may be claimed for solar (including commercial non-utility scale) or wind energy property placed in service after December 31, 2012, but before January 1, 2014; 25% for property placed in service after December 31, 2013 but before January 1, 2015; 20% for property placed in service after January 1, 2015 and thereafter.

The measure also establishes tax credits of 8 cents per kilowatt hour for utility scale solar energy facilities placed in service after December 31, 2012 for the first 120 months. For utility scale wind energy properties placed in service after December 31, 2012 the credit shall be 1.5 cents per kilowatt hour produced and sold during the first 120 months of operation.

While it appears that this measure is proposed to reduce the outflow of tax credits due to the misinterpretation of the existing tax credit provisions, it is questionable why the proposed measure expands the renewable energy technologies income tax credits to include utility scale solar energy facilities and allows independent power producers to claim the tax credits.

While the measure also expands the renewable energy technologies income tax credits to include utility scale solar energy facilities, it acknowledges the high cost of renewable energy technologies.

While some may consider an incentive necessary to encourage the use of alternate energy devices, it should be noted that the high cost of these energy systems limits the benefits to those who have the initial capital to make the purchase. If it is the intent of the legislature to encourage a greater use of renewable energy systems by increasing and expanding the existing system of energy tax credits, as an alternative, consideration should be given to a program of low-interest loans. However, if the taxpayer avails himself of the loan program, the renewable energy credit should not be granted for projects utilizing the loan program as the project would be granted a double subsidy by the taxpayers of the state. Such low-interest loans, that can be repaid with energy savings, would have a much more broad-based

application than a credit which amounts to nothing more than a "free monetary handout" or subsidy by state government. A program of low or no-interest loans would do much more to increase the acquisition of these devices.

Instead of providing tax incentives for the purchase of existing technology, lawmakers may want to take advantage of Hawaii's natural environment which lends itself to all sorts of possibilities to explore and develop more efficient means of harnessing the natural resources that pervade the Islands, from wind to sun to geothermal to hydrogen from Hawaii's vast resources, all of which could be further developed with the assistance and cooperation of government in Hawaii.

Finally, the current statute providing these tax incentives for renewable energy technologies reflects the lack of due diligence and good hard research on the part of lawmakers. Apparently the caps imposed on the tax incentive for the solar electric generating systems are far from being realistic. For example, the $5,000 cap for residential installations translates into about $15,000 of "actual cost." Anything greater than that amount would exceed the cap of the 35% tax credit. On the commercial side, the half million-dollar cap may be insufficient for a commercial building to generate a net-zero status that would avoid a stand-by charge by the local electric company. Those stand-by charges have been reported to sometimes exceed the bills had the building owner not installed such solar electric generating systems. Thus, the law, as currently written, does not take into account these resulting contradictions.

While this and other measures demand serious consideration in order to stem the abuse of the current tax credit provisions, lawmakers and staff need to spend time during the interim researching and honing the tax incentive to be a more reasonable incentive that is forged in a good understanding of the developing technology. What is currently on the books reflects a technology long deemed archaic and, therefore, the tax incentive is less than efficient.

The measure would also grant a tax credit of 8 cents per kilowatt hour produced from a utility scale solar energy system. This provision would grant a tax incentive based solely on the fact that alternate energy has been generated and then award the owner of that facility a credit even though the owners of the facility may be consuming the energy generated. If the intent is to mimic the federal treatment of such energy, then the credit should be based on the number of kilowatt hours **produced and sold** (instead of generated) as the intent is to subsidize the cost of the energy when purchased by a third party who may have the choice of purchasing that energy from a fossil fuel-based generator. It should also be noted that if it is the intent to mirror the federal treatment, the size of the credit proposed is more than five times the amount granted under the federal laws where tax rates are higher.

The extensive reporting requirements regarding the amounts of tax credit claimed for each type of solar energy facilities, as well as the study of the effectiveness of the renewable energy tax income tax credits, should have been done when the credits were first adopted.

