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# A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

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

3           "**§235-12.5 Renewable energy technologies; income tax**  
4 **credit.** (a) When the requirements of subsection [~~(d)~~] (c) are  
5 met, each individual or corporate taxpayer that files an  
6 individual or corporate net income tax return for a taxable year  
7 may claim a tax credit under this section against the Hawaii  
8 state individual or corporate net income tax. [~~The tax credit~~  
9 ~~may be claimed for every eligible renewable energy technology~~  
10 ~~system that is installed and placed in service in the State by a~~  
11 ~~taxpayer during the taxable year.~~] The tax credit may be  
12 claimed as follows:

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



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

3 (A) \$ \_\_\_\_\_ per property for single-family  
4 residential property;

5 (B) \$ \_\_\_\_\_ per unit per property for multi-family  
6 residential property; and

7 (C) \$ \_\_\_\_\_ per property for commercial property;

8 (2) For each solar energy property that is used primarily  
9 to generate electricity, is less than one megawatt in  
10 alternating current capacity, is not part of a larger  
11 solar energy property, and is installed and first  
12 placed in service in the State by a taxpayer during  
13 the taxable year:

14 (A) \_\_\_\_\_ per cent of the basis for solar energy  
15 property first placed in service after  
16 December 31, 2012, and before January 1, 2014;

17 (B) \_\_\_\_\_ per cent of the basis for solar energy  
18 property first placed in service after  
19 December 31, 2013, and before January 1, 2016;

20 (C) \_\_\_\_\_ per cent of the basis for solar energy  
21 property first placed in service after



1                   December 31, 2015, and before January 1, 2018;

2                   and

3                   (D)                   \_\_\_\_\_ per cent of the basis for solar energy

4                   property first placed in service after

5                   December 31, 2017;

6                   (3) For each solar energy property that is used to  
7                   generate electricity and is one megawatt or larger in  
8                   alternating current capacity:

9                   (A)                   \_\_\_\_\_ cents per kilowatt-hour sold for the  
10                   first one hundred twenty months of operation;  
11                   provided that the amount of a tax credit under  
12                   this subparagraph shall not exceed \$ \_\_\_\_\_ ;

13                   or

14                   (B)                   \_\_\_\_\_ cents per kilowatt-hour sold for the  
15                   first one hundred twenty months of operation;  
16                   provided that the taxpayer can show evidence that  
17                   the taxpayer has a signed power purchase  
18                   agreement, had been in negotiations with a  
19                   utility for a power purchase agreement, has a  
20                   utility conducting an interconnection requirement  
21                   study, or is in the feed-in tariff active queue,  
22                   on or before December 31, 2013; and provided



1                    further that the amount of a tax credit under  
2                    this subparagraph shall not exceed \$ \_\_\_\_\_ ;  
3                    or

4        ~~[(2)]~~ (4) For each ~~[wind-powered]~~ wind energy ~~[system-]~~  
5                    property that is less than one megawatt in output and  
6                    is not part of a larger wind energy property: twenty  
7                    per cent of the ~~[actual cost or the cap amount~~  
8                    ~~determined in subsection (b),]~~ basis or \$ \_\_\_\_\_ ,  
9                    whichever is less~~[+]~~ .

10        ~~[provided that multiple]~~ Multiple owners of a single ~~[system]~~  
11        property shall be entitled to a single tax credit~~[+]~~ , and  
12        ~~[provided further that]~~ the tax credit shall be apportioned  
13        between the owners in proportion to their contribution to the  
14        cost of the ~~[system-]~~ property .

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



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

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

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

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

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

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

14           ~~(A) \$5,000 per system for single family residential~~  
15           ~~property; provided that if all or a portion of~~  
16           ~~the system is used to fulfill the substitute~~  
17           ~~renewable energy technology requirement pursuant~~  
18           ~~to section 196 6.5(a)(3), the credit shall be~~  
19           ~~reduced by thirty five per cent of the actual~~  
20           ~~system cost or \$2,250, whichever is less;~~

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



1           ~~(C) \$500,000 per system for commercial property, and~~  
2       ~~(3) For all wind powered energy systems, the cap amounts~~  
3       ~~shall be:~~

