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## A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1           SECTION 1. The legislature finds that Hawaii's dependency  
2 on imported fuel drains the State's economy of billions of  
3 dollars each year. A stronger local economy depends on a  
4 transition away from imported fuels and toward renewable local  
5 resources that provide a secure source of affordable energy.

6           The legislature also finds that alternative energy  
7 technologies have advanced significantly in recent years,  
8 leading to an explosion in new markets, jobs, and local energy  
9 sources. Due to these and other advances, Hawaii has made  
10 significant progress towards energy independence.

11           The legislature further finds that Hawaii is in a period of  
12 significant transition. In 2015, the legislature increased the  
13 State's clean energy goals from forty per cent renewable energy  
14 by 2030 to one hundred per cent renewable energy by 2045. The  
15 public utilities commission closed the State's net energy  
16 metering program and created two new distributed energy options:  
17 grid-supply and self-supply systems. Grid-supply systems allow



1 the customer to export excess energy onto the electrical grid.  
2 The public utilities commission capped the grid-supply system,  
3 and the cap limit will likely be reached by June 2016. Self-  
4 supply systems allow the customer to generate on-site  
5 electricity, but the customer may not export energy onto the  
6 grid. Most self-supply systems require a form of storage to be  
7 viable, and self-supply systems with storage can provide many  
8 useful services to the electrical grid for the benefit of the  
9 utility and all customers.

10 The purpose of this Act is to update the renewable energy  
11 technologies income tax credit to reflect recent changes in  
12 clean energy technology and state policy, and to ensure that the  
13 State will continue to make robust progress towards its clean  
14 energy goal of one hundred per cent renewable energy by 2045.

15 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§196-6.5 Solar water heater system required for new  
18 single-family residential construction. (a) On or after  
19 January 1, 2010, no building permit shall be issued for a new  
20 single-family dwelling that does not include a solar water  
21 heater system that meets the standards established pursuant to



1 section 269-44, unless the coordinator approves a variance. A  
2 variance application shall only be accepted if submitted by an  
3 architect or mechanical engineer licensed under chapter 464, who  
4 attests that:

- 5 (1) Installation is impracticable due to poor solar  
6 resource;
- 7 (2) Installation is cost-prohibitive based upon a life  
8 cycle cost-benefit analysis that incorporates the  
9 average residential utility bill and the cost of the  
10 new solar water heater system with a life cycle that  
11 does not exceed fifteen years;
- 12 (3) A renewable energy technology system [~~as defined in~~  
13 ~~section 235-12.5,~~] is substituted for use as the  
14 primary energy source for heating water; or
- 15 (4) A demand water heater device approved by Underwriters  
16 Laboratories, Inc., is installed; provided that at  
17 least one other gas appliance is installed in the  
18 dwelling. For the purposes of this paragraph, "demand  
19 water heater" means a gas-tankless instantaneous water  
20 heater that provides hot water only as it is needed.



1           (b) A request for a variance shall be submitted to the  
2 coordinator on an application prescribed by the coordinator and  
3 shall include a description of the location of the property and  
4 justification for the approval of a variance using the criteria  
5 established in subsection (a). A variance shall be deemed  
6 approved if not denied within thirty working days after receipt  
7 of the variance application. The coordinator shall publicize:

8           (1) All applications for a variance within seven days  
9           after receipt of the variance application; and

10          (2) The disposition of all applications for a variance  
11          within seven days of the determination of the variance  
12          application.

13          (c) The director of business, economic development, and  
14 tourism may adopt rules pursuant to chapter 91 to impose and  
15 collect fees to cover the costs of administering variances under  
16 this section. The fees, if any, shall be deposited into the  
17 energy security special fund established under section 201-12.8.

18          (d) Nothing in this section shall preclude any county from  
19 establishing procedures and standards required to implement this  
20 section.



1 (e) Nothing in this section shall preclude participation  
2 in any utility demand-side management program or public benefits  
3 fee program under part VII of chapter 269.