Digested 2/6/13

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE SENATE COMMITTEES ON ENERGY AND ENVIRONMENT, AND COMMERCE AND CONSUMER PROTECTION

SB 12, RELATING TO RENEWABLE ENERGY

February 7, 2013

Chairs Gabbard and Baker, Vice-Chairs Ruderman and Galuteria, and members of the Committees, 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 SB 12 are to: (i) amend the renewable energy technologies income tax credit to improve consistency with the Internal Revenue Code, (ii) require tax credits to be certified by DBEDT, (iii) establish an aggregate tax cap, and specify that the tax credit applies to energy properties placed in service from 1/1/2013 through 12/31/2018.; and (iv) authorizes independent power producers not currently regulated by the public utilities commission that have submitted an agreement with an electric utility company for approval by the public utilities commission by 3/31/2013 to receive tax credits authorized in calendar year 2012 for energy properties placed into service after 12/31/2012, as part of the agreement.

HREA **supports this measure** and offer the following comments for consideration :

1) Discussion during Senator Gabbard's Working Group ("GWG"). The discussion (during the four meetings of the GWG during the interim) centered on developing an appropriate and reasonable modification of the RETITC to close loopholes, and reduce the fiscal impact to the state while allowing industry to continue to thrive and grow in order to meet consumer demand and support our clean energy goals.

2) Assessment of this Measure. We believe this measure represents a "good take" on the tax treatments discussed in the GWG. Specifically:

   a) Residential. Lowering the Investment Tax Credit ("ITC") for residential solar projects to 30% (wind would stay at 20%) per project, and establishing CAPs of $2,500 for residential SHW and $12,500 for residential PV are appropriate and reasonable. However, we are not sure the percentage should be reduced further until we see how the market responds; and

   b) Utility-Scale. As proposed, a Production Tax Credit ("PTC") at 8 cents for utility-scale solar and 1.5 cents/kWh for wind projects is reasonable and will spread out the fiscal impact to the state over 10 years for a project, as opposed an ITC which would be paid in one year. We suggest that the aggregate CAP be removed, as it would likely be problematic to administer.(would require some sort of queuing process). Moreover, we already have a queuing process with the utility. Finally, we believe the PTC should be available as a "tax credit" or as a "refundable tax credit." Specifically, we don't see a persuasive argument for the need to discount the refundable.

Mahalo for this opportunity to testify

The Pacific Resource
PARTNERSHIP

Testimony of Cindy McMillan
The Pacific Resource Partnership

Senate Committee on Energy and Environment
Senator Mike Gabbard, Chair
Senator Russell Ruderman, Vice Chair

Senate Committee on Commerce and Consumer Protection
Senator Rosalyn Baker, Chair
Senator Brickwood Galuteria, Vice Chair

SB 12 – Relating to Renewable Energy
Thursday, February 7, 2013
2:45 pm
Conference Room 225

Aloha Chair Gabbard, Chair Baker and Members of the Committees:

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

PRP **supports the intent** of SB 12, which will make needed reforms to the Renewable Energy Technologies Income Tax Credit ("RETITC") to reduce the credit's cost to the State. However, we believe that there are other effective ways to make those same reforms, while making the RETITC easier to administer and also to maintain the viability of all sectors of the solar industry.

First, we recommend passing a measure that more closely follows the Federal tax credit structure by eliminating the per-system caps and adopting federal definitions and interpretations. This will remove ambiguities in the existing law and make it easier for the Department of Taxation to administer the credit. This will benefit not only the Department but also all stakeholders, including households, businesses, and contractors, as well as lessors and other funders of solar projects.

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Second, we recommend passing a measure that will maintain the viability of the commercial and utility-scale sectors of the solar industry. Although SB 12 will preserve the residential market, its per-credit cap for commercial systems and its aggregate cap amounts for utility-scale projects would be devastating to those sectors of the industry. We recommend a more balanced approach that makes cuts to—but ultimately preserves—all sectors of the industry. Preserving the viability of all segments of Hawai'i's solar industry will lead to a higher level of renewable energy installation at a lower cost to the state. In doing so, it will maximize the use of state tax dollars and keep Hawai'i on the path to achieving its clean energy goals.

Thank you for the opportunity to share our views on this important initiative with you.

