

JAN 27 2016

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 tax credit; certification. (a)
8 There shall be allowed to each taxpayer subject to the tax
9 imposed by this chapter an energy storage tax credit which shall
10 be deductible against the taxpayer's net income tax liability,
11 if any, imposed by this chapter for the taxable year in which
12 the credit is properly claimed.

13 (b) The tax credit may be claimed as 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
11 December 31, 2019, and before January 1, 2022;

12 and

13 (D) Fifteen per cent of the basis for energy storage
14 property first placed in service after
15 December 31, 2021; and

16 (2) For each energy storage property that is used
17 primarily to store electricity, does not receive a tax
18 credit under paragraph (1), and is first placed in
19 service in the State by a taxpayer during the taxable
20 year, the credit shall be equal to the number of
21 kilowatt-hours stored by the energy storage property



1 and delivered and sold to a customer during the first
2 ten taxable years that the energy storage property is
3 in service multiplied by:

4 (A) 8 cents, on or before December 31, 2018;

5 (B) 6 cents, after December 31, 2018; and

6 (C) 4 cents, after December 31, 2022;

7 Multiple owners of a single energy storage property shall be
8 entitled to a single tax credit, and the tax credit shall be
9 apportioned between the owners in proportion to their
10 contribution to the cost of the property.

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

18 (d) For the purposes of this section:

19 "Basis" means costs related to the energy storage property
20 under subsection (b), including accessories, energy storage, and
21 installation. The term does not include the cost of consumer



1 incentive premiums unrelated to the operation of the property or
2 offered with the sale of the energy storage property and costs
3 for which another credit is claimed under this chapter. Any
4 cost incurred and paid for the repair, construction, or
5 reconstruction of a structure in conjunction with the
6 installation and placing in service of energy storage property
7 shall not constitute a part of the basis; provided that costs
8 incurred for the physical support of the energy storage property
9 shall constitute part of the basis.

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

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



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

3 (e) For taxable years beginning after December 31, 2015,
4 the dollar amount of any utility rebate shall be deducted from
5 the basis of the qualifying energy storage property and its
6 installation before applying the state tax credit.

7 (f) The director of taxation shall prepare any forms that
8 may be necessary to claim a tax credit under this section,
9 including forms identifying the property type for each tax
10 credit claimed under this section. The director may also
11 require the taxpayer to furnish reasonable information to
12 ascertain the validity of the claim for credit made under this
13 section and may adopt rules necessary to effectuate the purposes
14 of this section pursuant to chapter 91.

15 (g) If the tax credit under subsection (b)(1) exceeds the
16 taxpayer's income tax liability, the excess may be used as a
17 credit against the taxpayer's income tax liability in subsequent
18 years until exhausted, unless otherwise elected by the taxpayer
19 pursuant to subsection (h). All claims for the tax credit under
20 this section, including amended claims, shall be filed on or
21 before the end of the twelfth month following the close of the



1 taxable year for which the credit may be claimed. Failure to
2 comply with this subsection shall constitute a waiver of the
3 right to claim the credit.

4 (h) For any energy storage property under subsection
5 (b) (1), a taxpayer may elect to reduce the eligible credit
6 amount by thirty per cent and if the reduced amount exceeds the
7 taxpayer's income tax liability, the excess amount shall be
8 refunded to the taxpayer; provided that no refund on account of
9 the tax credit allowed by this section shall be made for amounts
10 less than \$1.

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

17 (i) For any tax credit for energy storage property under
18 subsection (b) (2), if the credit exceeds the taxpayer's income
19 tax liability, the excess shall be refunded to the taxpayer;
20 provided that no refund on account of the tax credit allowed by
21 this section shall be made for amounts less than \$1. No



1 property placed in service pursuant to subsection (b)(2) shall
2 be subject to reduction in refund payments for any subsequent
3 year by any legislative act or executive decision.

4 (j) The tax credit under this section shall be construed
5 in accordance with Treasury Regulations and judicial
6 interpretations of similar provisions in sections 25D, 45, and
7 48 of the Internal Revenue Code.

8 (k) An association of owners under chapter 421I, 421J,
9 514A, or 514B may claim the credit allowed under this section in
10 its own name for energy storage property and facilities placed
11 in service and located on common areas.

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

15 (m) The department of taxation, in collaboration with the
16 department of business, economic development, and tourism, shall
17 submit a joint report to the legislature annually no later than
18 twenty days prior to the convening of each regular session on
19 the following for the preceding taxable year:

20 (1) The number of energy storage properties that have
21 qualified for a tax credit during the calendar year,



1 listed by property type and taxpayer type (corporate
2 and individual);

3 (2) The total cost of the tax credit to the State during
4 the taxable year, listed by property type, taxpayer
5 type, credit type (investment or production), and by
6 refundable and nonrefundable credit; and

7 (3) The estimated economic impact that may be attributable
8 to the energy storage tax credit, including:

9 (A) Economic boost;

10 (B) Net flow of money into or out of the State;

11 (C) General excise and income tax revenue generated;
12 and

13 (D) Impact on jobs, including the number of jobs
14 maintained, number of jobs created, and average
15 pay.

16 (n) The department of business, economic development, and
17 tourism shall commence a study no later than July 1, 2018, on
18 the costs incurred and benefits generated by this section, as
19 well as the extent to which the tax credit under this section
20 has helped the State to achieve its energy goals. In conducting
21 this study, the department of business, economic development,



S.B. NO. 2737

1 and tourism shall consult with the department of taxation and
2 industry trade groups and may consult with other stakeholders.
3 The department of business, economic development, and tourism
4 shall submit a report to the legislature no later than
5 December 31, 2019. The report shall include the following:

- 6 (1) The annual report requirements listed in subsection
7 (m);
- 8 (2) The results of the department's study; and
- 9 (3) Recommendations on whether the tax credit under this
10 section should be wholly or partially continued,
11 eliminated, or revised."

12 SECTION 3. If any provision of this Act, or the
13 application thereof to any person or circumstance, is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 4. New statutory material is underscored.

19



S.B. NO. 2737

1 SECTION 5. This Act shall take effect on July 1, 2016, and
2 shall apply to taxable years beginning after December 31, 2015.
3

INTRODUCED BY: Francis R. Jonye

Donald
Michelle Kudini

R

Clarence A. Michikawa

J



S.B. NO. 2737

Report Title:

Energy Storage Income Tax Credit

Description:

Provides an investment income tax credit for self-generation energy storage used primarily to store energy for the utility customer's own use, that reduces from 30 per cent to 15 per cent over five years. Provides, in lieu of the investment income tax credit, a production income tax credit for energy storage primarily for energy delivered and sold to a third party during the first ten taxable years the energy storage property is in service, that reduces from 8 cents per kilowatt-hour to 4 cents per kilowatt-hour over six years. Requires DOTAX and DBEDT to submit annual reports to the legislature regarding the energy storage income tax credit. Requires DBEDT to complete a study on the impacts and benefits of the tax credit and its contribution to the State reaching its energy goals. Applies to taxable years after 12/31/2015.

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