4 (f) As used in this section, "renewable energy technology  
5 system" means a new system that captures and converts a  
6 renewable source of energy, such as solar or wind energy, into:

- 7 (1) A usable source of thermal or mechanical energy;
- 8 (2) Electricity; or
- 9 (3) Fuel."

10 SECTION 3. Section 235-12.5, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "§235-12.5 Renewable energy technologies; income tax  
13 credit. (a) When the requirements of subsection [~~(d)~~] (c) are  
14 met, each individual or corporate taxpayer that files an  
15 individual or corporate net income tax return for a taxable year  
16 may claim a tax credit under this section against the Hawaii  
17 state individual or corporate net income tax. [~~The tax credit~~  
18 ~~may be claimed for every eligible renewable energy technology~~  
19 ~~system that is installed and placed in service in the State by a~~  
20 ~~taxpayer during the taxable year.] The tax credit may be  
21 claimed as follows:~~



1           (1) For each solar energy [system+] property that is used  
2           exclusively to heat water and is installed and first  
3           placed in service in the State by a taxpayer during  
4           the taxable year: thirty-five per cent of the [actual  
5           ~~cost or the cap amount determined in subsection (b),~~  
6           ~~whichever is less, or]~~ basis up to the applicable cap  
7           amount, which is determined as follows:

8           (A) \$2,250 per solar energy property for single-  
9           family residential property;

10          (B) \$350 per unit per solar energy property for  
11          multi-family residential property; and

12          (C) \$250,000 per solar energy property for commercial  
13          property;

14          (2) For each solar energy property that is used primarily  
15          to generate electricity and is installed and first  
16          placed in service in the State by a taxpayer during  
17          the taxable year:

18          (A) Twenty-five per cent of the basis for solar  
19          energy property first placed in service after  
20          December 31, 2016, and before January 1, 2018, up



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1           to the applicable cap amount, which is determined  
2           as follows:

3           (i) \$5,000 per solar energy property for single-  
4           family residential property; provided that  
5           if all or a portion of the solar energy  
6           property is used to fulfill the substitute  
7           renewable energy technology requirement  
8           pursuant to section 196-6.5(a)(3), the  
9           credit shall be reduced by twenty-five per  
10           cent of the basis or \$2,250, whichever is  
11           less;

12           (ii) \$350 per unit per solar energy property for  
13           multi-family residential property; and

14           (iii) \$500,000 per solar energy property for  
15           commercial property;

16           (B) Twenty per cent of the basis for solar energy  
17           property first placed in service after December  
18           31, 2017, and before January 1, 2019, up to the  
19           applicable cap amount, which is determined as  
20           follows:



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- 1            (i) \$5,000 per solar energy property for single-
- 2            family residential property; provided that
- 3            if all or a portion of the solar energy
- 4            property is used to fulfill the substitute
- 5            renewable energy technology requirement
- 6            pursuant to section 196-6.5(a)(3), the
- 7            credit shall be reduced by twenty per cent
- 8            of the basis or \$2,250, whichever is less;
- 9            (ii) \$350 per unit per solar energy property for
- 10           multi-family residential property; and
- 11           (iii) \$500,000 per solar energy property for
- 12           commercial property; and
- 13           (C) Fifteen per cent of the basis for solar energy
- 14           property first placed in service after December
- 15           31, 2018, up to the applicable cap amount, which
- 16           is determined as follows:
- 17           (i) \$5,000 per solar energy property for single-
- 18           family residential property; provided that
- 19           if all or a portion of the solar energy
- 20           property is used to fulfill the substitute
- 21           renewable energy technology requirement





