A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

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

PART I

SECTION 1. The legislature finds that as a result of pursuing its goal to reach one hundred per cent renewable energy by 2045, Hawaii now leads other states in nearly every category of renewable electricity. Currently, thirty-three per cent of electricity in the State is generated from rooftop solar, and there are sixty utility-scale renewable energy projects feeding into the State's power grids. Despite great progress, the State continues to depend heavily upon imported petroleum for its energy needs, and it still falls far short of its ambitious renewable energy goals.

The legislature further finds that the State must continue to support established renewable energy sources and those emerging from new technological innovations to meet its expansive renewable energy goals. Currently, the State's definition of "renewable energy" is too narrow to account for some technological innovations that produce renewable energy.
resources. Broadening the definition of "renewable energy" to include other self-replenishing non-fossil fuel resources could significantly advance the State's clean energy goals and produce considerable environmental and economic benefits for the State.

Accordingly, the purpose of this Act is to:

(1) Amend the definition of "renewable energy" as used in the public utilities commission law to include additional self-replenishing non-fossil fuel, non-nuclear resources; and

(2) Amend the renewable energy technologies income tax credit.

PART II

SECTION 2. Section 269-91, Hawaii Revised Statutes, is amended by amending the definition of "renewable energy" to read as follows:

"Renewable energy" means energy generated or produced using the following sources:

(1) Wind;

(2) The sun;

(3) Falling water;
(4) Biogas, including landfill and sewage-based digester gas;
(5) Geothermal;
(6) Ocean water, currents, and waves, including ocean thermal energy conversion;
(7) Biomass, including biomass crops, agricultural and animal residues and wastes, and municipal solid waste and other solid waste[†], but not including mono-
cultured wood crops;
(8) Biofuels; [and]
(9) Hydrogen produced from renewable energy sources[†];
and
(10) Other self-replenishing non-fossil fuel, non-nuclear resources."

PART III

SECTION 3. Section 23-92, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:
"(c) This section shall apply to the following:
(1) Sections 235-12.5 and 241-4.6--Credit for renewable energy [technology] technologies and commercial 
seawater air conditioning system installed and placed
in service in the State. For the purpose of section 23-91(b)(5), this credit shall be deemed to have been enacted for an economic benefit; and

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

SECTION 4. Section 235-12.5, Hawaii Revised Statutes, is amended to read as follows:

"§235-12.5 Renewable energy technologies[+ and commercial seawater air conditioning system] income tax credit. (a) When the requirements of subsection (d) are met, each individual or corporate taxpayer that files an individual or corporate net income tax return for a taxable year may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. [The tax credit may be claimed for every eligible renewable energy technology system that is installed and placed in service in the State by a taxpayer during the taxable year.] The tax credit may be claimed as follows:

(1) For each solar energy system[+] that is used exclusively to heat water and is installed and first
placed in service in the State by a taxpayer during the taxable year; thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; or] basis up to the applicable cap amount, which is determined as follows:

(A) $2,000 per solar energy system for a single-family residential property;

(B) $700 per unit per solar energy system for a multi-family residential property; and

(C) $225,000 per solar energy system for a commercial property;

(2) For each grid-connected solar energy system that is used primarily to generate electricity:

(A) Thirty-five per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2019, and before January 1, 2021, up to the applicable cap amount under subsection (b); provided that a grid-connected solar energy system that has:

(i) An executed customer service contract dated prior to June 30, 2018, and is installed and
first placed in service before December 31, 2019, shall receive thirty-five per cent of the basis for the grid-connected solar energy system, up to the applicable cap amount of $500,000 per solar energy system; or

(ii) A power purchase agreement dated prior to December 31, 2019, and first placed in service before December 31, 2024, shall receive thirty-five per cent of the basis for the grid-connected solar energy system, up to the applicable cap amount of $500,000 per solar energy system;

(B) Thirty per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2020, and before January 1, 2022, up to the applicable cap amount under subsection (b);

(C) Twenty-five per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2021, and before
January 1, 2023, up to the applicable cap amount under subsection (b); 

(D) Twenty per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2022, and before January 1, 2024, up to the applicable cap amount under subsection (b); 

