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# A BILL FOR AN ACT

RELATING TO ENERGY EMERGENCY PREPAREDNESS.

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

1           SECTION 1. The legislature finds that an informed and  
2 coordinated response in the restoration of energy services in a  
3 disaster is necessary to save lives and protect health, safety,  
4 and property, and carry out other energy emergency functions.  
5 The legislature also finds that energy data, and statistical and  
6 energy economic analysis are integral to the State's role in  
7 energy emergency preparedness and in a coordinated response to a  
8 disaster.

9           The legislature finds that one of the principle missions of  
10 the department of business, economic development, and tourism  
11 includes the administration and sustained operation of Emergency  
12 Support Function #12 (Energy) in the State Plan for Emergency  
13 Preparedness. This function requires the department of  
14 business, economic development, and tourism during any energy  
15 emergency to gather and provide information to the governor, the  
16 counties, the legislature, and other State agencies, including

1 the department of defense, as rapidly as possible to support  
2 statewide emergency management.

3 The legislature finds that the governing statutes that  
4 support this energy emergency function, primarily in chapter  
5 125C, Hawaii Revised Statutes, do not allow the department of  
6 business, economic development, and tourism to develop a timely  
7 and complete picture of the State's energy situation in an  
8 emergency. The legislature finds that current provisions of  
9 chapter 125C, Hawaii Revised Statutes, require only importers of  
10 fuel to provide emergency data reports, and then only for supply  
11 and demand information. Current provisions of chapter 125C,  
12 Hawaii Revised Statutes, do not require energy companies to  
13 report critical emergency preparedness information regarding  
14 current storage, transport, inventory, supply, demand,  
15 production, and capacities, and other up-to-date aspects of  
16 Hawaii's energy systems and markets that are essential to the  
17 State's federally mandated emergency management role,  
18 irrespective of these companies' import status.

19 The legislature finds that the department of business,  
20 economic development, and tourism cannot adequately meet its  
21 statutorily defined roles and responsibilities to prepare for,  
22 respond to, and support the recovery from all possible energy

1 emergencies with the current deficient laws governing energy  
2 emergency planning and preparedness. The legislature also finds  
3 that chapter 125C's limitations of data collection authority and  
4 lack of accommodation of changed energy markets, and changes of  
5 fuel products and specifications preclude the governor's and the  
6 energy resource coordinator's (director of the department of  
7 business, economic development, and tourism) ability to  
8 adequately ascertain the severity and impacts of an energy  
9 emergency or fuel shortage in a timely fashion, and, therefore,  
10 to determine what response measures may be necessary.

11 The legislature finds that vital information from non-  
12 importing distributors, wholesalers, retailers, and other major  
13 energy companies, and more extensive and detailed types of data  
14 and information on all aspects of the State's energy systems and  
15 market are essential for effective energy system situational  
16 analyses and reporting, coordination, and management of energy  
17 emergency response and vulnerability mitigation initiatives,  
18 preparedness, and exercise functions -- all necessary components  
19 to ensure the readiness and robustness of the State's energy  
20 emergency preparedness program.

21 The legislature finds that while chapter 486J, Hawaii  
22 Revised Statutes, directs the department of business, economic

1 development, and tourism on how, and for what purposes to use  
2 the data collected by the public utilities commission pursuant  
3 to chapter 486J, Hawaii Revised Statutes, the data and  
4 information collected are inadequate for energy emergency  
5 management purposes. The legislature also finds that such  
6 indirect reporting mechanisms cannot necessarily be depended  
7 upon during an emergency or disaster, nor can time-lagged data  
8 reported on weekly or monthly schedules be expected to be  
9 effectively responsive to more immediate emergency situations  
10 and needs, which frequently change with little or no warning.

