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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 encourage and  
2 maximize cost-effective energy storage technologies and systems  
3 by establishing a tax credit for energy storage properties.

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

7           "§235-    Energy storage; income tax credit. (a) When the  
8 requirements of subsection (c) are met, each individual or  
9 corporate taxpayer that files an individual or corporate net  
10 income tax return for a taxable year may claim a tax credit  
11 under this section against the Hawaii state individual or  
12 corporate net income tax. The tax credit may be claimed as  
13 follows:

14           (1) For each energy storage property that is used  
15 primarily to store and deliver energy to offset part  
16 or all of the load on the premises on which the energy  
17 storage property is located, and is installed and



1           first placed in service in the State by a taxpayer  
2           during the taxable year:  
3           (A) Thirty per cent of the basis for energy storage  
4           property first placed in service after June 30,  
5           2016, and before January 1, 2018;  
6           (B) Twenty-five per cent of the basis for energy  
7           storage property first placed in service after  
8           December 31, 2017, and before January 1, 2020;  
9           (C) Twenty per cent of the basis for energy storage  
10           property first placed in service after December  
11           31, 2019, and before January 1, 2022; and  
12           (D) Fifteen per cent of the basis for energy storage  
13           property first placed in service after December  
14           31, 2021;  
15           provided that no energy storage property that receives  
16           a tax credit under this paragraph shall later receive  
17           a production tax credit under paragraph (2);  
18           (2) For each energy storage property that is used  
19           primarily to store electricity, does not receive a tax  
20           credit under paragraph (1), and is first placed in



1           service in the State by a taxpayer during the taxable  
2           year:

3           (A) On or before December 31, 2018, 8 cents  
4           multiplied by the number of kilowatt-hours stored  
5           by the energy storage property and delivered and  
6           sold to a customer for such electricity during  
7           the first ten taxable years that the energy  
8           storage property is in service;

9           (B) After December 31, 2018, and before January 1,  
10           2023, 6 cents multiplied by the number of  
11           kilowatt-hours stored by the energy storage  
12           property and delivered and sold to a customer for  
13           such electricity during the first ten taxable  
14           years that the energy storage property is in  
15           service; and

16           (C) After December 31, 2022, 4 cents multiplied by  
17           the number of kilowatt-hours stored by the energy  
18           storage property and delivered and sold to a  
19           customer for such electricity during the first  
20           ten taxable years that the energy storage  
21           property is in service.



1        Multiple owners of a single energy storage property shall  
2 be entitled to a single tax credit, and the tax credit shall be  
3 apportioned between the owners in proportion to their  
4 contribution to the cost of the property.

5        In the case of a partnership, S corporation, estate, or  
6 trust, the tax credit allowable is for every eligible energy  
7 storage property that is installed and placed in service in the  
8 State by the entity. The cost upon which the tax credit is  
9 computed shall be determined at the entity level. Distribution  
10 and share of credit shall be determined pursuant to section  
11 704(b) of the Internal Revenue Code.

12        (b) For taxable years beginning after December 31, 2015,  
13 the dollar amount of any utility rebate shall be deducted from  
14 the basis of the qualifying energy storage property and its  
15 installation before applying the tax credit.

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



1 adopt rules necessary to effectuate the purposes of this section  
2 pursuant to chapter 91.

3 (d) If the tax credit under subsection (a)(1) exceeds the  
4 taxpayer's income tax liability, the excess of the credit over  
5 liability may be used as a credit against the taxpayer's income  
6 tax liability in subsequent years until exhausted, unless  
7 otherwise elected by the taxpayer pursuant to subsection (e).  
8 All claims for the tax credit under this section, including  
9 amended claims, shall be filed on or before the end of the  
10 twelfth month following the close of the taxable year for which  
11 the credit may be claimed. Failure to comply with this  
12 subsection shall constitute a waiver of the right to claim the  
13 credit.

14 (e) For any energy storage property under subsection  
15 (a)(1), a taxpayer may elect to reduce the eligible credit  
16 amount by thirty per cent and if this reduced amount exceeds the  
17 amount of income tax payment due from the taxpayer, the excess  
18 of the credit amount over payments due shall be refunded to the  
19 taxpayer; provided that tax credit amounts properly claimed by a  
20 taxpayer who has no income tax liability shall be paid to the



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

3 The election required by this subsection shall be made in a  
4 manner prescribed by the director on the taxpayer's return for  
5 the taxable year in which the energy storage property is  
6 installed and placed in service. A separate election may be  
7 made for each separate property that generates a credit. An  
8 election once made shall be irrevocable.

