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# A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1           SECTION 1. The legislature finds that one of the primary  
2 functions of government includes the need to coordinate, from an  
3 informed technical and analytical perspective, the development  
4 of the State's energy resources to preserve energy security,  
5 which means improving energy efficiency, increasing the  
6 sustainable use of indigenous renewable energy, and reducing the  
7 State's overdependence on oil. The legislature also finds that  
8 energy data and statistical and energy economic analysis are  
9 integral to the State's roles in strategic energy policy  
10 planning and energy emergency preparedness and response, as both  
11 are aimed at preserving energy and economic stability and  
12 security. In recent years, energy markets, resources, systems  
13 and technologies, the variety and types of fuels, environmental  
14 standards and specifications of fuels, industry and industry  
15 sectors, consumers and consumption sectors, and policies related  
16 to energy and fuels have undergone dramatic changes, and current  
17 and future transitional trends and issues are expected to  
18 continue to influence and change Hawaii's and the world's energy



1 situation. Such events have revealed to the legislature a  
2 critical need to revitalize the State's technical analytic  
3 capabilities and understanding of Hawaii's energy resources,  
4 markets, and systems for effective planning of longer term  
5 measures to preserve the State's energy security, a prerequisite  
6 for economic stability and resilience.

7 These functions are among the statutory roles and  
8 responsibilities of the director of the department of business,  
9 economic development, and tourism, who serves as the state  
10 energy resources coordinator pursuant to section 196-3, Hawaii  
11 Revised Statutes.

12 The legislature finds that chapter 196, Hawaii Revised  
13 Statutes, assigns responsibilities to systematically analyze,  
14 develop, and coordinate achievement of the State's energy  
15 policies, programs, and plans to the energy resources  
16 coordinator. The legislature also finds that under chapter  
17 125C, and chapter 128, Hawaii Revised Statutes, the energy  
18 resources coordinator is the governor's designated  
19 representative responsible for energy emergency preparedness,  
20 including support of state civil defense, analogous to the  
21 United States Department of Energy's emergency support role of  
22 the Federal Emergency Management Agency.



1           The legislature finds that these energy data and analytic  
2 functions of the director of the department of business,  
3 economic development, and tourism, as the state energy resources  
4 coordinator pursuant to chapter 196, Hawaii Revised Statutes,  
5 are statutorily distinctive and different from those of other  
6 agencies, and are not redundant of other agencies' functions;  
7 e.g., the functions of the public utilities commission, which  
8 focus primarily on monitoring petroleum prices and industry  
9 profits, a necessary and appropriate state "watchdog" role.

10           The legislature, in Act 182, Session Laws of Hawaii 2007,  
11 explicitly acknowledged the difference between the department of  
12 business, economic development, and tourism's energy analysis  
13 role and the public utilities commission's role to conduct  
14 analysis with a fundamental focus on petroleum prices and  
15 petroleum industry profits. Moreover, the legislature finds  
16 that section 486J-5.3, Hawaii Revised Statutes, provides policy  
17 direction to the department of business, economic development,  
18 and tourism to conduct energy analytic functions that are  
19 distinctively different than those done by the public utilities  
20 commission, and specifically recognizes that the use and  
21 analysis of energy and fuels data functions remain critical to  
22 virtually all of the department of business, economic



1 development, and tourism's interrelated statutory energy program  
2 functional requirements, while directing the department of  
3 business, economic development, and tourism to use this data "to  
4 effectuate the purposes of chapters 125C, 196, and other  
5 relevant laws."

6       The legislature finds that just as the department of  
7 business, economic development, and tourism and the public  
8 utilities commission have distinctive energy-related missions  
9 and functions, the types of energy data collected and  
10 statistical analysis they are required to conduct are  
11 distinctive as well, and both agencies require appropriate and  
12 definitive policy guidance for these functions.

13       Therefore, the legislature finds that just as the data  
14 analytic functions of the public utilities commission are  
15 explicated in chapter 486J, Hawaii Revised Statutes, such  
16 functional detail is needed within chapter 196, Hawaii Revised  
17 Statutes, which assigns responsibilities to systematically  
18 analyze, develop, and coordinate achievement of the State's  
19 energy policies, programs, and plans. Such statutory language  
20 is needed to set forth these functions and provide the policy  
21 guidance by which to establish and afford appropriate direction  
22 for the department of business, economic development, and



1 tourism's systematic quantitative and qualitative technical  
2 analyses of integrated energy systems and markets, assess  
3 effectiveness of, and produce unbiased analytic proposals  
4 developed for policy and regulatory decisions, assessments of  
5 renewable energy, energy efficiency, and fossil fuels in all  
6 energy sectors, and ensure energy security by diversification  
7 away from the use of imported fossil fuels.