- 1                    pursuant to section 196-6.5(a)(3), the  
2                    credit shall be reduced by fifteen per cent  
3                    of the basis or \$2,250, whichever is less;  
4                    (ii) \$350 per unit per solar energy property for  
5                    multi-family residential property; and  
6                    (iii) \$500,000 per solar energy property for  
7                    commercial property;
- 8                    (3) For each solar energy property that is used primarily  
9                    to generate electricity and is installed and first  
10                   placed in service in the State by a taxpayer during  
11                   the taxable year; provided that the solar energy  
12                   property is grid-connected and incorporates an energy  
13                   storage property:
- 14                   (A) Twenty-five per cent of the basis for solar  
15                   energy property first placed in service after  
16                   December 31, 2016, and before January 1, 2018, up  
17                   to the applicable cap amount, which is determined  
18                   as follows:
- 19                   (i) \$10,000 per solar energy property for  
20                   single-family residential property; provided  
21                   that if all or a portion of the solar energy



1           property is used to fulfill the substitute  
2           renewable energy technology requirement  
3           pursuant to section 196-6.5(a)(3), the  
4           credit shall be reduced by twenty-five per  
5           cent of the basis or \$2,250, whichever is  
6           less;

7           (ii) \$700 per unit per solar energy property for  
8           multi-family residential property; and

9           (iii) \$500,000 per solar energy property for  
10           commercial property;

11        (B) Twenty per cent of the basis for solar energy  
12        property first placed in service after December  
13        31, 2017, and before January 1, 2019, up to the  
14        applicable cap amount, which is determined as  
15        follows:

16        (i) \$10,000 per solar energy property for  
17        single-family residential property; provided  
18        that if all or a portion of the solar energy  
19        property is used to fulfill the substitute  
20        renewable energy technology requirement  
21        pursuant to section 196-6.5(a)(3), the



1                   credit shall be reduced by twenty per cent  
2                   of the basis or \$2,250, whichever is less;

3           (ii) \$700 per unit per solar energy property for  
4                   multi-family residential property; and

5           (iii) \$500,000 per solar energy property for  
6                   commercial property; and

7           (C) Fifteen per cent of the basis for solar energy  
8                   property first placed in service after December  
9                   31, 2018, up to the applicable cap amount, which  
10                  is determined as follows:

11           (i) \$10,000 per solar energy property for  
12                   single-family residential property; provided  
13                   that if all or a portion of the solar energy  
14                   property is used to fulfill the substitute  
15                   renewable energy technology requirement  
16                   pursuant to section 196-6.5(a)(3), the  
17                   credit shall be reduced by fifteen per cent  
18                   of the basis or \$2,250, whichever is less;

19           (ii) \$700 per unit per solar energy property for  
20                   multi-family residential property; and



1            (iii) \$500,000 per solar energy property for  
2                            commercial property;

3        (4) For each energy storage property that is installed and  
4        first placed in service in the State by a taxpayer  
5        during the taxable year; provided that, as part of its  
6        installation, the energy storage property is connected  
7        to an existing solar energy property that is grid-  
8        connected and was installed and first placed in  
9        service in the State in a prior taxable year:

10       (A) Twenty-five per cent of the basis for energy  
11       storage property first placed in service after  
12       December 31, 2016, and before January 1, 2018, up  
13       to the applicable cap amount, which is determined  
14       as follows:

15            (i) \$10,000 per energy storage property for  
16                            single-family residential property;

17            (ii) \$700 per unit per energy storage property  
18                            for multi-family residential property; and

19            (iii) \$500,000 per energy storage property for  
20                            commercial property;



1           (B) Twenty per cent of the basis for energy storage  
2           property first placed in service after December  
3           31, 2017, and before January 1, 2019, up to the  
4           applicable cap amount, which is determined as  
5           follows:

- 6           (i) \$10,000 per energy storage property for  
7           single-family residential property;
- 8           (ii) \$700 per unit per energy storage property  
9           for multi-family residential property; and
- 10          (iii) \$500,000 per energy storage property for  
11          commercial property; and

12          (C) Fifteen per cent of the basis for energy storage  
13          property first placed in service after December  
14          31, 2018, up to the applicable cap amount, which  
15          is determined as follows:

- 16          (i) \$10,000 per energy storage property for  
17          single-family residential property;
- 18          (ii) \$700 per unit per energy storage property  
19          for multi-family residential property; and
- 20          (iii) \$500,000 per energy storage property for  
21          commercial property; and

1       ~~[(2)]~~ (5) For each ~~[wind-powered]~~ wind energy ~~[system-]~~  
2           property: twenty per cent of the ~~[actual cost or the~~  
3           ~~cap amount determined in subsection (b),]~~ basis or  
4           \$ \_\_\_\_\_, whichever is less~~[+]~~.

