

JAN 20 2017

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# A BILL FOR AN ACT

RELATING TO THE RENEWABLE ENERGY TECHNOLOGIES INCOME TAX CREDIT.

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

1           SECTION 1. Section 23-92, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~{}~~\$23-92~~{}~~ **Review for 2019 and every fifth year**  
4 **thereafter.** (a) The ~~[credits]~~ credit under the income tax ~~[and~~  
5 ~~financial institutions tax]~~ listed in subsection (c) shall be  
6 reviewed in 2019 and every fifth year thereafter.

7           (b) The auditor shall submit the findings and  
8 recommendations of the reviews to the legislature and governor  
9 at least twenty days prior to the convening of the immediately  
10 following regular session.

11           (c) This section shall apply to ~~[the following:~~  
12 ~~(1) Sections 235-12.5 and 241-4.6 Credit for renewable~~  
13 ~~energy technology system installed and placed in~~  
14 ~~service in the State. For the purpose of section 23-~~  
15 ~~91(b)(5), this credit shall be deemed to have been~~  
16 ~~enacted for an economic benefit; and~~



1       ~~(2)~~ ~~Section]~~ section 235-17--Credit for qualified  
2                   production costs incurred for a qualified motion  
3                   picture, digital media, or film production."

4       SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6       "(a) On or after January 1, 2010, no building permit shall  
7 be issued for a new single-family dwelling that does not include  
8 a solar water heater system that meets the standards established  
9 pursuant to section 269-44, unless the coordinator approves a  
10 variance. A variance application shall only be accepted if  
11 submitted by an architect or mechanical engineer licensed under  
12 chapter 464, who attests that:

13       (1) Installation is impracticable due to poor solar  
14                   resource;

15       (2) Installation is cost-prohibitive based upon a life  
16                   cycle cost-benefit analysis that incorporates the  
17                   average residential utility bill and the cost of the  
18                   new solar water heater system with a life cycle that  
19                   does not exceed fifteen years;



1 (3) A renewable energy technology system [~~as defined in~~  
2 ~~section 235-12.5,~~] is substituted for use as the  
3 primary energy source for heating water; or

4 (4) A demand water heater device approved by Underwriters  
5 Laboratories, Inc., is installed; provided that at  
6 least one other gas appliance is installed in the  
7 dwelling. For the purposes of this paragraph, "demand  
8 water heater" means a gas-tankless instantaneous water  
9 heater that provides hot water only as it is needed.

10 For purposes of this subsection, a "renewable energy  
11 technology system" means a new system that captures and converts  
12 a renewable source of energy, such as solar or wind energy,  
13 into:

- 14 (1) A usable source of thermal or mechanical energy;
- 15 (2) Electricity; or
- 16 (3) Fuel."

17 SECTION 3. Section 235-12.5, Hawaii Revised Statutes, is  
18 repealed.

19 [~~§235-12.5 Renewable energy technologies; income tax~~  
20 ~~credit.~~ (a) ~~When the requirements of subsection (d) are met,~~  
21 ~~each individual or corporate taxpayer that files an individual~~



1 ~~or corporate net income tax return for a taxable year may claim~~  
2 ~~a tax credit under this section against the Hawaii state~~  
3 ~~individual or corporate net income tax. The tax credit may be~~  
4 ~~claimed for every eligible renewable energy technology system~~  
5 ~~that is installed and placed in service in the State by a~~  
6 ~~taxpayer during the taxable year. The tax credit may be claimed~~  
7 ~~as follows:~~

- 8       ~~(1) For each solar energy system: thirty five per cent of~~  
9       ~~the actual cost or the cap amount determined in~~  
10       ~~subsection (b), whichever is less, or~~  
11       ~~(2) For each wind powered energy system: twenty per cent~~  
12       ~~of the actual cost or the cap amount determined in~~  
13       ~~subsection (b), whichever is less,~~

14 ~~provided that multiple owners of a single system shall be~~  
15 ~~entitled to a single tax credit; and provided further that the~~  
16 ~~tax credit shall be apportioned between the owners in proportion~~  
17 ~~to their contribution to the cost of the system.~~

18       ~~In the case of a partnership, S corporation, estate, or~~  
19 ~~trust, the tax credit allowable is for every eligible renewable~~  
20 ~~energy technology system that is installed and placed in service~~  
21 ~~in the State by the entity. The cost upon which the tax credit~~



1 ~~is computed shall be determined at the entity level.~~  
2 ~~Distribution and share of credit shall be determined pursuant to~~  
3 ~~section 235-110.7(a).~~

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

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

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

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

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

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

17 ~~(A) \$5,000 per system for single family residential~~  
18 ~~property; provided that if all or a portion of~~  
19 ~~the system is used to fulfill the substitute~~  
20 ~~renewable energy technology requirement pursuant~~  
21 ~~to section 196-6.5(a)(3), the credit shall be~~



1 ~~reduced by thirty five per cent of the actual~~  
2 ~~system cost or \$2,250, whichever is less;~~

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

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

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

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

15 ~~(B) \$200 per unit per system for multi family~~  
16 ~~residential property; and~~