8       Therefore, the legislature finds that to strengthen and  
9 comprehensively address deficiencies in the energy resources  
10 coordination statutes, it is necessary to amend chapter 196,  
11 Hawaii Revised Statutes to: (1) update all key definitions to  
12 account for transition issues related to biofuels and other  
13 alternate fuels, and the proliferation of new categories and  
14 specifications of petroleum fuels; (2) address increasing unique  
15 economic and energy systems risks corresponding to transition  
16 issues and trends as a result of the increase in the variety of  
17 fuels and fuel production feedstocks being directly imported  
18 into the State and the new, fuel- and feedstock-specific  
19 infrastructure requirements associated with such transitional  
20 issues and trends; (3) establish definitive policy guidance  
21 needed on the nature and relationship of energy data analyses to  
22 the State's energy program, and to clearly delineate distinctive



1 analytic roles and responsibilities of state agencies conducting  
2 energy data functions; and (4) provide the basis for a robust,  
3 systematic state energy analytic capacity and capability, which  
4 is essential to support the energy resources coordinator's role.

5 The purpose of this Act is to remedy the deficiencies in  
6 existing statutes governing energy policy planning, and provide  
7 definitive guidance relating to the necessary quantitative and  
8 qualitative energy analytic functions support for the role of  
9 the energy resources coordinator in this State.

10 SECTION 2. Chapter 196, Hawaii Revised Statutes, is  
11 amended by adding two new sections to be appropriately  
12 designated and to read as follows:

13 **"§196- Information and analysis required for state**  
14 **comprehensive energy planning for energy security. The**  
15 **department of business, economic development, and tourism, with**  
16 **its own staff and agents who the director designates as**  
17 **authorized representatives, shall use the information, including**  
18 **confidential information, received from all sources, including**  
19 **the information received from the public utilities commission**  
20 **pursuant to chapter 486J and information received pursuant to**  
21 **chapter 125C, solely to effectuate the purposes of this chapter**  
22 **and chapter 125C, and shall conduct systematic statistical and**



1 quantitative analyses of the State's energy resources, systems,  
2 and markets that the director determines are necessary to:

- 3       (1) Produce analyses designed to determine the status of  
4       energy resources, systems, and markets, both in-state  
5       and those to which Hawaii is directly tied,  
6       particularly in relation to the State's economy, and  
7       to recommend, develop proposals for, and assess the  
8       effectiveness of policy and regulatory decisions and  
9       assessments of renewable energy, energy efficiency,  
10       and all fuels in all sectors, and ensure energy  
11       security;
- 12       (2) Produce analyses of private and public sector energy  
13       planning efforts and market-based policies to develop  
14       Hawaii's energy resources, systems, and markets in all  
15       sectors, and programs to preserve and protect the  
16       State's energy security, effectuate the conservation  
17       of energy resources, and formulate plans for the  
18       development and use of alternative energy sources,  
19       determine and recommend well-informed government  
20       policies and programs that may be necessary and  
21       appropriate, and implement and evaluate the  
22       effectiveness of such policies and programs;



- 1       (3) Conduct systematic statistical, energy economic, and  
2       other relevant analyses for comprehensive energy  
3       planning toward determining, measuring, evaluating,  
4       formulating, and recommending specific proposals for  
5       achieving optimum development of Hawaii's energy  
6       resources;
- 7       (4) Establish and maintain a quantitative and qualitative  
8       technical understanding of Hawaii's statewide energy  
9       resources, systems, and markets and their  
10       relationships to the economy;
- 11       (5) Produce trend analyses and forecasts of energy supply  
12       and demand, and trend analyses of major aspects of  
13       Hawaii's energy resources, systems, and markets;
- 14       (6) Produce assessments of the cost-competitiveness of  
15       developing renewable energy and energy efficiency  
16       resources and subcategories of those energy resources  
17       in relation to each other, and relative to petroleum-  
18       based fuels, other fossil fuels, and other energy  
19       resources; and
- 20       (7) Produce other relevant energy analyses that the  
21       director deems necessary to administer the  
22       comprehensive energy planning for energy security





1 policies pursuant to this chapter, and implement and  
2 evaluate other related activities in support of the  
3 director's role and responsibilities pursuant to this  
4 chapter, chapter 125C, and other relevant laws.

