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Statement of  
**THEODORE E. LIU**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**  
Tuesday, March 11, 2008  
9:00 am.  
State Capitol, Conference Room 312

in consideration of

**SB 2991, SD2**  
**RELATING TO ENERGY RESOURCES.**

Chair Morita, Vice Chair Carroll, and Members of the  
Committee.

The Department of Business, Economic Development, and  
Tourism (DBEDT) strongly supports SB 2991, SD2, an Administration  
bill, which comprehensively remedies deficiencies in existing  
statutes governing energy policy planning, and provide definitive  
guidance relating to the necessary quantitative and qualitative  
energy analytic functions support for the role of the energy  
resources coordinator in this State. We are grateful that this  
bill is being heard by your committee.

In 2006 and 2007, the Legislature passed and Governor Lingle  
signed into law energy statutes that fundamentally changed how  
Hawaii consumes energy, by accelerating the production of  
renewable and alternative energy, increasing energy efficiency,

developing and adopting new technologies and ensuring the State's energy security.

As State Energy Resources Coordinator (ERC), the DBEDT Director is tasked with implementing these statutes, as well as preserving and protecting the state's energy security. While the Consumer Advocate represents the consumers of energy in the state, the ERC represents the State and its broader, strategic energy policy perspectives to coordinate and manage statewide energy resource development. The ERC has historically been clearly mandated to carefully consider and analyze the status of Hawaii's energy systems as an advocate for the State, because a technically informed energy industry also uses analytic arguments and rigorous "due process" channels to resist certain policy-making and implementation.

These energy initiatives and activities involve actions by and affect all energy industry sectors, and consumers, and require coordinated actions by state agencies - administrative and regulatory. In order to accomplish the State's energy goals, the ERC needs the technical capability and capacity to quantitatively and qualitatively evaluate, analyze, develop, and coordinate implementation of private and public sector energy planning efforts, and recommend market-based policies to develop Hawaii's energy systems and resources in all sectors.

The proposed amendments to Chapter 196, HRS, will reflect these energy security-related analytic functional requirements and responsibilities of DBEDT/State ERC, made operational by the

State Energy Program. The proposed amendments would add appropriate detail to the distinctive differences between DBEDT/ERC (Chapter 196, HRS) roles and responsibilities relating to energy data analytic functions, and those of other agencies; e.g., the functions of the Public Utilities Commission now contained in Chapter 486JA, HRS, which are consistent, complementary, and non-redundant.

The Legislature, in Act 182, Session Laws of Hawaii 2007, explicitly acknowledged the difference between DBEDT's energy analysis role and the PUC's role to conduct analysis with a fundamental focus on petroleum prices and petroleum industry profits. Chapter 486J-5.3, HRS, provides policy direction to DBEDT to conduct energy analytic functions that are distinctively different than those done by the PUC, and specifically recognizes that the use and analysis of energy and fuels data functions remain critical to virtually all of DBEDT's interrelated statutory energy program functional requirements, while directing DBEDT to use this data "to effectuate the purposes of Chapters 125C, 196, and other relevant laws."

Just as DBEDT and the PUC have distinctive energy-related missions and functions, the types of energy data collected and statistical analysis they are required to conduct are distinctive as well, and both agencies require appropriate and definitive policy guidance for these functions.

At least fifteen (15) other states and territories have established programs for energy data and information reporting by

industry (AK, CA, CO, DC, FL, GM, IA, LA, NE, NJ, ND, NM, ME, MN, and MT). These programs add significant value to consumer knowledge, competitive pricing, and provide data, analyses, and information for informed policy and regulatory decisions, energy emergency planning, and assessments of renewable energy, energy efficiency, and fossil fuels in all sectors; i.e., planning and preserving energy security, particularly critical due to the state's extreme over-dependence on oil.

DBEDT respectfully requests your committee to consider the following amendments to the language in Section 2 of SB 2991, SD2 relating to the treatment of confidential information. DBEDT and its Attorney General has been working with the Office of Information Practices (OIP) to reach a consensus on language to take into account both OIP's need for language reflecting their position on Chapter 92F and related issues, and DBEDT's need for language it believes is necessary to fulfill its statutory duties under Chapter 196, Chapter 125C, and other relevant laws.

"§196- Confidential information. In effectuating the purposes of this chapter, chapter 125C, and other relevant laws, or in order for the coordinator to perform the duties pursuant to this chapter, chapter 125C, and other relevant laws:

- (1) All information received by the coordinator shall be afforded all the protections available under applicable law, and shall be held in confidence by the coordinator and the coordinator's staff and agents, or aggregated

to the extent necessary in the coordinator's discretion to ensure confidentiality as authorized by chapter 92F;

- (2) The coordinator and the coordinator's staff and agents shall preserve the confidentiality and protection of all information received by the coordinator to the extent authorized by law, and, by application and extension of any other agency's respective safeguards, protect and prevent the unauthorized further release of such information. Each agency shall afford any shared information the protections from disclosure provided for under chapter 92F;
- (3) Each major energy producer, distributor, major energy marketer, major fuel storer, major energy transporter, and major energy user that provides confidential information to the coordinator, shall provide written or electronic notification to the coordinator as to the specific information that it considers confidential; and
- (4) Unless otherwise provided by law with respect to the information determined confidential or exempt from disclosure under section 92F-13 that the coordinator obtains, purchases, receives, or otherwise acquires, neither the governor nor the coordinator, nor the staff and agents thereof, may do any of the following:

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

- (B) Make any publication whereby the confidential information furnished by any person can be identified; or
- (C) Permit any person other than the governor, the coordinator, the coordinator's staff and agents thereof, to examine any confidential information, individual reports, or statements acquired."

Thank you for the opportunity to offer these comments.