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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 is 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  
11 both 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. These 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. The position is  
21 analogous to the United States Department of Energy's emergency  
22 support role of 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:

- 12 (1) Update all key definitions to account for transition  
13 issues related to biofuels and other alternate fuels,  
14 and the proliferation of new categories and  
15 specifications of petroleum fuels;
- 16 (2) Address increasing unique economic and energy systems  
17 risks corresponding to transition issues and trends as  
18 a result of the increase in the variety of fuels and  
19 fuel production feedstocks being directly imported  
20 into the State and the new, fuel- and feedstock-  
21 specific infrastructure requirements associated with  
22 such transitional issues and trends;



- 1 (3) Establish definitive policy guidance needed on the  
2 nature and relationship of energy data analyses to the  
3 State's energy program, and to clearly delineate  
4 distinctive analytic roles and responsibilities of  
5 state agencies conducting energy data functions; and
- 6 (4) Provide the basis for a robust, systematic state  
7 energy analytic capacity and capability, which is  
8 essential to support the energy resources  
9 coordinator's role.

10 The purpose of this Act is to remedy the deficiencies in  
11 existing statutes governing energy policy planning, and provide  
12 definitive guidance relating to the necessary quantitative and  
13 qualitative energy analytic functions support for the role of  
14 the energy resources coordinator in this State.

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

18 "§196- Information and analysis required for state  
19 comprehensive energy planning for energy security. (a) The  
20 department of business, economic development, and tourism, with  
21 its own staff and agents who the coordinator designates as  
22 authorized representatives, shall use the information, including



1 confidential information, received from all sources, including  
2 the information received from the public utilities commission  
3 pursuant to chapter 486J and information received pursuant to  
4 chapter 125C, solely to effectuate the purposes of this chapter  
5 and chapter 125C.

6 (b) The coordinator shall conduct systematic statistical  
7 and quantitative analyses of the State's energy resources,  
8 systems, and markets that the coordinator determines are  
9 necessary to:

10 (1) Produce analyses designed to determine the status of  
11 energy resources, systems, and markets, both in-state  
12 and those to which Hawaii is directly tied,  
13 particularly in relation to the State's economy, and  
14 to recommend, develop proposals for, and assess the  
15 effectiveness of policy and regulatory decisions and  
16 assessments of renewable energy, energy efficiency,  
17 and all fuels in all sectors, and ensure energy  
18 security;

19 (2) Produce analyses of private and public sector energy  
20 planning efforts and market-based policies to:



- 1           (A) Develop Hawaii's energy resources, systems, and  
2           markets in all sectors, and programs to preserve  
3           and protect the State's energy security;
- 4           (B) Effectuate the conservation of energy resources,  
5           and formulate plans for the development and use  
6           of alternative energy sources; and
- 7           (C) Determine and recommend well-informed government  
8           policies and programs that may be necessary and  
9           appropriate, and implement and evaluate the  
10           effectiveness of the policies and programs;
- 11          (3) Conduct systematic statistical, energy economic, and  
12          other relevant analyses for comprehensive energy  
13          planning toward determining, measuring, evaluating,  
14          formulating, and recommending specific proposals for  
15          achieving optimum development of Hawaii's energy  
16          resources;
- 17          (4) Establish and maintain a quantitative and qualitative  
18          technical understanding of Hawaii's statewide energy  
19          resources, systems, and markets and their  
20          relationships to the economy;





1       (5) Produce trend analyses and forecasts of energy supply  
2       and demand, and trend analyses of major aspects of  
3       Hawaii's energy resources, systems, and markets;

4       (6) Produce assessments of the cost-competitiveness of  
5       developing renewable energy and energy efficiency  
6       resources and subcategories of those energy resources  
7       in relation to each other, and relative to petroleum-  
8       based fuels, other fossil fuels, and other energy  
9       resources; and

10       (7) Produce other relevant energy analyses that the  
11       director deems necessary to administer the  
12       comprehensive energy planning for energy security  
13       policies pursuant to this chapter, and implement and  
14       evaluate other related activities in support of the  
15       director's role and responsibilities pursuant to this  
16       chapter, chapter 125C, and other relevant laws.