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

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

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

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

15           ~~["Actual cost" means costs related to the renewable energy~~  
16       ~~technology systems under subsection (a), including accessories~~  
17       ~~and installation, but not including the cost of consumer~~  
18       ~~incentive premiums unrelated to the operation of the system or~~  
19       ~~offered with the sale of the system and costs for which another~~  
20       ~~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       "Basis" means costs related to the solar or wind energy  
5 property under subsection (a), including accessories, energy  
6 storage, and installation, but does not include the cost of  
7 consumer incentive premiums unrelated to the operation of the  
8 energy property or offered with the sale of the energy property  
9 and costs for which another credit is claimed under this  
10 chapter. Any cost incurred and paid for the repair,  
11 construction, or reconstruction of a structure in conjunction  
12 with the installation and placing in service of solar or wind  
13 energy property shall not constitute a part of the basis for the  
14 purpose of this section. The basis used under this section shall  
15 be consistent with the use of basis in section 25D or section 48  
16 of the Internal Revenue Code; provided that, for the purposes of  
17 calculating the credit allowed under this section, the basis of  
18 the solar energy property or the wind energy property shall not  
19 be reduced by the amount of any federal tax credit or other  
20 federally subsidized energy financing received by the taxpayer.

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



1        "Property" has the same meaning as in section 25D, 45, or  
2 48 of the Internal Revenue Code.

3        "Public sector agency" means any political subdivision,  
4 agency, or instrumentality of the State or of the federal  
5 government.

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

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

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

18       [~~(d)~~] (c) For taxable years beginning after December 31,  
19 2005, the dollar amount of any utility rebate shall be deducted  
20 from the [~~cost~~] basis of the qualifying [~~system~~] property and  
21 its 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]~~  
10 subsection (a) (1), (2), and (4) exceeds the taxpayer's income  
11 tax liability, the excess of the credit over liability may be  
12 used as a credit against the taxpayer's income tax liability in  
13 subsequent years until exhausted, unless otherwise elected by  
14 the taxpayer pursuant to subsection (f) or (g) ~~[or (h)]~~. All  
15 claims for the tax credit under this section, including amended  
16 claims, shall be filed on or before the end of the twelfth month  
17 following the close of the taxable year for which the credit may  
18 be claimed. Failure to comply with this subsection shall  
19 constitute a waiver of the right to claim the credit.

20       ~~[(g)]~~ (f) For solar energy ~~[systems,]~~ properties under  
21 subsection (a) (1) and (2) or for any wind energy property under  
22 subsection (a) (4), a taxpayer may elect to reduce the eligible



1 credit amount by thirty per cent and if this reduced amount  
2 exceeds the amount of income tax payment due from the taxpayer,  
3 the excess of the credit amount over payments due shall be  
4 refunded to the taxpayer; provided that tax credit amounts  
5 properly claimed by a taxpayer who has no income tax liability  
6 shall be paid to the taxpayer; and provided further that no  
7 refund on account of the tax credit allowed by this section  
8 shall be made for amounts 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 ~~[system]~~ property is installed and  
12 first placed in service. A separate election may be made for  
13 each separate ~~[system]~~ property that generates a credit. An  
14 election once made is irrevocable.

15 ~~[(h)]~~ (g) Notwithstanding subsection ~~[(g)]~~, (f), for any  
16 ~~[renewable energy technology system]~~ solar energy property  
17 under subsection (a) (1) and (2) or for any wind energy property  
18 under subsection (a) (4), an individual taxpayer may elect to  
19 have any excess of the credit over payments due refunded to the  
20 taxpayer~~[-]~~ without discount, if:

21 (1) All of the taxpayer's income is exempt from taxation  
22 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~~] property is installed and  
15 first placed in service. A separate election may be made for  
16 each separate [~~system~~] property that generates a credit. An  
17 election once made is irrevocable.

18           [~~(i)~~] (h) 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 first  
21 placed in service on any newly constructed single-family



1 residential property authorized by a building permit issued on  
2 or after 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 (i) If the tax credit under subsection (a)(3) exceeds the  
8 taxpayer's income tax liability, the excess of the credit over  
9 liability shall be refunded to the taxpayer; provided that tax  
10 credit amounts properly claimed by a taxpayer who has no income  
11 tax liability shall be paid to the taxpayer; provided further  
12 that no refund on account of the tax credit allowed by this  
13 section shall be made for amounts less than \$1.