11 The legislature finds this represents an unacceptable  
12 situation when considered in the context of the State's role and  
13 responsibilities for energy emergency management. The  
14 legislature finds that adequate authoritative policy support and  
15 enabling functional guidance is needed to meet the following  
16 critical energy emergency preparedness needs of the State:

17 (1) Provide relevant, consistent, and adequate contingency  
18 policy guidance to accommodate actual and expected  
19 changes in Hawaii's energy (and economic) security and  
20 vulnerability, stemming from significant changes in  
21 energy and fuel markets;

- 1           (2) Update and align key provisions in chapter 125C,  
2           Hawaii Revised Statutes, with relevant federal and  
3           State overall emergency management laws, and energy  
4           emergency management policies and planning guidance  
5           stemming from the post-9/11 and post-Katrina evolution  
6           of the "all-hazards/all-threats" emergency management  
7           context;
- 8           (3) Rectify inadequacies in data collection, analysis, and  
9           reporting provisions with amendments to accommodate  
10          and address the economic and energy systems risks  
11          associated with transitional issues and trends  
12          relating to both petroleum-based fuels and biofuels;  
13          and
- 14          (4) Provide improvements and updates to the State's energy  
15          emergency policy guidance, an important authoritative  
16          basis for energy emergency preparedness programmatic  
17          improvements.

18           In summary, the legislature finds that government's  
19   legitimate leadership role in planning for and managing energy  
20   emergencies cannot depend solely on cooperative efforts, nor can  
21   data and information reported to regulatory agencies for  
22   separate, non-emergency purposes be expected to be adequate to

1 support emergency management information needs. Such factors  
2 continue to create unacceptable risks to Hawaii's economy, and  
3 represent a worrisome situation.

4 Therefore, the legislature finds that changes to the  
5 current laws governing energy emergency preparedness and  
6 management are needed to meet critical needs of the State.

7 SECTION 2. Chapter 125C, Hawaii Revised Statutes, is  
8 amended by adding four new sections to be appropriately  
9 designated and to read as follows:

10 "§125C- Information and analysis required for state  
11 energy emergency planning and preparedness, mitigation,  
12 response, and recovery; report. (a) The department, with its  
13 own staff and agents whom the director designates as authorized  
14 representatives, shall use the information, including  
15 confidential information, received from all sources, including  
16 the information received from the public utilities commission  
17 pursuant to chapter 486J, solely to effectuate the purposes of  
18 this chapter and chapter 196.

19 (b) The director shall conduct systematic statistical and  
20 quantitative analyses of the State's energy resources, systems,  
21 and markets that the director determines are necessary to:

- 1        (1) Produce assessments designed to determine and mitigate  
2        the potential for energy supply disruptions, and to  
3        develop State energy emergency response plans and  
4        measures including systematic situational energy  
5        analyses, which in the event of energy crisis or  
6        supply disruption could assist in determining the  
7        nature, scope, severity, and expected duration of such  
8        an event, and assess potential and actual economic and  
9        other impacts of the crisis, particularly to determine  
10       and recommend what, if any, emergency government  
11       interventions may be necessary and appropriate, and to  
12       implement and evaluate the effectiveness of such  
13       emergency interventions;
- 14       (2) Conduct systematic statistical, energy, economic, and  
15       other relevant analyses for comprehensive energy  
16       emergency planning toward determining, measuring,  
17       evaluating, formulating, and recommending specific  
18       proposals to improve government and industry energy  
19       emergency plans and programs, and to support longer  
20       term measures to preserve Hawaii's energy security;
- 21       (3) Establish and maintain a central repository in the  
22       department for collection of existing baseline

1           quantitative and qualitative data and information on  
2           Hawaii's statewide energy resources, systems, and  
3           markets and their relationships to the economy;  
4           (4) Produce trend analyses and forecasts of energy supply  
5           and demand and trend analyses of major aspects of  
6           risks to and vulnerabilities of Hawaii's energy  
7           resources, systems, and markets; and  
8           (5) Produce other relevant energy analyses that the  
9           director deems necessary to administer the energy  
10           emergency preparedness and energy supply security  
11           policies pursuant to this chapter, and implement and  
12           evaluate other related activities in support of the  
13           director's role and responsibilities pursuant to  
14           chapters 196 and 486J, and other relevant laws.  
15           (c) If the information that the department is authorized  
16           to receive from the public utilities commission pursuant to  
17           chapter 486J, including confidential information, becomes  
18           unavailable, or if such information is determined by the  
19           director to be unsuitable in any way for purposes of this  
20           chapter, the director is authorized to require that this  
21           information and any other relevant information, including



1 confidential information, be reported by distributors to the  
2 director.

