
A BILL FOR AN ACT

RELATING TO ENERGY STORAGE.

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

1 SECTION 1. The legislature finds that for economic and
2 energy security reasons, state law and policy direct an increase
3 in the use of renewable energy resources. The majority of
4 renewable energy resources will be interconnected to the Hawaii
5 electric system, however, the quantity and rate of
6 interconnection may be reduced or slowed based on limitations of
7 the electric system's ability to accept variable generation.

8 The legislature further finds that the limitations of the
9 electric system can be alleviated through an increase in the use
10 of energy storage and the integration of energy storage with the
11 electric system. Small-scale energy storage systems can supply
12 utility customers with electricity to timely serve site-specific
13 needs, and utility scale systems can serve the entire electric
14 system. Small- and large-scale energy storage systems are
15 advanced and grid-interactive, thus improving the electric
16 system's ability to use renewable energy resources.



1 The purpose of this Act is to facilitate the greater use of
 2 renewable energy by establishing a tax credit for energy storage
 3 properties that primarily supply utility customers with
 4 electricity for site-specific needs or serve the entire electric
 5 system; provided that the energy storage properties are
 6 advanced, grid-interactive systems capable of and actively
 7 participating in utility demand response programs, providing
 8 ancillary services, and serving as a resource to the electric
 9 system.

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

13 "§235- Energy storage tax credit; certification. (a)
 14 There shall be allowed to each taxpayer subject to the tax
 15 imposed by this chapter, an energy storage tax credit for each
 16 energy storage property:

17 (1) That is used primarily to store electricity to supply
 18 utility customers with electricity for site-specific
 19 needs or to serve the entire electric system; provided
 20 that all energy storage properties are advanced, grid-

1 interactive systems capable of participating in
2 utility demand response programs, providing ancillary
3 services, and serving as a resource to the electric
4 system;

5 (2) For which the taxpayer enters into an agreement with
6 an electric utility after June 30, 2015, and on or
7 before December 31, 2021; and

8 (3) That is installed and first placed in service by a
9 taxpayer in 2015, and on or before December 31, 2025.

10 (b) The tax credit shall be claimed as follows:

11 (1) Thirty per cent of the basis for energy storage
12 property first placed in service in 2015, and before
13 January 1, 2018;

14 (2) Twenty-five per cent of the basis for energy storage
15 property first placed in service after December 31,
16 2017, and before January 1, 2021;

17 (3) Twenty per cent of the basis for energy storage
18 property first placed in service after December 31,
19 2020, and before January 1, 2024; and



1 (4) Fifteen per cent of the basis for energy storage
2 property first placed in service after December 31,
3 2023.

4 (c) To qualify for the tax credit, a taxpayer shall first
5 obtain certification from the department. When applying for
6 certification, a taxpayer shall provide the department with
7 evidence that:

8 (1) The taxpayer has control of the site for the proposed
9 project, including but not limited to a copy of a
10 deed, lease, or option to lease; or

11 (2) The entity having site control has entered into an
12 agreement for the installation of an energy storage
13 property at the site.

14 (d) Within twelve months of receiving certification, a
15 taxpayer shall provide the department with evidence that the
16 taxpayer has invested at least five per cent of the amount of
17 the taxpayer's projected cumulative tax credits into the
18 project. The department shall rescind the certification of a
19 taxpayer who fails to comply with this subsection and consider
20 the next taxpayer awaiting certification.



1 (e) When the aggregate tax credit certifications for the
2 year reaches \$20,000,000, the department shall cease
3 certification of tax credits for the year; provided that
4 remaining projects awaiting certification shall carry over to
5 the next year.

6 (f) The department shall notify the department of taxation
7 of all certifications of tax credits and rescissions of
8 certifications.

9 (g) The public utilities commission shall direct the
10 electric utilities, through appropriate tariffs, programs, and
11 other means, to use all energy storage properties benefiting
12 from the tax credit for demand response, ancillary services, and
13 other similar advanced energy storage and grid supportive
14 functions; provided that the electric utilities shall have
15 flexibility pertaining to the timing and amount of stored energy
16 that is used in order to maintain grid reliability.

17 (h) For energy storage projects with a capacity of at
18 least five kilowatts of power and five kilowatt-hours of energy
19 storage and a maximum capacity of one megawatt of power and one
20 megawatt-hour of energy storage, the tax credit shall be
21 available in the following amounts:



- 1 (1) Fifty per cent of the applicable tax credit for energy
2 storage projects with the capacity of one megawatt of
3 power and one megawatt-hour of energy storage and a
4 maximum of two megawatts of power and two megawatt-
5 hours of energy storage; and
- 6 (2) Twenty-five per cent of the applicable tax credit for
7 energy storage projects with the capacity of two
8 megawatts of power and two megawatt-hours of energy
9 storage and a maximum of three megawatts of power and
10 three megawatt-hours of energy storage.
- 11 (i) An equipment manufacturer of energy storage properties
12 shall be limited to forty per cent of the annual aggregate tax
13 credit certification amounts. The department shall not issue
14 tax certifications to a project that uses a technology produced
15 by a manufacturer that has already received forty per cent of
16 the annual aggregate tax credit certification amounts. This
17 limit shall be posted by the department at the beginning of each
18 calendar year and shall remain the same throughout the year.
- 19 (j) The tax credit shall be deductible from the taxpayer's
20 net income tax liability imposed by this chapter for the taxable
21 year in which the credit is properly claimed. If the tax



1 credits under subsection (b) exceed the taxpayer's income tax
2 liability, the excess of the credit over liability may be used
3 as a credit against the taxpayer's income tax liability in
4 subsequent years until exhausted, unless otherwise elected by
5 the taxpayer pursuant to subsection (l).