5 **§196- Confidential information.** In effectuating the  
6 purposes of this chapter, chapter 125C, and other relevant laws,  
7 or in order for the director to perform the duties pursuant to  
8 this chapter, chapter 125C, and other relevant laws:

9 (1) All information received by the director that is  
10 exempt from public disclosure under section 92F-13,  
11 shall be afforded all the protections available  
12 pursuant to chapter 486J and shall be held in  
13 confidence by the director and the director's staff  
14 and agents, or aggregated to the extent necessary in  
15 the director's discretion to ensure confidentiality as  
16 required by chapter 92F;

17 (2) The director and the director's staff and agents shall  
18 preserve the confidentiality and protection of all  
19 information received by the director to the extent it  
20 is exempt from public disclosure under section 92F-13,  
21 and, by application and extension of any other  
22 agency's respective safeguards, protect and prevent



1 the unauthorized further release of the information.

2 Each agency shall afford any shared information the  
3 protections from disclosure provided for under chapter  
4 92F;

5 (3) Each major energy producer, distributor, major energy  
6 marketer, major fuel storer, major energy transporter,  
7 and major energy user that provides confidential  
8 information to the director, shall provide written or  
9 electronic notification to the director as to the  
10 specific information that it considers confidential,  
11 provided that the information specified shall only be  
12 kept confidential as provided for in this section if  
13 it is exempt from public disclosure under section  
14 92F-13; and

15 (4) Unless otherwise provided by law with respect to  
16 information that is exempt from public disclosure  
17 under section 92F-13 that the director obtains,  
18 purchases, receives, or otherwise acquires, neither  
19 the governor nor the director, nor the staff and  
20 agents thereof, may do any of the following:

21 (A) Use the confidential information for any purposes  
22 other than the purposes for which it is acquired;



1           (B) Make any publication whereby the confidential  
2           information furnished by any person can be  
3           identified; or

4           (C) Permit any person other than the governor, the  
5           director, the director's staff and agents  
6           thereof, to examine any confidential information,  
7           individual reports, or statements acquired."

8           SECTION 3. Section 196-1, Hawaii Revised Statutes, is  
9 amended to read as follows:

10           **"§196-1 Findings and declaration of necessity. The**  
11 legislature finds that:

12           (1) The global demand for petroleum and its derivatives  
13           has resulted in a significant and fundamental market  
14           escalation in oil prices, has caused severe economic  
15           hardships throughout the State, and threatens to  
16           impair the public health, safety, and welfare.

17           The State of Hawaii, with its near total  
18           dependence on imported fossil fuel, is particularly  
19           vulnerable to dislocations in the global energy  
20           market. This [~~is an anomalous~~] situation[7] can be  
21           changed, as there are few places in the world so  
22           generously endowed with natural energy: geothermal,



1 solar radiation, ocean temperature differential, wind,  
2 biomass, waves, and currents--all potential non-  
3 polluting power sources;

4 (2) There is a real need for comprehensive strategic  
5 [~~comprehensive~~] planning in the effort towards  
6 achieving full utilization of Hawaii's energy  
7 [~~resource programs~~] resources and the most effective  
8 allocation of energy resources throughout the State.  
9 Planning is necessary and desirable in order that the  
10 State may recognize and declare the major problems and  
11 opportunities in the field of energy resources. Both  
12 short-range and long-range planning will permit the  
13 articulation of:

14 (A) Broad policies, goals, and objectives;

15 (B) Criteria for measuring and evaluating  
16 accomplishments of objectives;

17 (C) Identification and implementation of programs  
18 that will carry out such objectives; and

19 (D) A determination of requirements necessary for the  
20 optimum development of Hawaii's energy resources.

