

JAN 23 2014

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# A BILL FOR AN ACT

RELATING TO ENERGY STORAGE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to facilitate the  
2 greater use of renewable energy by encouraging cost-effective  
3 energy storage technologies and systems that directly promote  
4 the use of renewable energy by establishing a tax credit,  
5 limited in scope and duration, for energy storage properties.

6           SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9           "§235-     Energy storage tax credit. (a) There shall be  
10 allowed to each resident or corporate taxpayer subject to the  
11 tax imposed by this chapter, an energy storage tax credit for  
12 each utility scale renewable energy storage property:

13           (1) That is used primarily to store electricity generated  
14           from renewable sources;

15           (2) For which the taxpayer enters into an agreement after  
16           June 30, 2014, and on or before December 31, 2020, for  
17           the sale of the electricity produced by the utility



1 scale renewable energy storage property to an electric  
2 utility; and

3 (3) That is installed and first placed in service by a  
4 taxpayer during a taxable year after December 31,  
5 2014, and on or before December 31, 2024.

6 (b) The tax credit may be claimed in either but not both  
7 of the following forms:

8 (1) An investment credit equal to not more than twenty per  
9 cent of the basis, apportioned as follows:

10 (A) During the first taxable year of the operation of  
11 the utility scale renewable energy storage  
12 property, eight per cent of the basis, up to a  
13 maximum of \$80,000 per megawatt-hour of energy  
14 storage capacity;

15 (B) During the second taxable year of the operation  
16 of the utility scale renewable energy storage  
17 property, six per cent of the basis, up to a  
18 maximum of \$60,000 per megawatt-hour of energy  
19 storage capacity;

20 (C) During the third taxable year of the operation of  
21 the utility scale renewable energy storage  
22 property, four per cent of the basis, up to a



1           maximum of \$40,000 per megawatt-hour of energy  
2           storage capacity; and  
3           (D) During the fourth taxable year of the operation  
4           of the utility scale renewable energy storage  
5           property, two per cent of the basis, up to a  
6           maximum of \$20,000 per megawatt-hour of energy  
7           storage capacity;  
8           provided, however, that no utility scale renewable  
9           energy storage property that receives an investment  
10           credit under this paragraph may also receive a  
11           utilization credit under paragraph (2); or  
12           (2) A utilization credit equal to the total product of  
13           multiplying:  
14           (A) The energy storage capacity measured in kilowatt-  
15           hours;  
16           (B) The number of calendar days in the period for  
17           which the credit applies; and  
18           (C) 7 cents;  
19           provided, however, that no utility scale renewable  
20           energy storage property that receives a utilization  
21           credit under this paragraph may also receive an  
22           investment credit under paragraph (1).



1        (c) The tax credit shall be deductible from the taxpayer's  
2 net income tax liability imposed by this chapter for the taxable  
3 year in which the credit is properly claimed. If the tax  
4 credits under subsection (b) exceed the taxpayer's income tax  
5 liability, the excess of the credit over liability may be used  
6 as a credit against the taxpayer's income tax liability in  
7 subsequent years until exhausted, unless otherwise elected by  
8 the taxpayer pursuant to subsection (d).

9        (d) For any utility scale renewable energy storage  
10 property, a taxpayer may elect to reduce the eligible credit  
11 amount by thirty per cent and, if this reduced amount exceeds  
12 the amount of income tax payment due from the taxpayer, the  
13 excess of the credit amount over payments due shall be refunded  
14 to the taxpayer; provided, however, that no refund on account of  
15 the tax credit allowed by this section shall be made for amounts  
16 less than \$1.

17        The election required by this subsection shall be made in a  
18 manner prescribed by the director on the taxpayer's return for  
19 the taxable year in which the utility scale renewable energy  
20 storage property is installed and placed in service. A separate  
21 election may be made for each separate property that generates a  
22 credit. An election once made is irrevocable.



1       (e) The dollar amount of any utility rebate shall be  
2 deducted from the basis of the qualifying energy storage  
3 property and its installation before applying the state tax  
4 credit.

5       (f) Multiple owners of a single utility scale renewable  
6 energy storage property shall be entitled to a single tax  
7 credit, and the tax credit shall be apportioned between the  
8 owners in proportion to their contribution to the basis of the  
9 utility scale renewable energy storage property.

10       (g) In the case of a partnership, S corporation, estate,  
11 or trust, the tax credit allowable is for every eligible utility  
12 scale renewable energy storage property that is installed and  
13 placed in service in the state by the entity. The basis upon  
14 which the tax credit is computed shall be determined at the  
15 entity level. Distribution and share of credit shall be  
16 determined pursuant to section 704(b) of the Internal Revenue  
17 Code.

18       (h) The director of taxation shall prepare any forms that  
19 may be necessary to claim a tax credit under this section,  
20 including forms identifying the property type of each tax credit  
21 claimed under this section. The director may also require the  
22 taxpayer to furnish reasonable information to ascertain the



1 validity of the claim for credit made under this section and may  
2 adopt rules necessary to effectuate the purposes of this section  
3 pursuant to chapter 91.