3 (d) To conduct the analyses pursuant to this chapter, the  
4 director may require distributors to report any other relevant  
5 information, including confidential information, at a time and  
6 in such form and manner as to be prescribed by the director.

7 (e) The sharing of information, confidential or otherwise,  
8 between private entities and the department shall be required  
9 solely pursuant to an emergency in this State as declared by the  
10 governor and the requested information shall have a reasonable  
11 nexus or connection related to mitigating the declared  
12 emergency, or mitigating or preventing the potential injuries,  
13 damages, losses, or hardships arising from the declared  
14 emergency, which may detrimentally affect people or property  
15 located in Hawaii.

16 (f) The department shall provide a report to the  
17 legislature within sixty days after a declared emergency is  
18 issued by the governor that details, among other things, the  
19 specific information requested, the purpose of the request, the  
20 reasonable nexus between the information requested and  
21 mitigating the declared emergency or mitigating or preventing

1 the potential injuries, damages, losses, or hardships arising  
2 therefrom, and the resulting damages from the emergency.

3 §125C- Reporting requirements. Each major energy  
4 producer, major fuel storer, major energy transporter, major  
5 energy user, and major energy marketer, on reporting dates as  
6 the director may establish, and on forms prescribed, prepared,  
7 and furnished by the director, shall submit to the director  
8 certified statements. These statements shall include but not be  
9 limited to information related to those aspects of their  
10 respective Hawaii facilities and operations that are described  
11 in this section. These statements shall provide for reporting  
12 this information on a statewide consolidated basis, and  
13 separately for each county, provided the data for the county of  
14 Maui includes each island within that county as follows:

15 (1) For fuel:

16 (A) The current volumes, movement, processing,  
17 blending, and transformation of fuels beginning  
18 with crude oil, feedstocks, ethanol, biodiesel,  
19 and other refined petroleum or fuel product  
20 imports, through the State's fuel infrastructure,  
21 from and between distributors and to all fuel

1           end-users, as well as any exports of these fuels  
2           and fuel products out of the state; and  
3           (B) The current capacities and actual inventories,  
4           throughput and output of all these entities'  
5           infrastructure, including refineries, storage and  
6           distribution tanks and terminals, transport modes  
7           such as pipelines, barges, and other vessels, and  
8           other such critical fuel infrastructure; and  
9           (2) For electricity: the total current loads being  
10           generated, energy resources used and fuels consumed,  
11           total current electricity being produced, transmitted  
12           and sold, and the current electricity flows and use.  
13           §125C- Confidential information. In effectuating the  
14 purposes of this chapter, chapter 196, and other relevant laws,  
15 for the director to perform the duties pursuant to this chapter,  
16 chapter 196, and other relevant laws:  
17           (1) All confidential information received by the director  
18           shall be afforded all the protections available under  
19           applicable law and shall be held in confidence by the  
20           director and the director's staff and agents, or  
21           aggregated to the extent necessary in the director's

1 discretion to ensure confidentiality as authorized by  
2 chapter 92F;

3 (2) The director and the director's staff and agents shall  
4 preserve the confidentiality and protection of all  
5 information received by the director to the extent  
6 authorized by law and, by application and extension of  
7 any other agency's respective safeguards, protect and  
8 prevent the unauthorized further release of the  
9 information. Each agency shall afford any shared  
10 information the protections from disclosure provided  
11 for under chapter 92F;

12 (3) Each major energy producer, distributor, major energy  
13 marketer, major fuel storer, major energy transporter,  
14 and major energy user that provides confidential  
15 information to the director shall provide written or  
16 electronic notification to the director as to the  
17 specific information that it considers confidential;  
18 and

19 (4) Unless otherwise provided by law with respect to the  
20 information determined confidential or exempt from  
21 disclosure under section 92F-13 that the director  
22 obtains, purchases, receives, or otherwise acquires,

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

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

5 (B) Make any publication whereby the confidential  
6 information furnished by any person can be  
7 identified; or

8 (C) Permit any person other than the governor, the  
9 director, and the director's staff and agents to  
10 examine any confidential information, individual  
11 reports, or statements acquired.

12 §125C- Definitions. As used in this chapter, unless the  
13 context otherwise requires:

14 "Agent" means a person who is designated by the energy  
15 resources coordinator as an authorized representative.

16 "Commission" means the public utilities commission.