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Thursday, February 7, 2013 – 2:45 p.m. – Room 325
Testimony Supporting the Intent of SB 12 Relating to Renewable Energy

Chair Gabbard, Chair Baker, Vice Chair Ruderman, Vice Chair Galuteria, and Members of the Committees:

Hawaii Pacific Solar **supports the intent** of SB 12, which will make needed reforms to the Renewable Energy Technologies Income Tax Credit ("RETITC") to reduce the credit's cost to the State. However, we believe that there are other, more effective way to make those same reforms, while also making the RETITC easier to administer and maintaining the viability of all sectors of the solar industry.

First, we recommend passing a measure that more closely follows the Federal tax credit structure by eliminating the per-system caps and adopting federal definitions and interpretations. This will remove ambiguities in the existing law and make it easier for the Department of Taxation to administer the credit. This will benefit not only the Department but also all stakeholders, including households, businesses, and contractors, as well as lessors and other funders of solar projects.

Second, we recommend passing a measure that will maintain the viability of the commercial and utility-scale sectors of the solar industry. Although SB 12 will preserve the residential market, its per-credit cap for commercial systems and its aggregate cap amounts for utility-scale projects would be devastating to those sectors of the industry. We recommend a more balanced approach that makes cuts to—but ultimately preserves—all sectors of the industry. Preserving the viability of all segments of Hawai'i's solar industry will lead to a higher level of renewable energy installation at a lower cost to the state. In doing so, it will maximize the use of state tax dollars and keep Hawai'i on the path to achieving its clean energy goals.

Thank you for the opportunity to provide this testimony.

Sincerely,

G. Robert Johnston
President
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FOREST CITY
HAWAII

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Thursday, February 7, 2013 – 2:45 p.m. – Room 325

Testimony Supporting the Intent of SB 12 Relating to Renewable Energy

Chair Gabbard, Chair Baker, Vice Chair Ruderman, Vice Chair Galuteria, and Members of the Committees:

My name is Jon Wallenstrom and I am the Senior Vice President of Forest City Hawaii. It has been Forest City's honor to be a member of the Hawaii business community. Over the past seven years our company has executed on a $2 Billion project to redevelop Navy and Marine Corps housing, built the largest photovoltaic project on the island of Oahu, and started development of a large affordable housing project using solar energy in partnership with HHFDC on the Big Island. Forest City is one of the largest residential community and renewable-energy developers in the state. We are very proud of these accomplishments and would like to continue to work with the people of Hawaii to create a better built environment.

Forest City **supports the intent** of SB 12, which will make needed reforms to the Renewable Energy Technologies Income Tax Credit ("RETITC") to reduce the credit's cost to the State. However, we believe that there are other, more effective ways to make those same reforms, while also making the RETITC easier to administer and maintaining the viability of all sectors of the solar industry.

First, we recommend passing a measure that more closely follows the Federal tax credit structure by eliminating the per-system caps and adopting federal definitions and interpretations. This will remove ambiguities in the existing law and make it easier for the Department of Taxation to administer the credit. This will benefit not only the Department but also all stakeholders, including households, businesses, and contractors, as well as lessors and other funders of solar projects.

Second, we recommend passing a measure that will maintain the viability of the commercial and utility-scale sectors of the solar industry. Although SB 12 will preserve the residential market, its per-credit cap for commercial systems and its aggregate cap amounts for utility-scale projects would be devastating to those sectors of the industry. We recommend a more balanced approach that makes cuts to—but ultimately preserves—all sectors of the industry. Preserving the viability of all segments of Hawai'i's solar industry will lead to a higher level of renewable energy installation at a lower cost to the state. In doing so, it will maximize the use of state tax dollars and keep Hawai'i on the path to achieving its clean energy goals.

Thank you for the opportunity to provide this testimony.

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meridian 158

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Thursday, February 7, 2013 – 2:45 p.m. – Room 325

Testimony Supporting the Intent of SB 12 Relating to Renewable Energy

Chair Gabbard, Chair Baker, Vice Chair Ruderman, Vice Chair Galuteria, and Members of the Committees:

Meridian 158, LLC encourages the elimination of the aggregate cap on credits for utility scale projects as currently drafted in SB 12. The lack of clarity with regard to the future of Hawaii's renewable energy tax incentives has created paralysis in the financing of large scale projects in the state. Placing a cap on the aggregate tax incentive of all utility scale projects will diminish a project's ability to secure financing by creating uncertainty on the financial projections of any given project because there is no way of knowing whether the project will make it "under the cap" or not.

