
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

1 SECTION 1. Section 196-6.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§196-6.5 Solar water heater system required for new**
4 **single-family residential construction.** (a) On or after
5 January 1, 2010, no building permit shall be issued for a new
6 single-family dwelling that does not include a solar water
7 heater system that meets the standards established pursuant to
8 section 269-44, unless the coordinator approves a variance. A
9 variance application shall only be accepted if submitted by an
10 architect or mechanical engineer licensed under chapter 464, who
11 attests that:

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

14 (2) Installation is cost-prohibitive based upon a life
15 cycle cost-benefit analysis that incorporates the
16 average residential utility bill and the cost of the



1 new solar water heater system with a life cycle that
2 does not exceed fifteen years;

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

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

12 (b) A request for a variance shall be submitted to the
13 coordinator on an application prescribed by the coordinator and
14 shall include a description of the location of the property and
15 justification for the approval of a variance using the criteria
16 established in subsection (a). A variance shall be deemed
17 approved if not denied within thirty working days after receipt
18 of the variance application. The coordinator shall publicize:

19 (1) All applications for a variance within seven days
20 after receipt of the variance application; and



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1 (2) The disposition of all applications for a variance
2 within seven days of the determination of the variance
3 application.

4 (c) The director of business, economic development, and
5 tourism may adopt rules pursuant to chapter 91 to impose and
6 collect fees to cover the costs of administering variances under
7 this section. The fees, if any, shall be deposited into the
8 energy security special fund established under section 201-12.8.

9 (d) Nothing in this section shall preclude any county from
10 establishing procedures and standards required to implement this
11 section.

12 (e) Nothing in this section shall preclude participation
13 in any utility demand-side management program or public benefits
14 fee program under part VII of chapter 269.

15 (f) As used in this section, "renewable energy technology
16 system" means a new system that captures and converts a
17 renewable source of energy, such as solar or wind energy, into:

- 18 (1) A usable source of thermal or mechanical energy;
- 19 (2) Electricity; or
- 20 (3) Fuel."



1 SECTION 2. Section 235-12.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§235-12.5 [~~Renewable energy technologies,~~] Solar energy,
4 energy storage, wind energy system; income tax credit. (a)

5 When the requirements of subsection [~~(d)~~] (c) are met, each
6 individual or corporate taxpayer that files an individual or
7 corporate net income tax return for a taxable year may claim a
8 tax credit under this section against the Hawaii state
9 individual or corporate net income tax. [~~The tax credit may be~~
10 ~~claimed for every eligible renewable energy technology system~~
11 ~~that is installed and placed in service in the State by a~~
12 ~~taxpayer during the taxable year.~~] The tax credit may be
13 claimed as follows:

- 14 (1) For each solar energy system[+] that is used
15 exclusively to heat water and is installed and first
16 placed in service in the State by a taxpayer during
17 the taxable year or is approved in the taxable year
18 and is placed in service the following taxable year:
19 thirty-five per cent of the [~~actual cost or the cap~~
20 ~~amount determined in subsection (b), whichever is~~



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1 less, or] basis up to the applicable cap amount, which
2 is determined as follows:

3 (A) \$ _____ per solar energy system for single-
4 family residential property;

5 (B) \$ _____ per unit per solar energy system for
6 multi-family residential property; and

7 (C) \$ _____ per solar energy system for commercial
8 property;

9 (2) For each solar energy system that is used primarily to
10 generate electricity and is installed and first placed
11 in service in the State by a taxpayer during the
12 taxable year or is approved in the taxable year and is
13 placed in service the following taxable year:

14 (A) Twenty-five per cent of the basis for solar
15 energy systems first placed in service after
16 December 31, 2018, and before January 1, 2026, up
17 to the applicable cap amount, which is determined
18 as follows:

19 (i) \$ _____ per solar energy system for
20 single-family residential property; provided
21 that if all or a portion of the solar energy



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1 system is used to fulfill the substitute
2 renewable energy technology requirement
3 pursuant to section 196-6.5(a)(3), the
4 credit shall be reduced by twenty-five per
5 cent of the basis or \$ _____, whichever
6 is less;

7 (ii) \$ _____ per unit per solar energy system
8 for multi-family residential property; and

9 (iii) \$ _____ per solar energy system for
10 commercial property;

11 provided that a solar energy system that has an
12 executed customer service contract dated prior to
13 June 30, 2018, and is installed and first placed
14 in service before December 31, 2019, shall
15 receive thirty-five per cent of the basis for the
16 solar energy system, up to the applicable cap
17 amount as described in this subparagraph;

18 (B) Twenty per cent of the basis for solar energy
19 systems first placed in service after
20 December 31, 2025, and before January 1, 2027, up



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1 to the applicable cap amount, which is determined
2 as follows:

3 (i) \$ _____ per solar energy system for
4 single-family residential property; provided
5 that if all or a portion of the solar energy
6 system is used to fulfill the substitute
7 renewable energy technology requirement
8 pursuant to section 196-6.5(a)(3), the
9 credit shall be reduced by twenty per cent
10 of the basis or \$ _____, whichever is
11 less;

12 (ii) \$ _____ per unit per solar energy system
13 for multi-family residential property; and

14 (iii) \$ _____ per solar energy system for
15 commercial property; and

16 (C) Fifteen per cent of the basis for solar energy
17 systems first placed in service after
18 December 31, 2026, up to the applicable cap
19 amount, which is determined as follows:

20 (i) \$ _____ per solar energy system for
21 single-family residential property; provided



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1 that if all or a portion of the solar energy
 2 system is used to fulfill the substitute
 3 renewable energy technology requirement
 4 pursuant to section 196-6.5(a)(3), the
 5 credit shall be reduced by fifteen per cent
 6 of the basis or \$ _____, whichever is
 7 less;

8 (ii) \$ _____ per unit per solar energy system
 9 for multi-family residential property; and

10 (iii) \$ _____ per solar energy system for
 11 commercial property;

12 (3) For each solar energy system that is used primarily to
 13 generate electricity and is installed and first placed
 14 in service in the State by a taxpayer during the
 15 taxable year or is approved in the taxable year and is
 16 placed in service the following taxable year; provided
 17 that the solar energy system is grid-connected and
 18 incorporates an energy storage system:

19 (A) Twenty-five per cent of the basis for solar
 20 energy systems first placed in service after
 21 December 31, 2018, and before January 1, 2026, up



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1 to the applicable cap amount, which is determined
2 as follows:

3 (i) \$ _____ per solar energy system for
4 single-family residential property; provided
5 that if all or a portion of the solar energy
6 system is used to fulfill the substitute
7 renewable energy technology requirement
8 pursuant to section 196-6.5(a)(3), the
9 credit shall be reduced by twenty-five per
10 cent of the basis or \$ _____, whichever
11 is less;

12 (ii) \$ _____ per unit per solar energy system
13 for multi-family residential property; and

14 (iii) \$ _____ per solar energy system for
15 commercial property;

16 provided that a solar energy system that has an
17 executed customer service contract dated prior to
18 June 30, 2018, and is installed and first placed
19 in service before December 31, 2019, shall
20 receive thirty-five per cent of the basis for the



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1 solar energy system, up to the applicable cap
2 amount as described in this subparagraph;

3 (B) Twenty per cent of the basis for solar energy
4 systems first placed in service after December
5 31, 2025, and before January 1, 2027, up to the
6 applicable cap amount, which is determined as
7 follows:

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

17 (ii) \$ _____ per unit per solar energy system
18 for multi-family residential property; and

19 (iii) \$ _____ per solar energy system for
20 commercial property; and



- 1 (C) Fifteen per cent of the basis for solar energy
2 systems first placed in service after
3 December 31, 2026, up to the applicable cap
4 amount, which is determined as follows:
- 5 (i) \$ _____ per solar energy system for
6 single-family residential property; provided
7 that if all or a portion of the solar energy
8 system is used to fulfill the substitute
9 renewable energy technology requirement
10 pursuant to section 196-6.5(a)(3), the
11 credit shall be reduced by fifteen per cent
12 of the basis or \$ _____, whichever is
13 less;
- 14 (ii) \$ _____ per unit per solar energy system
15 for multi-family residential property; and
- 16 (iii) \$ _____ per solar energy system for
17 commercial property;
- 18 (4) For each energy storage system that is installed and
19 first placed in service in the State by a taxpayer
20 during the taxable year or is approved in the taxable
21 year and is placed in service the following taxable



1 year, if the cost of the energy storage system is not
2 also included in the basis of a solar or wind energy
3 system under paragraphs (2), (3), or (6):

4 (A) Twenty-five per cent of the basis for energy
5 storage systems first placed in service after
6 December 31, 2018, and before January 1, 2026, up
7 to the applicable cap amount, which is determined
8 as follows:

9 (i) \$ _____ per energy storage system for
10 single-family residential property;

11 (ii) \$ _____ per unit per energy storage system
12 for multi-family residential property; and

13 (iii) \$ _____ per energy storage system for
14 commercial property;

15 provided that an energy storage system that has
16 an executed customer service contract dated prior
17 to June 30, 2018, and is installed and first
18 placed in service before December 31, 2019, shall
19 receive thirty-five per cent of the basis for the
20 energy storage system, up to the applicable cap
21 amount as described in this subparagraph;



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1 (B) Twenty per cent of the basis for energy storage
2 systems first placed in service after
3 December 31, 2025, and before January 1, 2027, up
4 to the applicable cap amount, which is determined
5 as follows:

6 (i) \$ _____ per energy storage system for
7 single-family residential property;

8 (ii) \$ _____ per unit per energy storage system
9 for multi-family residential property; and

10 (iii) \$ _____ per energy storage system for
11 commercial property; and

12 (C) Fifteen per cent of the basis for energy storage
13 systems first placed in service after
14 December 31, 2026, up to the applicable cap
15 amount, which is determined as follows:

16 (i) \$ _____ per energy storage system for
17 single-family residential property;

18 (ii) \$ _____ per unit per energy storage system
19 for multi-family residential property; and

20 (iii) \$ _____ per energy storage system for
21 commercial property;



1 (5) For each combined energy storage and solar energy
 2 system that is installed and first placed in service
 3 in the State by a taxpayer during the taxable year or
 4 is approved in the taxable year and is placed in
 5 service the following taxable year, the applicable
 6 credit available for an energy storage system under
 7 paragraph (4) plus one-half of the applicable credit
 8 for a solar energy system under paragraph (2) or (3);
 9 and

10 ~~[(2)]~~ (6) For each ~~[wind-powered]~~ wind energy system~~[-]~~,
 11 twenty per cent of the ~~[actual cost or the cap amount~~
 12 ~~determined in subsection (b), whichever is less,~~
 13 basis, up to the applicable cap amount, which is
 14 determined as follows:

15 (A) \$ _____ per wind energy system for single-
 16 family residential property; provided that if all
 17 or a portion of the system is used to fulfill the
 18 substitute renewable energy technology
 19 requirement pursuant to section 196-6.5(a)(3),
 20 the credit shall be reduced by twenty per cent of
 21 the basis or \$ _____, whichever is less;



1 (B) \$ _____ per unit per wind energy system for
2 multi-family residential property; and
3 (C) \$ _____ per wind energy system for commercial
4 property.

5 ~~[provided that multiple]~~ Multiple owners of a single system
6 shall be entitled to a single tax credit~~[+]~~, and ~~[provided~~
7 ~~further that]~~ the tax credit shall be apportioned between the
8 owners in proportion to their contribution to the cost of the
9 system.

10 In the case of a partnership, S corporation, estate, or
11 trust, the tax credit allowable is for every eligible ~~[renewable~~
12 ~~energy technology]~~ solar energy, energy storage, or wind energy
13 system that is installed and placed in service in the State by
14 the entity. The cost upon which the tax credit is computed
15 shall be determined at the entity level. Distribution and share
16 of credit shall be determined pursuant to section ~~[235-~~
17 ~~110.7(a)-]~~ 704(b) of the Internal Revenue Code.

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



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- 1 ~~(1) If the primary purpose of the solar energy system is~~
2 ~~to use energy from the sun to heat water for household~~
3 ~~use, then the cap amounts shall be:~~
- 4 ~~(A) \$2,250 per system for single family residential~~
5 ~~property;~~
- 6 ~~(B) \$350 per unit per system for multi family~~
7 ~~residential property; and~~
- 8 ~~(C) \$250,000 per system for commercial property;~~
- 9 ~~(2) For all other solar energy systems, the cap amounts~~
10 ~~shall be:~~
- 11 ~~(A) \$5,000 per system for single family residential~~
12 ~~property; provided that if all or a portion of~~
13 ~~the system is used to fulfill the substitute~~
14 ~~renewable energy technology requirement pursuant~~
15 ~~to section 196-6.5(a)(3), the credit shall be~~
16 ~~reduced by thirty five per cent of the actual~~
17 ~~system cost or \$2,250, whichever is less;~~
- 18 ~~(B) \$350 per unit per system for multi family~~
19 ~~residential property; and~~
- 20 ~~(C) \$500,000 per system for commercial property; and~~



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

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

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

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

13 ~~(e)]~~ (b) For the purposes of this section:

14 ~~["Actual cost" means costs related to the renewable energy~~
15 ~~technology systems under subsection (a), including accessories~~
16 ~~and installation, but not including the cost of consumer~~
17 ~~incentive premiums unrelated to the operation of the system or~~
18 ~~offered with the sale of the system and costs for which another~~
19 ~~credit is claimed under this chapter.~~



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

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

- 7 ~~(1) A usable source of thermal or mechanical energy;~~
8 ~~(2) Electricity; or~~
9 ~~(3) Fuel.]~~

10 "Basis" means costs related to the solar energy, wind
11 energy, or energy storage system under subsection (a), including
12 accessories, energy storage, and installation, but does not
13 include the cost of consumer incentive premiums unrelated to the
14 operation of the energy system or offered with the sale of the
15 energy system and costs for which another credit is claimed
16 under this chapter. Any cost incurred and paid for the repair,
17 construction, or reconstruction of a structure in conjunction
18 with the installation and placing in service of a solar or wind
19 energy system, such as the reroofing of single-family
20 residential property, multi-family residential property, or
21 commercial property, shall not constitute a part of the basis



1 for the purpose of this section; provided that costs incurred
2 for the physical support of the solar or wind energy system,
3 such as racking and mounting equipment and costs incurred to
4 seal or otherwise return a roof to its pre-installation
5 condition shall constitute part of the basis for the purposes of
6 this section.

