



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Thursday, February 12, 2015
8:30 a.m.
State Capitol, Conference Room 325

in consideration of
HB 1135
RELATING TO TAXATION.

Chair Lee, Vice Chair Lowen, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) offers comments on HB 1135, which establishes a non-refundable income tax credit for taxpayers who have unused net energy metering (NEM) credits.

Though the Department supports the use of renewable energy, this measure is unnecessary as the payback period is already very favorable for NEM customers, with simple payback of less than 5 years for a residential PV owner. It is not necessary to provide even more incentive to these customers who have unused NEM credits as a result of installing PV systems that are larger than what is needed to displace their actual energy use.

This measure creates additional incentives to over-sized PV systems, which will leave less PV capacity available on the grid and restrict (or make more costly) interconnection for customers who currently do not have a PV system, but may install one in the future. This measure may further exacerbate the inequality between NEM customers and those ratepayers who are not or cannot participate in NEM.

DBEDT defers to the Department of Taxation on the administration of the tax credits.

Thank you for the opportunity to offer these comments regarding HB 1135.



DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

THURSDAY, FEBRUARY 12, 2015
8:30 a.m.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE CHRIS LEE, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 1135 - RELATING TO TAXATION

DESCRIPTION:

This measure proposes to establish a nonrefundable income tax credit for taxpayers who participate in net energy metering and have unused credits for excess electricity that lapse before the credits can be applied to the taxpayer's utility bill.

POSITION:

The Division of Consumer Advocacy supports the intent of this bill and offers the following comments.

COMMENTS:

The Consumer Advocate supports the intent of this bill to address the situation where customers, who installed (and will install) solar pv or other distributed generated systems, over-sized their systems and are self-generating electricity in excess of the 12-month carry-over credit that is allowed by statute. On the other hand, this bill that proposes to provide a nonrefundable state income tax credit for the unused Net Energy Metering ("NEM") credits after each 12-month reconciliation period may have unintended consequences that may adversely affect other ratepayers.

A NEM customer is given a bill credit for self-generated electricity at full retail rates. NEM customers are still responsible for paying the minimum monthly service charge, which does not cover all of the utility's fixed costs. This means that a NEM customer does not pay his fair share of transmission and distribution costs in spite of the NEM customer remaining connected to the grid and relying upon the utility to deliver energy when the NEM system is not generating sufficient electricity to meet the customer's needs. These fixed costs that are not being covered by NEM customers are subsidized by the non-participating customers. Customers who are unable to self-generate electricity are low income homeowners, renters, high-rise condominium owners, and others whose rooftops are inappropriate for solar pv installation. This cross-subsidy places an unfair burden on many of those who can least afford it.

The purpose of allowing NEM credits for excess energy to be limited to a 12-month period with all credits thereafter being forfeited to the utility was to encourage NEM customers to right-size their systems, so as to generate only as much energy as the customer would reasonably use. In this way, the cross-subsidy to non-participating customers is minimized.

This bill that proposes to provide an income tax credit for the carry-over of NEM credits beyond the 12-month reconciliation period has potential negative consequences. First new NEM customers may over-size their systems to take advantage of the tax credit for unused, carry-over NEM credits. With circuits throughout the state reaching saturation levels, over-sized systems would further exacerbate the problem and potentially result in preventing a customer from being able to interconnect his system at reasonable costs. Second, over-sizing NEM systems will further take up capacity on the system that might be available for utility-scale systems that benefit all ratepayers.

In a January, 2014 report commissioned by the Public Utilities Commission entitled "Evaluation of Hawaii's Renewable Energy Policy and Procurement," Energy+Environmental Economics ("E3") determined that NEM systems are a costly form of renewable energy procurement that does not provide net value to all ratepayers. E3 stated that, "We find that customer-owned generators that sell energy to the system through NEM tariffs at full retail credit impose costs that exceed the avoided costs (the value to the system)."

This bill would certainly benefit NEM customers, but the consequences to all customers need to be taken into account by the legislature.

Thank you for this opportunity to testify.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy and Environmental Protection

Date: Thursday, February 12, 2015
Time: 8:30 A.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1135, Relating to Taxation

The Department of Taxation (Department) offers the following comments regarding H.B. 1135.

H.B. 1135 provides an income tax credit for "lapsed credits for excess electricity" generated by net metering customers of the electric utility. The tax credit would apply to taxable years beginning after December 31, 2014.

The Department notes that the credit proposed by this section would likely apply to customers who have already received the Renewable Energy Technologies Income Tax Credit for the installation of the system. Net energy metering is a process regulated by statute. The twelve-month reconciliation period is statutorily mandated. If the purpose of this tax credit is to allow energy customers the economic benefit of all the electricity they produce, a more efficient solution is to change the statutory mandate regarding how energy credits are used in net metering transactions. The Department has concerns that this measure may promote inefficiency as there would be an incentive to overbuild the renewable energy system.

Additionally, the Department notes that the effective date of this measure makes the tax credit applicable retroactively. Since this is a new credit, new forms and computer system enhancements will be necessary. The Department requests that the effective date be changed to taxable years beginning after December 31, 2015, in order to allow for proper administration of the credit.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Net metering tax credit

BILL NUMBER: HB 1135

INTRODUCED BY: Say, Har, Oshiro, San Buenaventura, Tokioka

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer to claim a tax credit equal to the amount of the taxpayer's lapsed credits for excess electricity. Defines "lapsed credits for excess electricity" as unused credits for excess electricity that lapse under HRS section 269-106(b).

Tax credits in excess of a taxpayer's tax liability shall be applied to subsequent income tax liability until exhausted. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare the necessary forms to claim a credit under this section.

EFFECTIVE DATE: Tax years beginning after December 31, 2014

STAFF COMMENTS: Under a net metering agreement, taxpayers with photovoltaic energy generating systems which generate excess electricity over their electrical usage are able to sell their excess electricity back to the electric utility and receive a credit to offset subsequent energy usage. At the end of a twelve-month period, any excess electricity credits cannot be carried over to the next twelve-month period. This measure is proposed to allow such taxpayers to claim an income tax credit for the excess credits that will lapse.

Apparently the bill's proponents have a problem with that part of the net energy metering agreement which in turn came from a PUC-approved tariff. That problem, however, is more easily solved by fixing the tariff. If the problem is that the utilities are being allowed to retain the lapsed credits, then legislation can be passed to have the utilities fork them over. Put another way, why is the state being asked to pay out money for excess electricity generation if the electric utility is retaining the benefit of those lapsed credits and the PUC has jurisdiction to allow it or stop it? If this measure were adopted, it would result in less revenue that could have been used to provide essential services to all taxpayers, and it would perpetuate the windfall benefit that the utilities are now allowed to enjoy.

Digested 2/10/15