While reaching Hawaii's renewable energy goals correctly includes a mix of individual residential installations, and the distribution of the tax incentives that go with it, large scale projects have the advantage of providing renewable energy at a lower cost to all ratepayers and better grid control and stabilization for the utility. Utility scale projects are an effective and efficient means of reaching the state's renewable energy goals for the future, but must have financial stability to do so.

Meridian 158, LLC encourages the legislature to continue to take a wider view of the benefit that Hawaii's tax incentives have brought to the state's economy. Hawaii's renewable energy incentives have been hugely successful in drawing millions of dollars of private investment as well as additional Federal dollars (matched essentially 1:1 with the state incentive) to Hawaii's economy. In March 2012, DBEDT reported that the solar industry originated 15% of all of Hawaii's construction expenditures in 2010. During a period of economic stagnation, the development of renewable energy promoted by the state tax incentives, bolstered local business and provided a multiplicative effect of money recirculating through our economy.

Thank you for the opportunity to provide this testimony.

Sincerely,

Paula K. Lair
Principal
Meridian 158, LLC

Scatec Solar
North America

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Thursday, February 7, 2013 – 2:45 p.m. – Room 325

Testimony Supporting the Intent of SB 12 Relating to Renewable Energy

Chair Gabbard, Chair Baker, Vice Chair Ruderman, Vice Chair Galuteria, and Members of the Committees:

SCATEC SOLAR NORTH AMERICA, INC., **supports the intent** of SB 12, which will make needed reforms to the Renewable Energy Technologies Income Tax Credit ("RETITC") to reduce the credit's cost to the State. However, we believe that there are other, more effective ways to make those same reforms, while also making the RETITC easier to administer and maintaining the viability of all sectors of the solar industry.

First, we recommend passing a measure that more closely follows the Federal tax credit structure by eliminating the per-system caps and adopting federal definitions and interpretations. This will remove ambiguities in the existing law and make it easier for the Department of Taxation to administer the credit. This will benefit not only the Department but also all stakeholders, including households, businesses, and contractors, as well as lessors and other funders of solar projects.

Second, we recommend passing a measure that will maintain the viability of the commercial and utility-scale sectors of the solar industry. Although SB 12 will preserve the residential market, its per-credit cap for commercial systems and its aggregate cap amounts for utility-scale projects would be devastating to those sectors of the industry. We recommend a more balanced approach that makes cuts to—but ultimately preserves—all sectors of the industry. Utility scale projects take years to develop, and with tax uncertainty it makes financing these projects nearly impossible. Utility scale projects are what ultimately benefit all ratepayers as they deliver wholesale power to the grid, not just the individuals that can afford their own solar. Preserving the viability of all segments of Hawaii's solar industry will lead to a higher level of renewable energy installation at a lower cost to the state. In doing so, it will maximize the use of state tax dollars in an affective way and keep Hawai'i on the path to achieving its clean energy goals.

Thank you for the opportunity to provide this testimony.

Sincerely

KAIROS
ENERGY
CAPITAL

TO: Senate Committee on Energy and the Environment
Honorable Senator Mike Gabbard, Chair
Honorable Senator Russell Ruderman, Vice Chair

RE: Testimony Supporting Intent of SB12 Relating To Renewable Energy.

Testimony is 2 pages long.

HEARING: Tuesday, February 7, 2:45 p.m.

Kairos Energy Capital supports the intent of SB12, but urges the Committee to pass out SB11 instead, as a better crafted measure to address all issues facing the Hawai`i tax credit.

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

Because our business is about financing renewable energy systems, I will focus my testimony today on the interaction between Hawai`i's renewable energy technology investment tax credit (the "Hawai`i Tax Credit") and the capital markets that make Hawai`i's renewable energy initiatives possible.