5       ~~[provided that multiple]~~ Multiple owners of a single ~~[system]~~  
6       property shall be entitled to a single tax credit~~[+]~~, and  
7       ~~[provided further that]~~ the tax credit shall be apportioned  
8       between the owners in proportion to their contribution to the  
9       cost of the ~~[system-]~~ property.

10       In the case of a partnership, S corporation, estate, or  
11       trust, the tax credit allowable is for every eligible ~~[renewable~~  
12       ~~energy technology system]~~ solar or wind energy property that is  
13       installed and placed in service in the State by the entity. The  
14       cost upon which the tax credit is computed shall be determined  
15       at the entity level. Distribution and share of credit shall be  
16       determined pursuant to section ~~[235-110.7(a)-]~~ 704(b) of the  
17       Internal Revenue Code.

18       ~~[(b) The amount of credit allowed for each eligible~~  
19       ~~renewable energy technology system shall not exceed the~~  
20       ~~applicable cap amount, which is determined as follows:~~



1       ~~(1) If the primary purpose of the solar energy system is~~  
2           ~~to use energy from the sun to heat water for household~~  
3           ~~use, then the cap amounts shall be:~~

4           ~~(A) \$2,250 per system for single family residential~~  
5           ~~property;~~

6           ~~(B) \$350 per unit per system for multi family~~  
7           ~~residential property; and~~

8           ~~(C) \$250,000 per system for commercial property;~~

9       ~~(2) For all other solar energy systems, the cap amounts~~  
10           ~~shall be:~~

11           ~~(A) \$5,000 per system for single family residential~~  
12           ~~property; provided that if all or a portion of~~  
13           ~~the system is used to fulfill the substitute~~  
14           ~~renewable energy technology requirement pursuant~~  
15           ~~to section 196-6.5(a)(3), the credit shall be~~  
16           ~~reduced by thirty five per cent of the actual~~  
17           ~~system cost or \$2,250, whichever is less;~~

18           ~~(B) \$350 per unit per system for multi family~~  
19           ~~residential property; and~~

20           ~~(C) \$500,000 per system for commercial property; and~~



1       ~~(3) For all wind powered energy systems, the cap amounts~~  
2       ~~shall be:~~

3       ~~(A) \$1,500 per system for single family residential~~  
4       ~~property, provided that if all or a portion of~~  
5       ~~the system is used to fulfill the substitute~~  
6       ~~renewable energy technology requirement pursuant~~  
7       ~~to section 196-6.5(a)(3), the credit shall be~~  
8       ~~reduced by twenty per cent of the actual system~~  
9       ~~cost or \$1,500, whichever is less;~~

10       ~~(B) \$200 per unit per system for multi-family~~  
11       ~~residential property; and~~

12       ~~(C) \$500,000 per system for commercial property.~~

13       ~~(e)] (b) For the purposes of this section:~~

14       ~~["Actual cost" means costs related to the renewable energy~~  
15       ~~technology systems under subsection (a), including accessories~~  
16       ~~and installation, but not including the cost of consumer~~  
17       ~~incentive premiums unrelated to the operation of the system or~~  
18       ~~offered with the sale of the system and costs for which another~~  
19       ~~credit is claimed under this chapter.~~





1       ~~"Household use" means any use to which heated water is~~  
2 ~~commonly put in a residential setting, including commercial~~  
3 ~~application of these uses.~~

4       ~~"Renewable energy technology system" means a new system~~  
5 ~~that captures and converts a renewable source of energy, such as~~  
6 ~~solar or wind energy, into:~~

