
HOUSE CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR TO REQUIRE REIMBURSEMENT TO THE GENERAL FUND FOR THE AMOUNTS OF REFUNDABLE TAX CREDITS UNDER HRS 235-12.5, THE RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT.

1 WHEREAS, the Legislature declares that the State of Hawaii
2 must reduce its reliance on imported fossil fuel; and
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4 WHEREAS, to facilitate this public policy, the Legislature
5 has enacted a renewable energy technology system tax credit
6 under section 235-12.5, Hawaii Revised Statutes (HRS); and
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8 WHEREAS, Act 154, Session Laws of Hawaii 2009, made the
9 credit refundable; and
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11 WHEREAS, since then, the tax expenditure for the credit has
12 grown substantially, much more than the estimate upon which the
13 Legislature relied to pass Act 154; and
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15 WHEREAS, this tax expenditure for the credit is paid
16 directly and exclusively from the general fund; and
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18 WHEREAS, the Legislature has recently learned that some
19 state agencies, the operation of which are paid from non-general
20 funds, have entered into contracts for the installation of
21 renewable energy technology systems on their property; and
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23 WHEREAS, the Legislature also has learned that other state
24 agencies are considering entering into such contracts; and
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26 WHEREAS, two basic contract models appear to be involved:
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- 28 (1) Under one model, a renewable energy technology system
29 contractor installs a system on a state agency's
30 property at no charge to the state agency for
31 installation. The contractor pays for the



1 installation by (A) obtaining financing based on the
2 future sale of electricity generated by the system to
3 the state agency and (B) claiming the refundable tax
4 credit; and
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- 6 (2) Under the other model, a renewable energy technology
7 system contractor installs the system on property
8 leased from a state agency and pays lease rent that is
9 deposited into the state agency's non-general fund.
10 The contractor bears the entire installation cost, but
11 uses the refundable state tax credit to pay for part
12 of that cost; and
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14 WHEREAS, under both models, the state agencies' non-general
15 funds are benefitted, but at the expense of the general fund;
16 and
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18 WHEREAS, the Legislature finds that, during the current
19 difficult budgetary period, the general taxpayers should not
20 subsidize the special beneficiaries of those non-general funds;
21 now, therefore,
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23 BE IT RESOLVED by the House of Representatives of the
24 Twenty-sixth Legislature of the State of Hawaii, Regular Session
25 of 2011, the Senate concurring, that the Governor is requested
26 to require the reimbursement of the general fund from a non-
27 general fund for the amount of a refundable tax credit under
28 section 235-12.5, HRS, when the following occurs after June 30,
29 2011:
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- 31 (1) A state agency contracts with a person to install a
32 renewable energy technology system on the state
33 agency's property;
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- 35 (2) The state agency's non-general fund is expected to
36 benefit from the installation of the system because of
37 reduced electricity expenditures or increased lease
38 rent revenues; and
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- 40 (3) The contractor who installs the system claims the
41 refundable tax credit; and
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43 BE IT FURTHER RESOLVED that, if federal or state law
44 prevents such a reimbursement of the general fund from the non-



1 general fund, the Governor is requested to prohibit the state
2 agency from entering into the contract; and

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4 BE IT FURTHER RESOLVED that the Director of Taxation, with
5 the assistance of the Director of Business, Economic
6 Development, and Tourism, is requested to calculate the amount
7 of refundable tax credits claimed under section 235-12.5, HRS,
8 between July 1, 2009 and December 31, 2011 by contractors based
9 on renewable energy technology systems installed on state and
10 county agencies' property; and

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12 BE IT FURTHER RESOLVED that the Director of Finance is
13 requested to recommend to the Governor and Legislature whether
14 the general fund should be reimbursed by the state agencies'
15 non-general funds or counties for the amount of refundable tax
16 credits claimed during that period; and

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18 BE IT FURTHER RESOLVED that the Director of Business,
19 Economic Development, and Tourism is requested to:

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21 (1) Coordinate the state directors' actions that are
22 requested under this Concurrent Resolution; and
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24 (2) Submit a report to the Legislature before the
25 convening of the Regular Session of 2012 of the
26 findings and recommendations of the state directors;
27 and
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29 BE IT FURTHER RESOLVED that certified copies be transmitted
30 to the Governor, Director of Business, Economic Development, and
31 Tourism, Director of Finance, and Director of Taxation.
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