1. The Hawai`i Tax Credit Currently Brings $3 of Other People's Money for Every Dollar of State Investment: According to data from the Department of Taxation, DBEDT and county building permit offices, the actual rate at which the Hawai`i Tax Credit is claimed is about 23% of the system value, rather than the "nominal" rate of 35% in the statute. A great deal of this is due to taxpayers claiming the refund at a 30% discount – i.e. 24.5% of the system value – and some amount of unclaimed credits, defective applications and the like. The rest of the money – 77% of the cost of every installation – comes from a combination of Federal money in the form of the Federal tax credit, and private funds.

This "leverage" is very valuable, not only for the State's renewable energy objectives, but also for the capital markets.

2. SB12 Continues Some of the Least Attractive Features of the Hawai`i Tax Credit: While SB12 does provide for continued investment by the State in our renewable energy goals, it preserves the "per system" cap structure that has been controversial and complex to administer. SB11, on the other hand, adopts the well-tested Federal structure of a simple, and progressively reduced, percentage of cost method.

3. SB12 Is Highly Adverse to Commercial and Utility Scale Installations: By continuing the "per system" cap and maintaining the commercial/utility cap at $500,000, SB12 would codify the worst elements of the Department of Taxation's Temporary Administrative Rule 18-235-12.5-01T et seq. promulgated in November 2012 (the "DoTax Rule"). This rule effectively reduced the residential incentive by 30-50%, and the commercial and utility incentive by 50-95%, with essentially no notice. This rule would remain in effect under SB12, and the effect would be to cause a great deal of capital to flee the Hawai`i energy market for other, more suitable and stable pastures.

4. Retroactive Effect Would Penalize Reliance on Existing Rules: SB12 has a proposed effective date that would apply to all projects placed in service from January 2013. The DoTax Rule has already created chaos in the capital markets for energy projects due to the very short advance notice and radical departure from previous guidance. As markets have begun to adapt to doing limited activity under the DoTax Rule, the threat that SB12's retroactive effective date would undermine even those efforts and will chill project activity as long as this bill is pending with this effective date. While we would prefer that the Committee not pass out SB12 at all, at the very least it should be amended to have an effective date of January 2014 and to specifically provide that projects commenced in reliance on the DoTax Rule would be "grandfathered".

For all of these reasons, while Kairos Energy Capital supports the intent of SB12, we urge this Committee to pass SB11 instead.

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

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HOKU SOLAR®

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Thursday, February 7, 2013 – 2:45 p.m. – Room 325

Testimony Supporting the Intent of SB 12 Relating to Renewable Energy

Chair Gabbard, Chair Baker, Vice Chair Ruderman, Vice Chair Galuteria, and Members of the Committees:

Hoku Solar **supports the intent** of SB 12, which will make needed reforms to the Renewable Energy Technologies Income Tax Credit ("RETITC") to reduce the credit's cost to the State. However, we believe that there are other, more effective ways to make those same reforms, while also making the RETITC easier to administer and maintaining the viability of all sectors of the solar industry.

First, we recommend passing a measure that more closely follows the Federal tax credit structure by eliminating the per-system caps and adopting federal definitions and interpretations. This will remove ambiguities in the existing law and make it easier for the Department of Taxation to administer the credit. This will benefit not only the Department but also all stakeholders, including households, businesses, and contractors, as well as lessors and other funders of solar projects.

Second, we recommend passing a measure that will maintain the viability of the commercial and utility-scale sectors of the solar industry. Although SB 12 will preserve the residential market, its per-credit cap for commercial systems and its aggregate cap amounts for utility-scale projects would be devastating to those sectors of the industry.

By introducing fundamental uncertainties into project economics, such per-credit and aggregate caps will act as a deterrent to current and future project developers and prospective system owners. This will result in a reduction of the overall number of low-carbon, cost-effective, large-scale solar energy facilities successfully built and interconnected in Hawai'i.

As one of the few Hawaii solar companies focused exclusively on the commercial, institutional and utility-scale market segments, we recommend a more balanced approach that makes cuts to—but ultimately preserves—all sectors of the industry.

Preserving the viability of all segments of Hawaii's solar industry will lead to a higher level of renewable energy installation at a lower cost to the state. In doing so, it will maximize the use of state tax dollars and keep Hawai'i on the path to achieving its clean energy goals.

Thank you for the opportunity to provide this testimony.

Sincerely,

Jerrod Schreck
President