- 7       ~~(1) A usable source of thermal or mechanical energy;~~  
8       ~~(2) Electricity; or~~  
9       ~~(3) Fuel.]~~

10       "Basis" means costs related to the solar or wind energy  
11 property under subsection (a), including accessories, energy  
12 storage, and installation, but does not include the cost of  
13 consumer incentive premiums unrelated to the operation of the  
14 energy property or offered with the sale of the energy property  
15 and costs for which another credit is claimed under this  
16 chapter. Any cost incurred and paid for the repair,  
17 construction, or reconstruction of a structure in conjunction  
18 with the installation and placing in service of solar or wind  
19 energy property, such as the reroofing of single-family  
20 residential property, multi-family residential property, or  
21 commercial property, shall not constitute a part of the basis for



1 the purpose of this section; provided that costs incurred for the  
2 physical support of the solar or wind energy property, such as  
3 racking and mounting equipment and costs incurred to seal or  
4 otherwise return a roof to its pre-installation condition shall  
5 constitute part of the basis for the purposes of this section.

6 The basis used under this section shall be consistent with  
7 the use of basis in section 25D or section 48 of the Internal  
8 Revenue Code.

9 "Energy storage property" means any identifiable facility,  
10 equipment, apparatus, or the like that is permanently fixed to a  
11 site and electrically fixed to a site distribution panel by  
12 means of an installed conduit, and that receives electricity  
13 generated from various sources, stores the electricity, and  
14 delivers the electricity to an electric utility or the user of  
15 the electric system.

16 "First placed in service" has the same meaning as in  
17 Treasury Regulation 1.167(a)-11(e)(1).

18 "Grid-connected" means that the individual or corporate  
19 taxpayer has obtained an approved interconnection agreement from  
20 an electric utility for the solar energy property.



1 "Solar or wind energy [~~system~~] property" means any  
2 identifiable facility, equipment, apparatus, or the like that  
3 converts solar or wind energy to useful thermal or electrical  
4 energy for heating, cooling, or reducing the use of other types  
5 of energy that are dependent upon fossil fuel for their  
6 generation[-]; provided that:

7 (1) The construction, reconstruction, or erection of the  
8 solar or wind energy property is completed by the  
9 taxpayer; or

10 (2) The solar or wind energy property is acquired by the  
11 taxpayer if the original use of the solar or wind  
12 energy property commences with the taxpayer.

13 [~~d~~] (c) For taxable years beginning after December 31,  
14 2005, the dollar amount of any utility rebate shall be deducted  
15 from the [~~cost~~] basis of the qualifying [~~system~~] property and  
16 its installation before applying the state tax credit.

17 [~~e~~] (d) The director of taxation shall prepare any forms  
18 that may be necessary to claim a tax credit under this section,  
19 including forms identifying the technology type of each tax  
20 credit claimed under this section[~~, whether for solar or wind~~].

21 The director may also require the taxpayer to furnish reasonable



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

4       ~~[(f)]~~ (e) If the tax credit under this section exceeds the  
5 taxpayer's income tax liability, the excess of the credit over  
6 liability may be used as a credit against the taxpayer's income  
7 tax liability in subsequent years until exhausted, unless  
8 otherwise elected by the taxpayer pursuant to subsection (f) or  
9 (g) ~~[or (h)]~~. All claims for the tax credit under this section,  
10 including amended claims, shall be filed on or before the end of  
11 the twelfth month following the close of the taxable year for  
12 which the credit may be claimed. Failure to comply with this  
13 subsection shall constitute a waiver of the right to claim the  
14 credit.

15       ~~[(g)]~~ (f) For solar or wind energy ~~[systems,]~~ properties,  
16 a taxpayer may elect to reduce the eligible credit amount by  
17 thirty per cent and if this reduced amount exceeds the amount of  
18 income tax payment due from the taxpayer, the excess of the  
19 credit amount over payments due shall be refunded to the  
20 taxpayer; provided that tax credit amounts properly claimed by a  
21 taxpayer who has no income tax liability shall be paid to the



1 taxpayer; and provided further that no refund on account of the  
2 tax credit allowed by this section shall be made for amounts  
3 less than \$1.