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

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

22 "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 uses it directly in the manufacture  
4       of products or for the generation of power;

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

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

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

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

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

19       "Energy resources" means fuel and electricity as defined in  
20       this chapter.

21       "Fuel" means fuels, whether liquid, solid, or gaseous,  
22       commercially usable for energy needs, power generation, and

1 fuels manufacture, that may be manufactured, grown, produced, or  
2 imported into the state or that may be exported therefrom,  
3 including petroleum and petroleum products and gases to include  
4 all fossil fuel-based gases, coal tar, vegetable ferments,  
5 biomass, municipal solid waste, biofuels, hydrogen, agricultural  
6 products used as fuels and as feedstock to produce fuels, and  
7 all fuel alcohols.

8 "Major energy marketer" means any person who sells energy  
9 resources in amounts determined by the energy resources  
10 coordinator as having a major effect on the supplies of, or  
11 demand for, energy resources.

12 "Major energy producer" means any person who produces  
13 energy resources in amounts determined by the energy resources  
14 coordinator as having a major effect on the supplies of, or  
15 demand for, energy resources.

16 "Major energy transporter" means any person who transports  
17 energy resources in amounts determined by the energy resources  
18 coordinator as having a major effect on the supplies of, or  
19 demand for, energy resources.

20 "Major energy user" means any person who uses energy  
21 resources in the manufacture of products or for the generation  
22 of electricity in amounts determined by the energy resources

1 coordinator as having a major effect on the supplies of, or  
2 demand for, energy resources.

3 "Major fuel storer" means any person who stores fuels in  
4 amounts determined by the energy resources coordinator as having  
5 a major effect on the supplies of, or demand for, energy  
6 resources."

7 SECTION 3. Chapter 125C, Hawaii Revised Statutes, is  
8 amended by amending its title to read as follows:

9 **"CHAPTER 125C**

10 ~~[PROCUREMENT, CONTROL, DISTRIBUTION AND SALE OF PETROLEUM~~  
11 ~~PRODUCTS]~~ **ENERGY EMERGENCY PREPAREDNESS AND MANAGEMENT"**

12 SECTION 4. Section 125C-1, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§125C-1 Findings and purpose.** The legislature finds that  
15 adequate supplies of [~~petroleum products~~] energy resources are  
16 essential to the health, welfare, and safety of the people of  
17 Hawaii, and that any severe [~~disruption in petroleum product~~  
18 ~~supplies~~] energy emergency or shortage of energy resources for  
19 use within the [~~State~~] state would cause grave hardship, pose a  
20 threat to the economic well-being of the people of the [~~State,~~  
21 state, and have significant adverse effects upon public  
22 confidence and order and effective conservation of [~~petroleum~~



1 ~~products.]~~ energy. The purpose of this chapter is to grant to  
2 the governor or the governor's authorized representative the  
3 clear authority, when energy emergencies or shortages of  
4 ~~[petroleum products]~~ energy resources occur or are anticipated,  
5 to control the distribution and sale of ~~[petroleum]~~ fuel  
6 products in this ~~[State,]~~ state to procure such products, and to  
7 impose rules that will provide extraordinary measures for the  
8 conservation of energy and the allocation of ~~[petroleum]~~ fuel  
9 products and for ~~[their]~~ the distribution and sale of fuel in an  
10 orderly, efficient, and safe manner. Another purpose of this  
11 chapter is to grant the clear authority to the director to  
12 acquire, use, and analyze relevant and essential information on  
13 Hawaii's energy resources, systems, and markets to effectively  
14 plan and prepare for, mitigate against, respond to, and recover  
15 from any energy emergency and preserve the State's energy  
16 security."