14 (j) The tax credits provided for in this section shall be  
15 construed in accordance with Treasury Regulations and judicial  
16 interpretations of similar provisions in sections 25D, 45, and  
17 48 of the Internal Revenue Code.

18 (k) Notwithstanding the foregoing, and in lieu of the  
19 credits described above, an individual or corporate taxpayer not  
20 currently regulated by the public utilities commission that had  
21 by December 31, 2012, entered into an agreement with a public  
22 sector agency pursuant to a public solicitation and procurement



1 process for the sale of electrical energy from non-residential  
2 solar energy property with less than one megawatt of alternating  
3 current capacity shall be allowed to elect to receive tax  
4 credits for energy properties placed into service prior to  
5 January 1, 2014, on the same basis as if the energy property had  
6 been placed into service prior to January 1, 2013; provided that  
7 the taxpayer shall provide a copy of the agreement to the  
8 department of taxation.

9       (l) Taxpayers who have received letters from the  
10 department of taxation extending the department's letter rulings  
11 or determination letters to December 31, 2013, and have  
12 submitted the requested status update may qualify for the tax  
13 credits as they existed on December 31, 2012; provided that the  
14 energy property is first placed in service on or before December  
15 31, 2013.

16       (m) An association of owners under chapter 421I, 421J,  
17 514A, or 514B may claim the credit allowed under this section in  
18 its own name for property or facilities placed in service and  
19 located on common areas.

20       (n) No credit under this section shall be allowed to any  
21 federal, state, or local government or any political  
22 subdivision, agency, or instrumentality thereof.

1       (o) The department of taxation, in collaboration with the  
2 department of business, economic development, and tourism, shall  
3 submit a joint report to the legislature annually no later than  
4 twenty days prior to the convening of each regular session on  
5 the following for the preceding taxable year:

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

9       (A) Technology type; and

10       (B) Taxpayer type (corporate and individual); [~~and~~]

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

13       (A) Technology type; [~~and~~]

14       (B) Taxpayer type [~~-~~];

15       (C) Tax credit type (investment or production); and

16       (D) Refundability type (refundable or nonrefundable);

17       and

18       (3) The estimated economic benefit that may be  
19 attributable to the renewable energy tax credits,  
20 including:

21       (A) Impact on the economy, including:

22       (i) Economic boost;



1           (ii) Net flow of money into or out of the State;  
2                                   and

3           (iii) General excise and income tax revenue  
4                                   generated; and

5           (B) Jobs, including:

6                           (i) Number of jobs maintained;

7                           (ii) Number of jobs created and the number of  
8                                   jobs lost; and

9                           (iii) Average pay.

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

13           (p) The department of business, economic development, and  
14 tourism shall commence a study no later than July 1, 2016, on  
15 the costs incurred and benefits generated by this section, as  
16 well as the extent to which the tax credits under this section  
17 has helped the State to achieve its energy goals. In conducting  
18 this study, the department of business, economic development,  
19 and tourism shall consult with the department of taxation and  
20 industry trade groups and may consult with other stakeholders.  
21 The department of business, economic development, and tourism  
22 shall submit a report to the legislature no later than



1 December 31, 2017. This report to the legislature shall  
2 include, at a minimum, the following:  
3     (1) The elements in subsection (o);  
4     (2) The results of its study; and  
5     (3) Recommendations on whether the various tax credits  
6     under this section should be continued, eliminated, or  
7     revised."

8         SECTION 2. If any provision of this Act, or the  
9 application thereof to any person or circumstance, is held  
10 invalid, the invalidity does not affect other provisions or  
11 applications of the Act that can be given effect without the  
12 invalid provision or application, and to this end the provisions  
13 of this Act are severable.

14         SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16         SECTION 4. This Act shall take effect on July 1, 2050, and  
17 shall apply to taxable years beginning after December 31, 2012.





**Report Title:**

Renewable Energy; Solar Energy Property; Tax Credit

**Description:**

Replaces the current renewable energy technology systems tax credit with tax credits for solar energy property and wind energy property. Requires DOTAX and DBEDT to report tax credits claimed under section 235-12.5, HRS. Effective 07/01/2050.  
(SD2)

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