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

18 ~~(c) For the purposes of this section:~~

19 ~~"Actual cost" means costs related to the renewable energy~~  
20 ~~technology systems under subsection (a), including accessories~~  
21 ~~and installation, but not including the cost of consumer~~



1 ~~incentive premiums unrelated to the operation of the system or~~  
2 ~~offered with the sale of the system and costs for which another~~  
3 ~~credit is claimed under this chapter.~~

4 ~~"Household use" means any use to which heated water is~~  
5 ~~commonly put in a residential setting, including commercial~~  
6 ~~application of those uses.~~

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

- 10 ~~(1) A usable source of thermal or mechanical energy;~~  
11 ~~(2) Electricity; or~~  
12 ~~(3) Fuel.~~

13 ~~"Solar or wind energy system" means any identifiable~~  
14 ~~facility, equipment, apparatus, or the like that converts solar~~  
15 ~~or wind energy to useful thermal or electrical energy for~~  
16 ~~heating, cooling, or reducing the use of other types of energy~~  
17 ~~that are dependent upon fossil fuel for their generation.~~

18 ~~(d) For taxable years beginning after December 31, 2005,~~  
19 ~~the dollar amount of any utility rebate shall be deducted from~~  
20 ~~the cost of the qualifying system and its installation before~~  
21 ~~applying the state tax credit.~~



1       ~~(e) The director of taxation shall prepare any forms that~~  
2 ~~may be necessary to claim a tax credit under this section,~~  
3 ~~including forms identifying the technology type of each tax~~  
4 ~~credit claimed under this section, whether for solar or wind.~~  
5 ~~The director may also require the taxpayer to furnish reasonable~~  
6 ~~information to ascertain the validity of the claim for credit~~  
7 ~~made under this section and may adopt rules necessary to~~  
8 ~~effectuate the purposes of this section pursuant to chapter 91.~~

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

20       ~~(g) For solar energy systems, a taxpayer may elect to~~  
21 ~~reduce the eligible credit amount by thirty per cent and if this~~





1 ~~reduced amount exceeds the amount of income tax payment due from~~  
2 ~~the taxpayer, the excess of the credit amount over payments due~~  
3 ~~shall be refunded to the taxpayer; provided that tax credit~~  
4 ~~amounts properly claimed by a taxpayer who has no income tax~~  
5 ~~liability shall be paid to the taxpayer; and provided further~~  
6 ~~that no refund on account of the tax credit allowed by this~~  
7 ~~section shall be made for amounts less than \$1.~~

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

14 ~~(h) Notwithstanding subsection (g), for any renewable~~  
15 ~~energy technology system, an individual taxpayer may elect to~~  
16 ~~have any excess of the credit over payments due refunded to the~~  
17 ~~taxpayer, if:~~

18 ~~(1) All of the taxpayer's income is exempt from taxation~~  
19 ~~under section 235-7(a)(2) or (3); or~~



1       ~~(2) The taxpayer's adjusted gross income is \$20,000 or~~  
2           ~~less (or \$40,000 or less if filing a tax return as~~  
3           ~~married filing jointly);~~  
4       ~~provided that tax credits properly claimed by a taxpayer who has~~  
5       ~~no income tax liability shall be paid to the taxpayer; and~~  
6       ~~provided further that no refund on account of the tax credit~~  
7       ~~allowed by this section shall be made for amounts less than \$1.~~

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

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

18       ~~(i) No taxpayer shall be allowed a credit under this~~  
19       ~~section for the portion of the renewable energy technology~~  
20       ~~system required by section 196-6.5 that is installed and placed~~  
21       ~~in service on any newly constructed single family residential~~



1 ~~property authorized by a building permit issued on or after~~  
2 ~~January 1, 2010.~~

3 ~~(j) To the extent feasible, using existing resources to~~  
4 ~~assist the energy efficiency policy review and evaluation, the~~  
5 ~~department shall assist with data collection on the following~~  
6 ~~for each taxable year:~~

7 ~~(1) The number of renewable energy technology systems that~~  
8 ~~have qualified for a tax credit during the calendar~~  
9 ~~year by:~~

10 ~~(A) Technology type; and~~

11 ~~(B) Taxpayer type (corporate and individual); and~~

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

14 ~~(A) Technology type; and~~

15 ~~(B) Taxpayer type.~~

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

19 SECTION 4. Section 241-4.6, Hawaii Revised Statutes, is  
20 repealed.



1           ~~["§241-4.6 Renewable energy technologies; income tax~~  
2 ~~credit. The renewable energy technologies income tax credit~~  
3 ~~provided under section 235-12.5 shall be operative for this~~  
4 ~~chapter for taxable years beginning after December 31, 2002,~~  
5 ~~provided that the system was installed after June 30, 2003."]~~

6           SECTION 5. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8           SECTION 6. This Act shall take effect on January 1, 2018.

9

INTRODUCED BY: *Thomas J. Aronoff*  
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# S.B. NO. 650

**Report Title:**

Renewable Energy Technologies Income Tax Credit

**Description:**

Repeals the renewable energies technology income tax credit.  
Takes effect on 1/1/2018.

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