21 Such planning efforts will identify present conditions  
22 and major problems relating to energy resources, their



1 exploration, development, production, and  
2 distribution. It will show the projected nature of  
3 the situation and rate of change [~~and~~], present  
4 conditions for the foreseeable future based on a  
5 projection of current trends in the development of  
6 energy resources in Hawaii[~~7~~], and include initiatives  
7 designed to fundamentally change how Hawaii consumes  
8 energy, by accelerating the production of renewable  
9 and alternative energy, increasing energy efficiency,  
10 developing and adopting new technologies, and ensuring  
11 the State's energy security;

12 (3) The State requires an in-depth understanding of the  
13 causes and effects of any transitional issues and  
14 trends related to changes in the State's energy  
15 resources, systems, and markets;

16 [~~3~~] (4) There are many agencies of the federal, state,  
17 and county governments in Hawaii, as well as many  
18 private agencies[~~7~~] and a broad set of non-  
19 governmental entities, engaged in, or expressing an  
20 interest in, various aspects of the exploration,  
21 research, distribution, transportation, storage,  
22 conservation, and production of all forms of energy



1 resources in Hawaii. Some of these agencies include  
2 the University of Hawaii, the department of land and  
3 natural resources, the department of business,  
4 economic development, and tourism, the division of  
5 consumer advocacy, the public utilities commission,  
6 the state civil defense, the federal energy office,  
7 and various county agencies, as well as [~~the oil~~  
8 ~~companies, gas stations, and other private~~  
9 ~~enterprises,~~] Hawaii's energy and energy-related  
10 companies; and

11 [(4)] (5) There is [~~immediate~~] an ongoing need in this  
12 State to coordinate the efforts of [~~all these~~  
13 ~~agencies,~~] statewide industry and government energy  
14 sectors, maintain the technical capability and  
15 adequate capacity to quantitatively and qualitatively  
16 evaluate, analyze, develop, and coordinate  
17 implementation of private and public sector energy  
18 planning efforts, and recommend market-based policies  
19 to develop Hawaii's energy resources, systems, and  
20 markets, establish and coordinate programs to preserve  
21 and protect the State's energy security, maintain a  
22 robust energy emergency preparedness program, and



1           effectuate the conservation of [~~fuel,~~] energy  
2           resources, to provide for the equitable distribution  
3           thereof, and to formulate plans for the development  
4           and use of alternative energy sources. There is a  
5           need for such coordination, capability, and capacity  
6           so that there will be maximum conservation and  
7           utilization of energy resources in the State."

8           SECTION 4. Section 196-2, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "**§196-2 Definitions.** As used in this chapter, unless the  
11           context requires otherwise:

12           "Commission" means the public utilities commission.

13           "Coordinator" means the energy resources coordinator[-],  
14           who, pursuant to section 196-3, is the director of business,  
15           economic development, and tourism.

16           "Department" means the department of business, economic  
17           development, and tourism.

18           "Director" means the director of business, economic  
19           development, and tourism, who is also the state energy resources  
20           coordinator pursuant to section 196-3.

21           "Distributor" means:



- 1       (1) Every person who refines, manufactures, produces, or  
2       compounds fuel in the State and sells it at wholesale  
3       or retail, or who utilizes it directly in the  
4       manufacture of products or for the generation of  
5       power;
- 6       (2) Every person who imports or causes to be imported into  
7       the State, or exports or causes to be exported from  
8       the State, any fuel;
- 9       (3) Every person who acquires fuel through exchanges with  
10      another distributor; or
- 11      (4) Every person who purchases fuel for resale at  
12      wholesale or retail from any person described in  
13      paragraph (1), (2), or (3).

14       "Electricity" means all electrical energy produced by  
15      combustion of any fuel as defined in this section, or generated  
16      or produced using wind, the sun, geothermal, ocean water,  
17      falling water, currents, and waves, or any other source.

18       "Energy" means work or heat that is, or may be, produced  
19      from any fuel or source whatsoever.

20       "Energy resources" means [~~and includes fossil fuel,~~  
21      ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~  
22      ~~generating energy.] fuels, whether liquid, solid, or gaseous,~~





1 commercially usable for energy needs, power generation, and  
2 fuels manufacture, that may be manufactured, grown, produced, or  
3 imported into the State or that may be exported therefrom,  
4 including petroleum and petroleum products and gases, including  
5 all fossil fuel-based gases, coal tar, vegetable ferments,  
6 biomass, municipal solid waste, biofuels, hydrogen, agricultural  
7 products used as fuels and as feedstock to produce fuels, and  
8 all fuel alcohols. "Energy resources" also includes all  
9 electrical energy produced by combustion of any fuel, or  
10 generated or produced using wind, the sun, geothermal, ocean  
11 water, falling water, currents, and waves, or any other source.

12 "Fuel" means fuels, whether liquid, solid, or gaseous,  
13 commercially usable for energy needs, power generation, and  
14 fuels manufacture, that may be manufactured, grown, produced, or  
15 imported into the State or that may be exported therefrom,  
16 including petroleum and petroleum products and gases to include  
17 all fossil fuel-based gases, coal tar, vegetable ferments,  
18 biomass, municipal solid waste, biofuels, hydrogen, agricultural  
19 products used as fuels and as feedstock to produce fuels, and  
20 all fuel alcohols.