17       §196- Confidential information. (a) All information  
18       received by the coordinator that is exempt from public  
19       disclosure under section 92F-13, shall be afforded all the  
20       protections available pursuant to chapter 486J and shall be held  
21       in confidence by the coordinator and the coordinator's staff and  
22       agents, or aggregated to the extent necessary in the



1 coordinator's discretion to ensure confidentiality as required  
2 by chapter 92F.

3 (b) The coordinator and the coordinator's staff and agents  
4 shall preserve the confidentiality and protection of all  
5 information received by the coordinator to the extent it is  
6 exempt from public disclosure under section 92F-13, and, by  
7 application and extension of any other agency's respective  
8 safeguards, protect and prevent the unauthorized further release  
9 of the information. Each agency shall afford any shared  
10 information the protections from disclosure provided for under  
11 chapter 92F.

12 (c) Each major energy producer, distributor, major energy  
13 marketer, major fuel storer, major energy transporter, and major  
14 energy user that provides confidential information to the  
15 coordinator, shall provide written or electronic notification to  
16 the coordinator as to the specific information that it considers  
17 confidential, provided that the information specified shall only  
18 be kept confidential as provided for in this section if it is  
19 exempt from public disclosure under section 92F-13.

20 (d) Unless otherwise provided by law with respect to  
21 information that is exempt from public disclosure under section  
22 92F-13 that the coordinator obtains, purchases, receives, or



1 otherwise acquires, neither the governor nor the director, nor  
2 the staff and agents thereof, may do any of the following:

- 3       (1) Use the confidential information for any purposes  
4       other than the purposes for which it is acquired;  
5       (2) Make any publication whereby the confidential  
6       information furnished by any person can be identified;  
7       or  
8       (3) Permit any person other than the governor, the  
9       coordinator, the coordinator's staff and agents  
10       thereof, to examine any confidential information,  
11       individual reports, or statements acquired."

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

14       "**§196-1 Findings and declaration of necessity.** The  
15 legislature finds that:

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

21               The State of Hawaii, with its near total  
22       dependence on imported fossil fuel, is particularly



1 vulnerable to dislocations in the global energy  
2 market. This [~~is an anomalous~~] situation[7] can be  
3 changed, as there are few places in the world so  
4 generously endowed with natural energy: geothermal,  
5 solar radiation, ocean temperature differential, wind,  
6 biomass, waves, and currents--all potential non-  
7 polluting power sources;

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

- 18 (A) Broad policies, goals, and objectives;  
19 (B) Criteria for measuring and evaluating  
20 accomplishments of objectives;  
21 (C) Identification and implementation of programs  
22 that will carry out such objectives; and



1 (D) A determination of requirements necessary for the  
2 optimum development of Hawaii's energy resources.  
3 Such planning efforts will identify present conditions  
4 and major problems relating to energy resources, their  
5 exploration, development, production, and  
6 distribution. It will show the projected nature of  
7 the situation and rate of change [~~and~~], present  
8 conditions for the foreseeable future based on a  
9 projection of current trends in the development of  
10 energy resources in Hawaii[+], and include initiatives  
11 designed to fundamentally change how Hawaii consumes  
12 energy, by accelerating the production of renewable  
13 and alternative energy, increasing energy efficiency,  
14 developing and adopting new technologies, and ensuring  
15 the State's energy security;

16 (3) The State requires an in-depth understanding of the  
17 causes and effects of any transitional issues and  
18 trends related to changes in the State's energy  
19 resources, systems, and markets;

20 [+3+] (4) There are many agencies of the federal, state,  
21 and county governments in Hawaii, as well as many  
22 private agencies[7] and a broad set of non-



1 governmental entities, engaged in, or expressing an  
2 interest in, various aspects of the exploration,  
3 research, distribution, transportation, storage,  
4 conservation, and production of all forms of energy  
5 resources in Hawaii. Some of these agencies include  
6 the University of Hawaii[~~7~~]; the department of land  
7 and natural resources[~~7~~]; the department of business,  
8 economic development, and tourism[~~7~~]; the division of  
9 consumer advocacy[~~7~~]; the public utilities commission;  
10 the state civil defense; the federal energy office[~~7~~];  
11 and various county agencies, as well as [~~the oil~~  
12 ~~companies, gas stations, and other private~~  
13 ~~enterprises~~], Hawaii's energy and energy-related  
14 companies; and