4 (i) All claims for the tax credit under this section,  
5 including amended claims, shall be filed on or before the end of  
6 the twelfth month following the close of the taxable year for  
7 which the credit may be claimed. Failure to comply with this  
8 subsection shall constitute a waiver of the right to claim the  
9 credit.

10 (j) The tax credit provided for in this section shall be  
11 construed in accordance with the United States Treasury  
12 Regulations and judicial interpretations of similar provisions  
13 in sections 25D, 45, and 48 of the Internal Revenue Code.

14 (k) An association of owners under chapter 421I, 421J,  
15 514A, or 514B may claim the credit allowed under this section in  
16 its own name for utility scale renewable energy storage property  
17 and facilities placed in service and located on common areas.

18 (l) No credit under this section shall be allowed to any  
19 federal, state, or local government or any political  
20 subdivision, agency, or instrumentality thereof.

21 (m) The department of taxation, in collaboration with the  
22 department of business, economic development, and tourism, shall



1 submit an annual joint report to the legislature no later than  
2 twenty days prior to the convening of each regular session on  
3 the following for the preceding taxable year:

4       (1) The number of utility scale renewable energy storage  
5           properties that have qualified for a tax credit during  
6           the calendar year by:

7           (A) Property type; and

8           (B) Taxpayer type (corporate and individual);

9       (2) The total cost of the tax credit to the State during  
10           the taxable year by:

11           (A) Property type;

12           (B) Taxpayer type;

13           (C) Tax credit type (investment or production); and

14           (D) Refundability type (refundable or nonrefundable);

15           and

16       (3) The estimated economic benefit that may be  
17           attributable to the tax credit, including:

18           (A) Impact on the economy, including:

19                   (i) Economic boost;

20                   (ii) Net flow of money into or out of the State;

21                   and



1            (iii) General excise and income tax revenue

2                            generated; and

3            (B) Jobs, including:

4                            (i) Number of jobs maintained;

5                            (ii) Number of jobs created; and

6                            (iii) Average pay.

7            (n) For the purposes of this section:

8            "Basis" means costs related to the utility scale renewable  
9 energy storage property, including storage devices, power  
10 conditioning equipment, transfer equipment, support structures,  
11 and parts related to the functioning of those items, including  
12 installation and development costs. "Basis" shall not include:

13            (1) Costs for which another credit is claimed under this  
14                            chapter;

15            (2) Costs for energy storage equipment that is required by  
16 an electric utility as a condition for interconnection  
17 of a renewable energy generation facility; provided  
18 that costs for energy storage equipment that is  
19 required by an electric utility as a condition for  
20 interconnection of a renewable energy generation  
21 facility but that can also be utilized by an electric





1           utility for interconnecting more renewable energy  
2           facilities shall be included in the basis; and  
3           (3) Costs for equipment that is unrelated to the  
4           functioning of the utility scale renewable energy  
5           storage property.

6 The meaning of "basis" shall be consistent with section 25D or  
7 section 48 of the Internal Revenue Code; provided that, for the  
8 purposes of calculating the credit allowed under this section,  
9 the basis of the utility scale renewable energy storage property  
10 shall not be reduced by the amount of any federal tax credit or  
11 other federally subsidized energy financing received by the  
12 taxpayer.

13           "Electricity generated from renewable sources" means  
14 electricity generated from resources that are continually  
15 replenished on a human timescale, such as solar energy, wind  
16 energy, biomass and biofuels, geothermal energy, ocean thermal  
17 gradient energy, and wave energy.

18           "Energy storage capacity" means the amount of electricity  
19 measured in megawatt-hours that may be injected into storage for  
20 later retrieval. Energy storage capacity shall be determined  
21 based on the storage capability of the equipment, not its actual  
22 use when in operation.



# S.B. NO. 2933

1 "First placed in service" has the same meaning as in United  
2 States Treasury Regulation section 1.167(a)-11(e)(1).

3 "Public sector agency" means any political subdivision,  
4 agency, or instrumentality of the State or of the federal  
5 government.

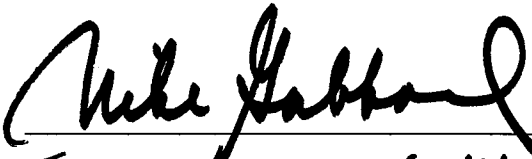


6 "Utility scale renewable energy storage property" means  
7 equipment that receives electricity generated from renewable  
8 sources, stores said electricity, and delivers said electricity  
9 to an electric utility. Furthermore, utility scale renewable  
10 energy storage property shall have an energy storage capacity of  
11 at least one megawatt-hour. The construction, reconstruction,  
12 or erection of the utility scale renewable energy storage  
13 property shall be completed by the taxpayer, or shall be  
14 acquired by the taxpayer if the original use of the property  
15 commences with the taxpayer."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act, upon its approval, shall apply to  
18 taxable years beginning after December 31, 2013.

19

INTRODUCED BY:



Paul Peden  
Amid ylg



# S.B. NO. 2933

**Report Title:**

Energy Storage; Tax Credit

**Description:**

Establishes an energy storage tax credit for utility scale renewable energy storage property.

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