17 SECTION 5. Section 125C-2, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§125C-2 "Shortage" defined.** As used in this chapter,  
20 unless otherwise indicated by the context, a "shortage" exists  
21 whenever the governor determines that there is an increase in  
22 the demand for any ~~[petroleum]~~ fuel product or there is a

1 decrease in the available supply [~~for~~] of the [~~petroleum~~] fuel  
2 product in question, or both; and [~~such~~] the decrease in the  
3 available supply of or increase in the demand for the  
4 [~~petroleum~~] fuel product in question, or both, may cause a major  
5 adverse impact on the economy, public order, or the health,  
6 welfare, or safety of the people of Hawaii and may not be  
7 responsibly managed within the [~~free~~] prevailing market  
8 distribution system. Further, to plan and prepare for, mitigate  
9 against, respond to, or recover from any declared or anticipated  
10 shortage of fuel products, the governor may require [~~importers~~]  
11 major energy producers, distributors, major energy marketers,  
12 major fuel storers, major energy transporters, and major energy  
13 users of any [~~petroleum~~] fuel or fuel product [~~or other fuel~~] to  
14 monitor and report to the department [~~of business, economic~~  
15 ~~development, and tourism~~] relevant [~~supply and demand~~] data[.]  
16 and information on all aspects of the State's energy resources,  
17 systems, and markets. The governor shall review the status of a  
18 shortage within one hundred twenty days after the governor's  
19 initial determination of a shortage as defined under this  
20 chapter; thenceforth, the governor shall conduct a review of the  
21 shortage to make a new determination every thirty days until a  
22 shortage no longer exists."

1 SECTION 6. Section 125C-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§125C-3 Powers in a shortage.** When a shortage as defined  
4 in section 125C-2 exists, the governor or the governor's  
5 authorized representative, to ensure that [~~petroleum~~] fuel  
6 products are made available to the public in an orderly,  
7 efficient, and safe manner, may:

8 (1) Control the retail distribution and sale of  
9 [~~petroleum~~] fuel products by adopting rules that may  
10 include[~~7~~] but are not limited to[~~7~~] the following  
11 measures:

12 (A) Restricting the sale of [~~petroleum~~] fuel products  
13 to specific days of the week, hours of the day or  
14 night, odd- and even-numbered calendar days, and  
15 vehicles having less than a specified amount of  
16 gasoline in their tanks, with exceptions for  
17 certain designated geographical areas;

18 (B) Restricting sales of [~~petroleum~~] fuel products by  
19 dealers to daily allocations, which shall be  
20 determined by dividing the monthly allocation by  
21 the number of selling days per month;

- 1 (C) Requiring dealers to post signs designating their  
2 hours of operation and the sell-out of daily  
3 allocation;
- 4 (D) Instituting a statewide rationing plan; and
- 5 (E) Allowing for special handling for essential  
6 commercial and emergency-user vehicles;
- 7 (2) Require that a percentage of [~~petroleum~~] fuel  
8 products, not to exceed five per cent, be set aside to  
9 alleviate hardship; provided that aviation gasoline  
10 set aside shall not exceed ten per cent;
- 11 (3) Purchase and resell or otherwise distribute  
12 [~~petroleum~~] fuel products [~~, and purchase and resell or~~  
13 ~~otherwise distribute ethanol that is produced within~~  
14 ~~the State and can be used as a substitute for~~  
15 ~~petroleum products~~];
- 16 (4) Temporarily suspend for the duration of a shortage, or  
17 until such time as the governor deems appropriate,  
18 standards which may affect or restrict the use of a  
19 substitute fuel to meet energy demand;
- 20 [~~(4)~~] (5) Receive, expend, or use contributions or grants  
21 in money or property, or special contributions thereof

1           for special purposes not inconsistent with this  
2           chapter;

3       [~~(5)~~] (6) Borrow and expend moneys needed to exercise the  
4           powers granted under this section;

5       [~~(6)~~] (7) Contract in the name of the State for the purpose  
6           of implementing this chapter or any part thereof; and

7       [~~(7)~~] (8) Exercise the powers granted under this section to  
8           the degree and extent deemed by the governor to be  
9           necessary, including the temporary or indefinite  
10          suspension of all or part of the measures taken, as  
11          the governor deems appropriate."