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

13 The election required by this subsection shall be made in a
14 manner prescribed by the director of taxation on the taxpayer's
15 return for the taxable year in which the energy storage property
16 is installed and placed in service. A separate election may be
17 made for each separate property that generates a credit. An
18 election once made is irrevocable.

19 (l) The dollar amount of any utility rebate shall be
20 deducted from the basis of the qualifying energy storage



1 property and its installation before applying the state tax
2 credit.

3 (m) Multiple owners of a single energy storage property
4 shall be entitled to a single tax credit, and the tax credit
5 shall be apportioned between the owners in proportion to their
6 contribution to the basis of the energy storage property.

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

14 (o) The director of taxation shall prepare any forms that
15 may be necessary to claim a tax credit under this section,
16 including forms identifying the property type of each tax credit
17 claimed under this section. The director may also require the
18 taxpayer to furnish reasonable information to ascertain the
19 validity of the claim for credit made under this section and may
20 adopt rules necessary to effectuate the purposes of this section
21 pursuant to chapter 91.



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

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

11 (r) No credit under this section shall be allowed to any
12 federal, state, or local government or a public sector agency;
13 provided that any such entity that enters into a contractual
14 agreement for the purchase of electric power or energy storage
15 capacity from a third-party provider shall be eligible for the
16 credit.

17 (s) No later than July 1, 2017, the department shall
18 commence a study on the costs incurred and benefits generated by
19 this section, as well as the extent to which the tax credit
20 under this section has helped the State to achieve its energy
21 goals. In conducting this study, the department shall consult



1 with the department of taxation and industry trade groups and
2 may consult with other stakeholders. The department, in
3 collaboration with the department of taxation, shall submit a
4 joint report to the legislature no later than twenty days prior
5 to the convening of the regular session of 2019. This report to
6 the legislature shall include, at a minimum, the following:

- 7 (1) The number of energy storage properties that have
8 qualified for a tax credit during the calendar year,
9 organized by property type and taxpayer type
10 (corporate and individual);
- 11 (2) The total cost of the tax credit to the State during
12 the taxable year by property type, taxpayer type, and
13 refundability type;
- 14 (3) The estimated economic benefit that may be
15 attributable to the tax credit, including the
16 estimated impact on the economy, net flow of money
17 into or out of the State, general excise and income
18 tax revenue generated, and number of jobs maintained
19 and created and average pay;
- 20 (4) The results of the study; and



1 (5) Recommendations on whether the tax credit under this
2 section should be wholly or partially continued,
3 eliminated, or revised.

4 (t) For purposes of this section:

5 "Basis" means costs related to the energy storage property,
6 including storage devices, power conditioning equipment,
7 transfer equipment, support structures, and parts related to the
8 functioning of those items, including installation and
9 development costs. "Basis" shall not include:

10 (1) Costs for which another credit is claimed under this
11 chapter; and

12 (2) Costs for equipment that is unrelated to the
13 functioning of the energy storage property.

14 The meaning of "basis" shall be consistent with section 25D or
15 section 48 of the Internal Revenue Code; provided that, for the
16 purposes of calculating the credit allowed under this section,
17 the basis of the energy storage property shall not be reduced by
18 the amount of any federal tax credit or other federally
19 subsidized energy financing received by the taxpayer.



1 "Certification" means a declaration from the department
2 that the taxpayer has met the minimum criteria to qualify for
3 the tax credit for an energy storage property.

4 "Department" means the department of business, economic
5 development, and tourism.

6 "Energy storage capacity" means the amount of electricity
7 measured in kilowatts or kilowatt-hours that may be injected
8 into storage for later retrieval. Energy storage capacity shall
9 be determined based on the storage capability of the equipment,
10 not its actual use when in operation.

11 "Energy storage property" means a property that is
12 permanently affixed to a site and electrically connected to a
13 site distribution panel by means of an installed conduit, not an
14 electric plug, that supports, improves, and enhances the ability
15 of the electric system to accept and use renewable energy by
16 providing electricity, demand response, ancillary services, or
17 other similar functions through the use of equipment that
18 receives electricity generated from various sources, stores the
19 electricity, and delivers the electricity to an electric utility
20 or to a user of the electric system. Furthermore, energy
21 storage property shall have an energy storage capacity of at



1 least five kilowatts of power and five kilowatt-hours of energy
2 storage and a maximum of three megawatts of power and three
3 megawatt-hours of energy storage. The construction,
4 reconstruction, or erection of the energy storage property shall
5 be completed by the taxpayer or shall be acquired by the
6 taxpayer if the original use of the property commences with the
7 taxpayer.

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

10 "Public sector agency" means any political subdivision,
11 agency, or instrumentality of the State or of the federal
12 government."

13 SECTION 3. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2050, and
15 apply to taxable years beginning after December 31, 2050.

16



Report Title:

Energy Storage; Tax Credit

Description:

Establishes an energy storage tax credit for energy storage properties that primarily supply utility customers with electricity for site-specific needs or serve the entire electric system; provided that the energy storage properties are advanced, grid-interactive systems capable of and actively participating in utility demand response programs, providing ancillary services, and serving as a resource to the electric system. Effective July 1, 2050. (SD1)

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