15 [(4)] (5) There is [~~immediate~~] an ongoing need in this  
16 State to coordinate the efforts of [~~all these~~  
17 ~~agencies~~], statewide industry and government energy  
18 sectors, maintain the technical capability and  
19 adequate capacity to quantitatively and qualitatively  
20 evaluate, analyze, develop, and coordinate  
21 implementation of private and public sector energy  
22 planning efforts, and recommend market-based policies



1           to develop Hawaii's energy resources, systems, and  
2           markets, establish and coordinate programs to preserve  
3           and protect the State's energy security, maintain a  
4           robust energy emergency preparedness program, and  
5           effectuate the conservation of [~~fuel,~~] energy  
6           resources, to provide for the equitable distribution  
7           thereof, and to formulate plans for the development  
8           and use of alternative energy sources. There is a  
9           need for such coordination, capability, and capacity  
10           so that there will be maximum conservation and  
11           utilization of energy resources in the State."

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

14           "**§196-2 Definitions.** As used in this chapter, unless the  
15 context requires otherwise:

16           "Commission" means the public utilities commission.

17           "Coordinator" means the energy resources coordinator.

18           "Department" means the department of business, economic  
19 development, and tourism.

20           "Distributor" means:

21           (1) Every person who refines, manufactures, produces, or  
22           compounds fuel in the State and sells it at wholesale



1           or retail, or who utilizes it directly in the  
2           manufacture of products or for the generation of  
3           power;

4           (2) Every person who imports or causes to be imported into  
5           the State, or exports or causes to be exported from  
6           the State, any fuel;

7           (3) Every person who acquires fuel through exchanges with  
8           another distributor; and

9           (4) Every person who purchases fuel for resale at  
10           wholesale or retail from any person described in  
11           paragraph (1), (2), or (3).

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

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

18           "Energy resources" means [~~and includes fossil fuel,~~  
19           ~~nuclear, geothermal, solar, hydropower, wind, and other means of~~  
20           ~~generating energy.] fuels, whether liquid, solid, or gaseous,~~  
21           commercially usable for energy needs, power generation, and  
22           fuels manufacture, that may be manufactured, grown, produced, or





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

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

19 "Major energy marketer" means any person who sells energy  
20 resources in amounts determined by the director as having a  
21 major effect on the supplies of, or demand for, energy  
22 resources.



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

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

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

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

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

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

21       "**§196-4 Powers and duties.** Subject to the approval of the  
22 governor, the coordinator shall:



- 1 (1) Formulate plans, including objectives, criteria to  
2 measure accomplishment of objectives, programs through  
3 which the objectives are to be attained, and financial  
4 requirements for the optimum development of Hawaii's  
5 energy resources;
- 6 (2) Conduct systematic analysis of existing and proposed  
7 energy resource programs, evaluate the analysis  
8 conducted by government agencies and other  
9 organizations and recommend to the governor and to the  
10 legislature programs [~~which~~] that represent the most  
11 effective allocation of resources for the development  
12 of energy [~~sources,~~] resources;
- 13 (3) Formulate and recommend specific proposals, as  
14 necessary, for conserving energy [~~and fuel,~~]  
15 resources, including the allocation and distribution  
16 thereof, to the governor and to the legislature;
- 17 (4) Assist public and private agencies in implementing  
18 energy conservation and related measures;
- 19 (5) Coordinate the State's energy conservation and  
20 allocation programs with that of the federal  
21 government, other state governments, governments of



- 1 nations with interest in common energy resources, and  
2 the political subdivisions of the State;
- 3 (6) Develop programs to encourage private and public  
4 exploration and research of alternative energy  
5 resources [~~which~~] that will benefit the State;
- 6 (7) Conduct public education programs to inform the public  
7 of the energy resources situation as may exist from  
8 time to time and of the government actions taken  
9 [~~thereto~~];
- 10 (8) Serve as consultant to the governor, public agencies,  
11 and private industry on matters related to the  
12 acquisition, utilization, and conservation of energy  
13 resources;
- 14 (9) Contract for services when required for implementation  
15 of this chapter;
- 16 (10) Review proposed state actions [~~which~~] that the  
17 coordinator finds to have significant effect on energy  
18 [~~consumption~~] resources and report to the governor  
19 their effect on the energy conservation program, and  
20 perform such other services as may be required by the  
21 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 of the state energy resources  
coordinator and energy program. (SB2991 SD2)