12       SECTION 7. Section 125C-4, Hawaii Revised Statutes, is  
13       amended to read as follows:

14       "**§125C-4 Adopting, filing, and taking effect of rules.**

15       The governor or the [~~governor's authorized representative~~]  
16       director shall adopt rules pursuant to chapter 91, to [~~insure~~]  
17       ensure that [~~petroleum~~] fuel products are made available to the  
18       public in an orderly, efficient, and safe manner, to become  
19       effective when a shortage, as defined in section 125C-2, exists.  
20       If additional and unforeseen measures are required to [~~insure~~]  
21       ensure that [~~petroleum~~] fuel products are distributed in an  
22       orderly, efficient, and safe manner, the governor or the

1 [~~governor's authorized representative~~] director may proceed  
2 without prior notice or hearing or upon such abbreviated notice  
3 and hearing as the governor finds practicable to adopt  
4 additional rules authorized under this chapter with the  
5 additional rules to be effective for a period of not longer than  
6 one hundred twenty days without renewal. Any rule so adopted  
7 may be amended or repealed by the governor without prior notice  
8 or hearing or upon abbreviated notice and hearing prior to the  
9 expiration of the one hundred twenty-day period; provided that  
10 no amendment shall extend the rule beyond the original period of  
11 one hundred and twenty days. To be effective after the one  
12 hundred twenty-day period, the rules shall be adopted pursuant  
13 to chapter 91. Each rule adopted, amended, or repealed shall  
14 become effective as adopted, amended, or repealed upon approval  
15 by the governor and filing with the lieutenant governor. Each  
16 rule in effect shall have the force and effect of law, but the  
17 effect of each rule may be temporarily or indefinitely suspended  
18 by the governor by written declaration filed with the lieutenant  
19 governor. Each rule temporarily suspended shall take effect  
20 again immediately upon expiration of the suspension period.  
21 Each rule indefinitely suspended shall take effect immediately  
22 upon the filing with the lieutenant governor of the written

1 declaration by the governor terminating the suspension. The  
2 rulemaking requirements in this section shall exclusively apply  
3 to the implementation of sections 125C-2 and 125C-3 and part II  
4 of this chapter."

5 SECTION 8. Section 125C-6, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[~~§~~125C-6~~§~~] **Petition for adoption, amendment, repeal,**  
8 **or suspension of rules.** Any interested person may petition the  
9 governor or the [~~governor's authorized representative~~] director  
10 requesting the adoption, amendment, repeal, or suspension of any  
11 rule and stating reasons therefor. The governor or the  
12 [~~governor's authorized representative~~] director shall prescribe  
13 the form for the petitions and the procedures for their  
14 submission, consideration, and disposition, and within thirty  
15 days after submission of the petition, shall either deny the  
16 petition in writing, stating the governor's or the [~~governor's~~  
17 ~~authorized representative's~~] director's reasons for the denial,  
18 or grant the petition and adopt, amend, repeal, or suspend the  
19 rule accordingly. The requirements of this section shall  
20 exclusively apply to the implementation of sections 125C-2 and  
21 125C-3 and part II of this chapter."

1 SECTION 9. Section 125C-8, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§125C-8 Personnel; delegation of powers.** (a) The  
4 director is the governor's authorized representative to fulfill  
5 and effectuate the purposes of this chapter.

6 (b) The governor may appoint or employ temporary boards,  
7 agencies, officers, employees, and other persons, or any of  
8 them, for the purpose of carrying out the provisions of this  
9 chapter. All such temporarily appointed or employed officers  
10 and employees, whether or not employed by contract, shall be  
11 exempt from and not subject to nor entitled to the benefits of  
12 the provisions of chapters 76 and 88, or any other law,  
13 collective bargaining agreement, executive order, executive  
14 directive, or rule that is inapplicable to temporary employees  
15 of the State."

16 SECTION 10. Section 125C-9, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"[~~§~~§125C-9[~~]~~] Investigations, information collection, and**  
19 **surveys.** The governor or the [~~governor's authorized~~  
20 ~~representative]~~ director may make investigations, collect  
21 information, including confidential information, and conduct  
22 surveys for the purpose of ascertaining facts to be used in



1 administering this chapter, and in making the investigations,  
2 collecting the information, and conducting the surveys, may  
3 require the making, filing, or keeping of applications,  
4 schedules, records, reports, or statements, under oath or  
5 otherwise, administer oaths, take evidence under oath, subpoena  
6 witnesses, and require the production of books, papers, and  
7 records. Witnesses shall be allowed their fees and mileage as  
8 in cases in the circuit courts. The circuit court of any  
9 circuit or judge thereof may enforce by proper proceedings the  
10 attendance and testimony of any witness subpoenaed to appear  
11 within the circuit, or the production of books, papers, and  
12 records."