(E) Fifteen per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2023, and before January 1, 2025, up to the applicable cap amount under subsection (b); 

(F) Ten per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2024, and before January 1, 2026, up to the applicable cap amount under subsection (b); and

(G) Five per cent of the basis for grid-connected solar energy systems first placed in service after December 31, 2025, and before January 1,
2027, up to the applicable cap amount under subsection (b);

[42+] (3) For each [wind-powered] grid-connected wind energy system[+], twenty per cent of the [actual cost or the cap amount determined in subsection (b), whichever is less] basis, up to the applicable cap amount, which is determined as follows:

(A) $1,500 per grid-connected wind energy system for a single-family residential property; provided that if all or a portion of the grid-connected wind energy system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by twenty per cent of the basis or $1,500, whichever is less;

(B) $700 per unit per grid-connected wind energy system for a multi-family residential property; and

(C) $500,000 per grid-connected wind energy system for a commercial property; provided that a grid-connected wind energy system that has:
(i) An executed customer service contract dated prior to June 30, 2018, and is installed and first placed in service before December 31, 2019, shall receive thirty per cent of the basis for the grid-connected wind energy system, up to the applicable cap amount as described in this subparagraph; or

(ii) A power purchase agreement dated prior to December 31, 2019, and first placed in service before December 31, 2024, shall receive thirty per cent of the basis for the grid-connected wind energy system, up the applicable cap amount as described in this subparagraph; and

(4) For each commercial seawater air conditioning system, twenty percent of the basis of connecting the commercial seawater air conditioning system to the seawater air conditioning district cooling system up to the applicable cap amount of $100,000.

[provided that multiple] Multiple owners of a single system shall be entitled to a single tax credit; [and] provided
that the tax credit shall be apportioned between the owners in proportion to their contribution to the cost of the system.

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for every eligible renewable energy technology and commercial seawater air conditioning system, as defined in this section, that is installed and placed in service in the State by the entity. The cost upon which the tax credit is computed shall be determined at the entity level. Distribution and share of credit shall be determined pursuant to section [235-110.7(a).] 704(b) of the Internal Revenue Code, as amended.

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

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

(A) $2,250 per system for single-family residential property,
(B) $350 per-unit-per-system for multi-family residential property; and

(C) $250,000 per-system for commercial property;

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

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

(B) $350 per-unit-per-system for multi-family residential property; and

(C) $500,000 per-system for commercial property; and

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

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

(B) $200 per unit per system for multi-family residential property; and

(C) $500,000 per system for commercial property.]

The cap amount for each grid-connected solar energy system that is used primarily to generate electricity pursuant to subsection (a)(2) shall be:

(1) For eligible systems claiming credits for taxable years 2019 or 2020:

(A) $5,000 per grid-connected solar energy system for a single-family residential property; provided that if all or a portion of the grid-connected solar energy system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by twenty-five per cent of the basis or $2,250, whichever is less;

(B) $700 per unit per grid-connected solar energy system for multi-family residential property; and
(C) $500,000 per grid-connected solar energy system for commercial property; and

(2) For eligible systems claiming credits for taxable years 2021 through 2026:

(A) $2,500 per grid-connected solar energy system for a single-family residential property; provided that if all or a portion of the grid-connected solar energy system is used to fulfill the substitute renewable energy technology requirement pursuant to section 196-6.5(a)(3), the credit shall be reduced by twenty-five percent of the basis or $1,875, whichever is less;

(B) $700 per unit per grid-connected solar energy system for multi-family residential property; and

(C) $250,000 per grid-connected solar energy system for commercial property.

(c) For the purposes of this section:

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

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

"Basis" means costs related to the solar energy, wind
ergy, or commercial seawater air conditioning system under
subsection (a), including accessories, installation, energy
storage, and cost of construction to connect to a seawater air
conditioning district cooling system, but does not include the
cost of consumer incentive premiums unrelated to the operation
of the energy system or offered with the sale of the energy
system and costs for which another credit is claimed under this
chapter. Any cost incurred and paid for the repair,
construction, or reconstruction of a structure in conjunction
with the installation and placing in service of a solar energy,
wind energy, or commercial seawater air conditioning system, such
as the reroofing of single-family residential property, multi-
family residential property, or commercial property, shall not
constitute a part of the basis for the purpose of this section;
provided that costs incurred for the physical support of the
solar or wind energy system, such as racking and mounting
equipment and costs incurred to seal or otherwise return a roof
to its pre-installation condition, shall constitute part of the
basis for the purposes of this section.