9 (f) For any energy storage property under subsection  
10 (a) (2), if the tax credit under subsection (a) (2) exceeds the  
11 taxpayer's income tax liability, the excess of the credit over  
12 liability shall be refunded to the taxpayer; provided that tax  
13 credit amounts properly claimed by a taxpayer who has no income  
14 tax liability shall be paid to the taxpayer; provided further  
15 that no refund on account of the tax credit allowed by this  
16 section shall be made for amounts less than \$1. No property  
17 placed in service pursuant to subsection (a) (2) shall be subject  
18 to reduction in refund payments for any subsequent year by any  
19 legislative act or executive decision.

20 (g) The tax credit provided for in this section shall be  
21 construed in accordance with Treasury Regulations and judicial



1 interpretations of similar provisions in sections 25D, 45, and  
2 48 of the Internal Revenue Code.

3 (h) An association of owners under chapter 421I, 421J,  
4 514A, or 514B may claim the credit allowed under this section in  
5 its own name for energy storage property and facilities placed  
6 in service and located on common areas.

7 (i) No credit under this section shall be allowed to any  
8 federal, state, or local government or any political  
9 subdivision, agency, or instrumentality thereof.

10 (j) The department of taxation, in collaboration with the  
11 department of business, economic development, and tourism, shall  
12 submit a joint annual report to the legislature no later than  
13 twenty days prior to the convening of each regular session on  
14 the following for the preceding taxable year:

15 (1) The number of energy storage properties that have  
16 qualified for a tax credit during the calendar year  
17 by:

18 (A) Property type; and

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

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



- 1            (A) Property type;
- 2            (B) Taxpayer type;
- 3            (C) Tax credit type (investment or production); and
- 4            (D) Refundability type (refundable or nonrefundable);
- 5            and
- 6            (3) The estimated economic benefit that may be
- 7            attributable to the tax credit, including:
- 8            (A) Impact on the economy, including:
- 9                   (i) Economic boost;
- 10                  (ii) Net flow of money into or out of the State;
- 11                  and
- 12                  (iii) General excise and income tax revenue
- 13                  generated; and
- 14            (B) Jobs, including:
- 15                  (i) Number of jobs maintained;
- 16                  (ii) Number of jobs created; and
- 17                  (iii) Average pay of such jobs.
- 18            (k) The department of business, economic development, and
- 19            tourism shall commence a study no later than July 1, 2018, on
- 20            the costs incurred and benefits generated by this section, as
- 21            well as the extent to which the tax credit under this section





1 has helped the State to achieve its energy goals. In conducting  
2 this study, the department of business, economic development,  
3 and tourism shall consult with the department of taxation and  
4 industry trade groups and may consult with other stakeholders.  
5 The department of business, economic development, and tourism  
6 shall submit a report to the legislature no later than December  
7 31, 2019. The report shall include, at a minimum, the  
8 following:

- 9 (1) The information identified in subsection (j);  
10 (2) The results of its study; and  
11 (3) Recommendations on whether the tax credit under this  
12 section should be wholly or partially continued,  
13 eliminated, or revised.

14 (1) As used in this section:

15 "Basis" means costs related to the energy storage property  
16 under subsection (a), including accessories, energy storage, and  
17 installation, but does not include the cost of consumer  
18 incentive premiums unrelated to the operation of the property or  
19 offered with the sale of the energy storage property and costs  
20 for which another credit is claimed under this chapter. Any  
21 cost incurred and paid for the repair, construction, or



1 reconstruction of a structure in conjunction with the  
2 installation and placing in service of the energy storage  
3 property, shall not constitute a part of the basis for the  
4 purposes of this section; provided that costs incurred for the  
5 physical support of the energy storage property shall constitute  
6 part of the basis for the purposes of this section.

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

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

16 "Energy storage property" means equipment that stores and  
17 delivers electricity, the construction, reconstruction, or  
18 erection of which is completed by the taxpayer, or which is  
19 acquired by the taxpayer if the original use of the property  
20 commences with the taxpayer."



1 SECTION 3. If any provision of this Act, or the  
 2 application thereof to any person or circumstance, is held  
 3 invalid, the invalidity does not affect other provisions or  
 4 applications of the Act that can be given effect without the  
 5 invalid provision or application, and to this end the provisions  
 6 of this Act are severable.

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2016, and  
 9 shall apply to taxable years beginning after December 31, 2015.

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*Stakelum*  
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# H.B. NO. 2511

**Report Title:**  
Energy Storage

**Description:**  
Creates an energy storage income tax credit.

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