13 SECTION 11. Section 125C-10, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[~~+~~]\$125C-10[+] **Fraud; [~~misdemeanor-~~] penalties.** Any  
16 person required by the governor or the [~~governor's authorized~~  
17 ~~representative,~~] director, pursuant to [~~section 125C-9,~~] this  
18 chapter, to make, keep, or file any application, schedule,  
19 record, report, or statement, whether or not under oath, who  
20 intentionally makes, files, or keeps a false or fraudulent  
21 application, schedule, report, or statement or intentionally  
22 conceals therein any material fact, and any person who in any

1 other manner intentionally deceives or attempts to deceive the  
2 governor or the [~~governor's authorized representative~~] director  
3 with respect to any fact to be used in administering this  
4 chapter, and any person who intentionally fails to observe and  
5 comply with any rule [~~promulgated~~] adopted under this chapter,  
6 shall be [~~guilty of a misdemeanor.~~] assessed a civil penalty of  
7 not more than \$10,000 per violation."

8 SECTION 12. Chapter 125C, Hawaii Revised Statutes, is  
9 amended by amending the title of part II to read as follows:

10 **"PART II. HARDSHIP SET-ASIDE AND ALLOCATION OF [~~PETROLEUM~~] FUEL**  
11 **PRODUCTS DURING A SHORTAGE"**

12 SECTION 13. Section 125C-21, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§125C-21 Definitions.** "[~~Petroleum~~] Fuel product" means  
15 any fuel subject to the set-aside system described in this  
16 chapter, including heating oils, [~~light and heavy diesel oil,~~]  
17 all classifications of diesel fuels, motor gasoline[~~7~~] and all  
18 blends of motor gasoline with other fuel products, propane,  
19 butane, residual fuel oils, kerosene, naphtha, biodiesel,  
20 ethanol, suboctane motor gasoline, and aviation fuels used for  
21 emergency and essential intrastate air transport services, but  
22 excluding all other aviation fuels.

1 "Prime supplier" means any individual, trustee, agency,  
2 partnership, association, corporation, company, municipality,  
3 political subdivision, or other legal entity ~~[which]~~ that makes  
4 the first sale of any ~~[liquid fossil]~~ fuel product into the  
5 ~~[State]~~ state distribution system for consumption within the  
6 ~~[State.]~~ state."

7 SECTION 14. Section 125C-22, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§125C-22 When set-aside required.** When a shortage as  
10 defined in section 125C-2 exists, all prime suppliers shall set  
11 aside supplies of each ~~[petroleum]~~ fuel product for which there  
12 is a shortage. The amount set aside shall be in accordance with  
13 ~~[the]~~ any rules adopted by the ~~[state-energy resources~~  
14 ~~coordinator.]~~ director."

15 SECTION 15. Section 125C-23, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§125C-23 Set-aside system.** The ~~[state-energy resources~~  
18 ~~coordinator]~~ director shall adopt rules establishing a  
19 ~~[petroleum]~~ fuel products set-aside system. The purpose of this  
20 system shall be:

21 (1) The protection of public health, safety, and welfare;

- 1           (2) The maintenance of public services, utilities, and  
2           transportation, including emergency and essential  
3           intrastate air transport services;
- 4           (3) The maintenance of agricultural operations, including  
5           farming, horticulture, dairy, fishing, and related  
6           services;
- 7           (4) The preservation of economically sound and competitive  
8           industry, through the equitable acquisition and  
9           distribution of [~~petroleum~~] fuel products; and
- 10          (5) The promotion of efficiency, with minimum economic  
11          disruptions, during a shortage of [~~petroleum~~] fuel  
12          products.