7 The basis used under this section shall be consistent with
8 the use of the term "basis" in section 25D or section 48 of the
9 Internal Revenue Code.

10 "Energy storage system" means any identifiable facility,
11 equipment, apparatus, or the like, including a battery, grid-
12 interactive water heater, or ice storage air conditioner, that
13 is permanently fixed to a site and electrically connected to a
14 site distribution panel by means of installed wiring, and that
15 receives electricity generated from various sources, stores that
16 electricity as electrical, chemical, thermal, or mechanical
17 energy, and delivers the energy back to an electric utility or
18 the user of the electric system at a later time.

19 "First placed in service" has the same meaning as in title
20 26 Code of Federal Regulations section 1.167(a)-11(e)(1).



1 "Grid-connected" means that the individual or corporate
2 taxpayer has obtained an approved interconnection agreement from
3 an electric utility for the solar energy system or whose
4 facility does not have an existing tie to the electric grid.

5 "Solar or wind energy system" means any identifiable
6 facility, equipment, apparatus, or the like that converts solar
7 or wind energy to useful thermal or electrical energy for
8 heating, cooling, or reducing the use of other types of energy
9 that are dependent upon fossil fuel for their generation[-];
10 provided that:

11 (1) The construction, reconstruction, or erection of the
12 solar or wind energy system is completed by the
13 taxpayer; or

14 (2) The solar or wind energy system is acquired by the
15 taxpayer if the original use of the solar or wind
16 energy system commences with the taxpayer.

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



1 [~~e~~] (d) The director of taxation shall prepare any forms
2 that 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~~] (e) 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 (f) or
14 (g) [~~or (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~~] (f) For solar energy, energy storage, or wind energy
21 systems, a taxpayer may elect to reduce the eligible credit



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

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

16 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~, (f), for any
17 ~~[renewable energy technology]~~ solar energy, energy storage, or
18 wind energy system, an individual taxpayer may elect to have any
19 excess of the credit over payments due refunded to the
20 taxpayer~~[]~~ without discount, if:



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

3 (2) The taxpayer's adjusted gross income is \$20,000 or
4 less (or \$40,000 or less if filing a tax return as
5 married filing jointly);

6 provided that tax credits properly claimed by a taxpayer who has
7 no income tax liability shall be paid to the taxpayer; and
8 provided further that no refund on account of the tax credit
9 allowed by this section shall be made for amounts less than \$1.

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

14 The election required by this subsection shall be made in a
15 manner prescribed by the director on the taxpayer's return for
16 the taxable year in which the solar energy, energy storage, or
17 wind energy system is installed and first placed in service. A
18 separate election may be made for each separate solar energy,
19 energy storage, or wind energy system that generates a credit.
20 An election once made is irrevocable.



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1 [~~i~~] (h) No taxpayer shall be allowed a credit under this
2 section for the portion of the renewable energy technology
3 system required by section 196-6.5 that is installed and first
4 placed in service on any newly constructed single-family
5 residential property authorized by a building permit issued on
6 or after January 1, 2010.

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

11 (j) A planned community association, condominium
12 association of owners, or cooperative housing corporation may
13 claim the tax credit under this section in its own name for
14 systems or facilities placed in service and located on common
15 areas.

16 (k) No credit under this section shall be authorized for
17 taxable years ending after December 31, 2036.

18 [~~j~~] (l) To the extent feasible, using existing resources
19 to assist the energy-efficiency policy review and evaluation,
20 the department shall assist with data collection on the
21 following for each taxable year:



1 (1) The number of [~~renewable energy technology~~] solar
2 energy, energy storage, or wind energy systems that
3 have qualified for a tax credit during the calendar
4 year by:

5 (A) Technology type; and

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

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

9 (A) Technology type; and

10 (B) Taxpayer type.

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

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



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1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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

6 SECTION 6. This Act shall take effect on July 1, 2019;
7 provided that section 2 shall apply to taxable years beginning
8 after December 31, 2018.

9

INTRODUCED BY: *Mike Egan*

JAN 17 2019



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Report Title:

Renewable Energy; Solar and Wind Energy System; Energy Storage System; Tax Credit

Description:

Replaces the current renewable energy technology systems tax credit with tax credits for solar or wind energy systems and energy storage systems. Applies to taxable years beginning after 12/31/2018.

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