21 "Major energy marketer" means any person who sells energy  
22 resources in amounts determined by the director as having a



1 major effect on the supplies of, or demand for, energy  
2 resources.

3 "Major energy producer" means any person who produces  
4 energy resources in amounts determined by the director as having  
5 a major effect on the supplies of, or demand for, energy  
6 resources.

7 "Major energy transporter" means any person who transports  
8 energy resources in amounts determined by the director as having  
9 a major effect on the supplies of, or demand for, energy  
10 resources.

11 "Major energy user" means any person who uses energy  
12 resources in the manufacture of products or for the generation  
13 of electricity in amounts determined by the director as having a  
14 major effect on the supplies of, or demand for, energy  
15 resources.

16 "Major fuel storer" means any person who stores fuels in  
17 amounts determined by the director as having a major effect on  
18 the supplies of, or demand for, energy resources.

19 "Townhouse" means a series of individual houses, having  
20 architectural unity and a common wall between each unit."

21 SECTION 5. Section 196-4, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           **"§196-4 Powers and duties.** Subject to the approval of the  
2 governor, the coordinator shall:

3           (1) Formulate plans, including objectives, criteria to  
4           measure accomplishment of objectives, programs through  
5           which the objectives are to be attained, and financial  
6           requirements for the optimum development of Hawaii's  
7           energy resources;

8           (2) Conduct systematic analysis of existing and proposed  
9           energy resource programs, evaluate the analysis  
10           conducted by government agencies and other  
11           organizations and recommend to the governor and to the  
12           legislature programs [~~which~~] that represent the most  
13           effective allocation of resources for the development  
14           of energy [~~sources,~~] resources;

15           (3) Formulate and recommend specific proposals, as  
16           necessary, for conserving [~~energy and fuel,~~] energy  
17           resources, including the allocation and distribution  
18           thereof, to the governor and to the legislature;

19           (4) Assist public and private agencies in implementing  
20           energy conservation and related measures;

21           (5) Coordinate the State's energy conservation and  
22           allocation programs with that of the federal



- 1 government, other state governments, governments of  
2 nations with interest in common energy resources, and  
3 the political subdivisions of the State;
- 4 (6) Develop programs to encourage private and public  
5 exploration and research of alternative energy  
6 resources [~~which~~] that will benefit the State;
- 7 (7) Conduct public education programs to inform the public  
8 of the energy resources situation as may exist from  
9 time to time and of the government actions taken  
10 [~~thereto~~];
- 11 (8) Serve as consultant to the governor, public agencies,  
12 and private industry on matters related to the  
13 acquisition, utilization, and conservation of energy  
14 resources;
- 15 (9) Contract for services when required for implementation  
16 of this chapter;
- 17 (10) Review proposed state actions [~~which~~] that the  
18 coordinator finds to have significant effect on energy  
19 [~~consumption~~] resources and report to the governor  
20 their effect on the energy conservation program, and  
21 perform such other services as may be required by the  
22 governor and the legislature;



- 1       (11) Prepare and submit an annual report and such other  
2           reports as may be requested to the governor and to the  
3           legislature on the implementation of this chapter and  
4           all matters related to energy resources; [~~and~~]
- 5       (12) Adopt rules for the administration of this chapter  
6           pursuant to chapter 91, provided that the rules shall  
7           be submitted to the legislature for review[-]; and
- 8       (13) Develop and maintain a comprehensive and systematic  
9           quantitative and qualitative capacity to analyze the  
10           status of energy resources, systems, and markets, both  
11           in-state and those to which Hawaii is directly tied,  
12           particularly in relation to the State's economy, and  
13           to recommend, develop proposals for, and assess the  
14           effectiveness of policy and regulatory decisions, and  
15           conduct energy emergency planning."

16       SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18       SECTION 7. This Act shall take effect upon its approval.



**Report Title:**

Energy Resources; Power Generation Utilities, Transportation  
Fuels; State Energy Resources Coordinator

**Description:**

To comprehensively address deficiencies in Hawaii's energy  
resources coordination statutes. Provide policy guidance needed  
to provide adequate detail on the nature and relationship of the  
energy data analyses functions required of the State Energy  
Resources Coordinator and Energy Program. (SD1)