13 The rules establishing the set-aside system shall be adopted in  
14 accordance with chapter 91."

15           SECTION 16. Section 125C-31, Hawaii Revised Statutes, is  
16 amended to read as follows:

17           "~~{}~~\$125C-31~~}~~ ~~Biennial state~~ State energy emergency  
18 preparedness plan. (a) The department [~~of business, economic~~  
19 ~~development, and tourism~~] shall prepare a comprehensive and  
20 integrated [~~biennial~~] state energy emergency preparedness plan  
21 to be implemented in the event of, or in anticipation of, a  
22 change in the State's [~~petroleum~~] energy supply or demand

1 situation that is judged by the governor to be unmanageable by  
2 the [~~free market.~~] prevailing markets. The department [~~of~~  
3 ~~business, economic development, and tourism~~] shall prepare a  
4 [~~biennial~~] state energy emergency preparedness plan [~~in every~~  
5 ~~even-numbered year~~] in accordance with the following:

6 (1) The [~~biennial~~] state energy emergency preparedness  
7 plan shall replace the previous state energy emergency  
8 plan developed by the [~~energy resources coordinator,~~]  
9 director, who shall act as the governor's authorized  
10 representative under this chapter;

11 (2) In preparing the [~~biennial~~] state energy emergency  
12 preparedness plan, the department shall:

13 (A) Solicit input, comment, and review from the  
14 governor's energy emergency preparedness advisory  
15 committee composed of representatives of federal,  
16 state, and county governments; [~~private energy~~  
17 ~~suppliers,~~] distributors, major energy producers,  
18 major fuel storers, major energy transporters,  
19 and major energy marketers; consumer and other  
20 public interest groups; and the public at-large;  
21 and

- 1 (B) Establish other task forces and advisory groups,  
2 as may be deemed necessary, to assist in the  
3 preparation and review of the ~~[biennial]~~ state  
4 energy emergency preparedness plan;
- 5 (3) The ~~[biennial]~~ state energy emergency preparedness  
6 plan shall be comprehensive and encompassing, and  
7 shall integrate into its analytic and planning  
8 framework the emergency preparedness plans of  
9 ~~[electric and gas utilities and other energy~~  
10 ~~suppliers,]~~ distributors, major energy producers,  
11 major fuel storers, major energy transporters, major  
12 energy marketers, relevant state agencies, including  
13 the Hawaii department of defense and the department of  
14 transportation, the counties, and such other entities  
15 as deemed appropriate[+] by the director; and
- 16 (4) The ~~[biennial]~~ state energy emergency preparedness  
17 plan shall include a review and update of the previous  
18 ~~[biennial]~~ state energy emergency preparedness plan  
19 and ~~[a review of the energy emergency plans prepared~~  
20 ~~by the counties.]~~ shall be prepared or updated as  
21 determined by the director to be necessary to comport  
22 with changes in federal or state overall emergency

1           management policies and plans which significantly  
2           affect the State's energy emergency preparedness plans  
3           or as warranted by changes in Hawaii's energy security  
4           situation.

5           (b) The department shall prepare an energy emergency  
6 communication plan, which shall be [~~updated biennially and shall~~  
7 ~~be~~] consistent with the energy emergency preparedness plans  
8 prepared by the counties. The energy emergency communication  
9 plan shall be used by the State and counties to communicate and  
10 otherwise coordinate state and county actions taken in response  
11 to implementing the [~~biennial~~] state energy emergency  
12 preparedness plan."

13           SECTION 17. Section 125C-32, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "~~[§]125C-32[§]—Biennial county]~~ **County energy emergency**  
16 **preparedness plans.** The mayor of each county, or the mayor's  
17 authorized representative, shall prepare a comprehensive county  
18 energy emergency preparedness plan. The plan shall be prepared  
19 in coordination with and be consistent with the [~~biennial~~] state  
20 energy emergency preparedness plan[~~7~~] and shall be implemented  
21 in coordination with the state energy emergency preparedness  
22 plan upon declaration of an energy emergency by the governor.

1 ~~[Not later than September 30 of every even-numbered year, each~~  
2 ~~county shall prepare and transmit to the director of business,~~  
3 ~~economic development, and tourism the county's biennial county~~  
4 ~~energy emergency preparedness plan.] "~~

5 SECTION 18. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 19. This Act shall take effect on July 1, 2050.



**Report Title:**

Energy; Emergency Preparedness; Information Sharing

**Description:**

Comprehensively addresses deficiencies in Hawaii's energy emergency preparedness statutes; Provides up-to-date policy guidance needed for consistency with current federal and state energy emergency and overall emergency management policies and plans; provides definitive guidance on critical energy data analyses functions; clarifies that a reasonable nexus shall exist for the sharing of confidential information; and requires DBEDT to provide the legislature with a report on a declared emergency within 60 days. Effective 07/01/2050. (SD1)