4 The election required by this subsection shall be made in a  
5 manner prescribed by the director on the taxpayer's return for  
6 the taxable year in which the ~~[system]~~ solar or wind energy  
7 property is installed and first placed in service. A separate  
8 election may be made for each separate ~~[system]~~ solar or wind  
9 energy property that generates a credit. An election once made  
10 is irrevocable.

11 ~~[-(h)]~~ (g) Notwithstanding subsection ~~[-(g)-]~~ (f), for any  
12 ~~[renewable energy technology system,]~~ solar or wind energy  
13 property, an individual taxpayer may elect to have any excess of  
14 the credit over payments due refunded to the taxpayer~~[,]~~ without  
15 discount, if:

- 16 (1) All of the taxpayer's income is exempt from taxation  
17 under section 235-7(a)(2) or (3); or
- 18 (2) The taxpayer's adjusted gross income is \$20,000 or  
19 less (or \$40,000 or less if filing a tax return as  
20 married filing jointly);



1 provided that tax credits properly claimed by a taxpayer who has  
2 no income tax liability shall be paid to the taxpayer; and  
3 provided further that no refund on account of the tax credit  
4 allowed by this section shall be made for amounts less than \$1.

5 A husband and wife who do not file a joint tax return shall  
6 only be entitled to make this election to the extent that they  
7 would have been entitled to make the election had they filed a  
8 joint tax return.

9 The election required by this subsection shall be made in a  
10 manner prescribed by the director on the taxpayer's return for  
11 the taxable year in which the [~~system~~] solar or wind energy  
12 property is installed and first placed in service. A separate  
13 election may be made for each separate [~~system~~] solar or wind  
14 energy property that generates a credit. An election once made  
15 is irrevocable.

16 [~~(i)~~] (h) No taxpayer shall be allowed a credit under this  
17 section for the portion of the renewable energy technology  
18 system required by section 196-6.5 that is installed and first  
19 placed in service on any newly constructed single-family  
20 residential property authorized by a building permit issued on  
21 or after January 1, 2010.



1        (i) The tax credit under this section shall be construed  
2 in accordance with Treasury Regulations and judicial  
3 interpretations of similar provisions in sections 25D, 45, and  
4 48 of the Internal Revenue Code.

5        (j) A planned community association, condominium  
6 association of owners, or cooperative housing corporation may  
7 claim the tax credit under this section in its own name for  
8 property or facilities placed in service and located on common  
9 areas.

10       (k) No credit under this section shall be allowed to any  
11 federal, state, or local government or any political  
12 subdivision, agency, or instrumentality thereof.

13       ~~[(j)]~~ (l) To the extent feasible, using existing resources  
14 to assist the energy-efficiency policy review and evaluation,  
15 the department shall assist with data collection on the  
16 following for each taxable year:

17       (1) The number of ~~[renewable energy technology systems]~~  
18 solar or wind energy properties that have qualified  
19 for a tax credit during the calendar year by:

20            (A) Technology type; and

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



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

3           (A) Technology type; and

4           (B) Taxpayer type.

5           ~~[(k) This section shall apply to eligible renewable energy~~  
6 ~~technology systems that are installed and placed in service on~~  
7 ~~or after July 1, 2009.] "~~

8           SECTION 4. If any provision of this Act, or the  
9 application thereof to any person or circumstance, is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act that can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.

14          SECTION 5. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17          SECTION 6. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.





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1 SECTION 7. This Act, upon its approval, shall apply to  
2 taxable years beginning after December 31, 2016.

3

INTRODUCED BY:

  
\_\_\_\_\_

JAN 25 2016



# H.B. NO. 2236

**Report Title:**

Renewable Energy; Solar and Wind Energy Property; Tax Credit

**Description:**

Replaces the current renewable energy technology systems tax credit with tax credits for solar energy property, wind energy property, and energy storage property. Applies to taxable years beginning after 12/31/2016.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