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

"Commercial seawater air conditioning system" means a
building air conditioning system for commercial, office, or
residential buildings connected to a seawater air conditioning
district cooling system.

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

"Grid-connected" means that the individual or corporate
taxpayer has obtained an approved interconnection agreement from
an electric utility for the solar or wind energy system and the
system is connected and normally operated in parallel with the
electric grid.
"Renewable energy technology system" means a new system that captures and converts a renewable source of energy, such as solar or wind energy, into:

1. A usable source of thermal or mechanical energy;
2. Electricity; or
3. Fuel.

"Seawater air conditioning district cooling system" means an identifiable facility, equipment, apparatus, or the like that utilizes naturally occurring cold, deep seawater as its primary source of cooling for production of chilled water for distribution to multiple commercial air conditioning systems.

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

1. The total output capacity requirements of the solar or wind energy system shall be:

   A. For a single-family residential property, at least five kilowatts per system;
For a multi-family residential property, at least 0.360 kilowatts per unit per system;

For a commercial property, at least one thousand kilowatts per system; and

For a wind energy system for commercial property, at least one thousand kilowatts per system; and

(2) One of the following applies:

(A) The construction, reconstruction, or erection of the solar or wind energy system is completed by the taxpayer; or

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

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

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

(f) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted, unless otherwise elected by the taxpayer pursuant to subsection (g) or (h). All claims for the tax credit under this section, including amended claims, shall 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 this subsection shall constitute a waiver of the right to claim the credit.

(g) For solar energy systems, a taxpayer may elect to reduce the eligible credit amount by thirty per cent and if this reduced amount exceeds the amount of income tax payment due from the taxpayer, the excess of the credit amount over payments due shall be refunded to the taxpayer; provided that tax credit amounts properly claimed by a taxpayer who has no income tax
liability shall be paid to the taxpayer; and provided further
that no refund on account of the tax credit allowed by this
section shall be made for amounts less than $1.

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

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

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

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

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

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

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

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

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

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

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

(m) No credit under this section shall be authorized for taxable years ending after December 31, 2026.

[n] To the extent feasible, using existing resources to assist the energy-efficiency policy review and evaluation, the department shall assist with data collection on the following for each taxable year:

(1) The number of renewable energy technology or commercial seawater air conditioning systems that have qualified for a tax credit during the calendar year by:

(A) Technology type; and
(B) Taxpayer type (corporate and individual); and

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

(A) Technology type; and

(B) Taxpayer type.

This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after July 1, 2009."

SECTION 5. Section 241-4.6, Hawaii Revised Statutes, is amended to read as follows:

"§241-4.6 Renewable energy technologies[+] and commercial seawater air conditioning system income tax credit. The renewable energy technologies and commercial seawater air conditioning system income tax credit provided under section 235-12.5 shall be operative for this chapter for taxable years beginning after December 31, 2002; provided that the system was installed after June 30, 2003."

PART IV

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or
applications of the Act that can be given effect without the
invalid provision or application, and to this end the provisions
of this Act are severable.

SECTION 7. This Act does not affect rights and duties that
matured, penalties that were incurred, and proceedings that were
begun before its effective date.

SECTION 8. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2050;
provided that part III shall apply to taxable years beginning
after December 31, 2019; provided further that section
235-12.5(a)(1)(B), (a)(2)(A), (a)(3)(B), (a)(3)(C), and (b)(2),
Hawaii Revised Statutes, shall take effect on July 1, 2050.
Report Title: Renewable Energy; Definition; Public Utilities; Renewable Energy Technologies Income Tax Credit; Commercial Seawater Air Conditioning System

Description: Broadens the definition of "renewable energy" as used in the public utilities commission law to include other self-replenishing non-fossil fuel, non-nuclear resources. Amends the renewable energy technologies income tax credit by including commercial seawater air conditioning systems. (Proposed SD1)

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