

JAN 20 2017

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 for each
14 energy storage property that is used primarily to store and
15 deliver energy and is installed and first placed in service in
16 the State by a taxpayer during the taxable year:



- 1 (1) Thirty per cent of the basis for energy storage
2 property first placed in service after June 30, 2017,
3 and before January 1, 2020;
- 4 (2) Twenty-six per cent of the basis for energy storage
5 property first placed in service after December 31,
6 2019, and before January 1, 2021;
- 7 (3) Twenty-two per cent of the basis for energy storage
8 property first placed in service after December 31,
9 2020, and before January 1, 2022; and
- 10 (4) Ten per cent of the basis for energy storage property
11 first placed in service after December 31, 2021.
- 12 Multiple owners of a single energy storage property shall be
13 entitled to a single tax credit, and the tax credit shall be
14 apportioned between the owners in proportion to their
15 contribution to the cost of the property.
- 16 (c) In the case of a partnership, S corporation, estate,
17 or trust, the tax credit allowable is for every eligible energy
18 storage property that is installed and placed in service in the
19 State by the entity. The cost upon which the tax credit is
20 computed shall be determined at the entity level. Distribution



1 and share of credit shall be determined pursuant to section
2 704(b) of the Internal Revenue Code.

3 (d) For the purposes of this section:

4 "Basis" means costs related to the energy storage property
5 under subsection (b), including accessories, energy storage, and
6 installation. The term does not include the cost of consumer
7 incentive premiums unrelated to the operation of the property or
8 offered with the sale of the energy storage property and costs
9 for which another credit is claimed under this chapter. Any
10 cost incurred and paid for the repair, construction, or
11 reconstruction of a structure in conjunction with the
12 installation and placing in service of energy storage property
13 shall not constitute a part of the basis; provided that costs
14 incurred for the physical support of the energy storage property
15 shall constitute part of the basis.

16 The basis used under this section shall be consistent with
17 the use of basis in section 25D or 48 of the Internal Revenue
18 Code; provided that, for the purposes of calculating the credit
19 allowed under this section, the basis of the energy storage
20 property shall not be reduced by the amount of any federal tax



1 credit or other federally subsidized energy financing received
2 by the taxpayer.

3 "Energy storage property" means equipment that receives,
4 stores, and delivers energy, the construction, reconstruction,
5 or erection of which is completed by the taxpayer, or which is
6 acquired by the taxpayer if the original use of the property
7 commences with the taxpayer.

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

10 (e) For taxable years beginning after December 31, 2016,
11 the dollar amount of any utility rebate shall be deducted from
12 the basis of the qualifying energy storage property and its
13 installation before applying the state tax credit.

14 (f) 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 for each tax
17 credit claimed under this section. The director may also
18 require the taxpayer to furnish reasonable information to
19 ascertain the validity of the claim for credit made under this
20 section and may adopt rules necessary to effectuate the purposes
21 of this section pursuant to chapter 91.



1 (g) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess may be used as a
3 credit against the taxpayer's income tax liability in subsequent
4 years until exhausted, unless otherwise elected by the taxpayer
5 pursuant to subsection (h). All claims for the tax credit under
6 this section, including amended claims, shall be filed on or
7 before the end of the twelfth month following the close of the
8 taxable year for which the credit may be claimed. Failure to
9 comply with this subsection shall constitute a waiver of the
10 right to claim the credit.

11 (h) For any tax credit under this section, a taxpayer may
12 elect to reduce the eligible credit amount by thirty per cent
13 and if the reduced amount exceeds the taxpayer's income tax
14 liability, the excess amount shall be refunded to the taxpayer;
15 provided that no refund on account of the tax credit allowed by
16 this section shall be made for amounts less than \$1.

17 The election required by this subsection shall be made in a
18 manner prescribed by the director of taxation on the taxpayer's
19 return for the taxable year in which the energy storage property
20 is installed and placed in service. A separate election may be



1 made for each separate property that generates a credit. An
2 election once made is irrevocable.

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

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

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

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



- 1 (1) The number of energy storage properties that have
2 qualified for a tax credit during the calendar year,
3 listed by property type and taxpayer type (corporate
4 and individual);
- 5 (2) The total cost of the tax credit to the State during
6 the taxable year, listed by property type, taxpayer
7 type, credit type (investment or production), and by
8 refundable and nonrefundable credit; and
- 9 (3) The estimated economic impact that may be attributable
10 to the energy storage tax credit, including:
- 11 (A) Economic boost;
12 (B) Net flow of money into or out of the State;
13 (C) General excise and income tax revenue generated;
14 and
15 (D) Impact on jobs, including the number of jobs
16 maintained, number of jobs created, and average
17 pay.
- 18 (m) The department of business, economic development, and
19 tourism shall commence a study no later than July 1, 2019, on
20 the costs incurred and benefits generated by this section, as
21 well as the extent to which the tax credit under this section



1 has helped the State to achieve its energy goals. In conducting
2 this study, the department of business, economic development,
3 and tourism shall consult with the department of taxation and
4 industry trade groups and may consult with other stakeholders.
5 The department of business, economic development, and tourism
6 shall submit a report to the legislature no later than
7 December 31, 2020. The report shall include the following:

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

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.

20 SECTION 4. New statutory material is underscored.



S.B. NO. 365

1 SECTION 5. This Act, upon its approval, shall apply to
2 taxable years beginning after December 31, 2016.

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S.B. NO. 365

Report Title:

Energy Storage Income Tax Credit

Description:

Provides an investment income tax credit for energy storage property that receives, stores, and delivers energy. 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 12/31/16.

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