

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 868  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Energy and Environment, to which was referred S.B. No. 868 entitled:

"A BILL FOR AN ACT RELATING TO ENERGY RESOURCES,"

begs leave to report as follows:

The purpose of this measure is to amend chapter 196, Hawaii Revised Statutes, to:

- (1) Update certain definitions for clarity and to take into account the changes in the State's energy resources, markets, and systems;
- (2) Establish definitive policy guidance needed on the nature and relationship of energy data analyses to the State's energy program, and to clearly delineate distinctive analytic roles and responsibilities of state agencies conducting energy data functions; and
- (3) Provide the statutory basis for a systematic state energy analytic capacity and capability, which is essential to support the Energy Resources Coordinator's role.

Testimony in support of this measure was submitted by one state department and one private organization. Written testimony presented to the Committee may be reviewed on the Legislature's website.



Your Committee finds that, given the increasing need to establish Hawaii's energy independence, it is important to clarify and further define the duties and responsibilities of the state energy office. Your Committee finds that this measure allows the Energy Resources Coordinator to better carry out its statutory role in governing energy resource planning, as well as preserving and ensuring Hawaii's energy security.

Your Committee has amended this measure by making technical, nonsubstantive stylistic changes.

As affirmed by the record of votes of the members of your Committee on Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 868, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 868, S.D. 1, and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on  
behalf of the members of the  
Committee on Energy and  
Environment,



---

MIKE GABBARD, Chair





**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)

---

---

# 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 there is a need to  
2   coordinate the development of the State's energy resources to  
3   preserve energy security by increasing the use of indigenous  
4   renewable energy, and reducing the State's overdependence on  
5   oil. The legislature also finds that energy data and analysis  
6   are essential to energy planning, policy development, and energy  
7   emergency preparedness and response. In recent years, energy  
8   markets, resources, systems and technologies, the variety and  
9   types of fuels, environmental standards and specifications of  
10  fuels, and policies related to energy and fuels have undergone  
11  dramatic changes. Current and future transitional trends are  
12  expected to continue to influence Hawaii's energy situation.  
13  These events reveal a critical need to develop the State's  
14  technical and analytic capabilities and understanding of  
15  Hawaii's energy resources, markets, and systems for effective  
16  energy planning to achieve energy independence and increase the  
17  State's energy security.

1           The legislature finds that the director of business,  
2 economic development, and tourism, who serves as the state  
3 energy resources coordinator pursuant to section 196-3, Hawaii  
4 Revised Statutes, is responsible for coordinating the  
5 development of the State's energy resources, policies, programs,  
6 and plans.

7           The legislature finds that the energy data and analytic  
8 functions of the state energy resources coordinator are  
9 statutorily distinctive and different from, and not redundant to  
10 other agencies' functions; e.g., the functions of the public  
11 utilities commission, which focus primarily on monitoring  
12 petroleum prices and industry profits, a state "watchdog" role.

13           The legislature, in Act 182, Session Laws of Hawaii 2007,  
14 explicitly acknowledged the difference between the department of  
15 business, economic development, and tourism's energy analysis  
16 role and the public utilities commission's role to conduct  
17 analysis with a focus on petroleum prices and petroleum industry  
18 profits. The statute directed the department of business,  
19 economic development, and tourism to use this data "to  
20 effectuate the purposes of chapters 125C, 196, and other  
21 relevant laws." The legislature recognized that the use and  
22 analysis of energy and fuels data remain critical to virtually

1 all of the department of business, economic development, and  
2 tourism's statutory energy program functional requirements.

3 The legislature, therefore, finds that it is essential and  
4 appropriate to include within chapter 196, Hawaii Revised  
5 Statutes, that the department of business, economic development,  
6 and tourism shall be responsible for developing and ensuring the  
7 achievement of the State's energy policies, programs, and plans.

8 Therefore, the legislature finds that it is necessary to  
9 amend chapter 196, Hawaii Revised Statutes, to:

- 10 (1) Update certain definitions for clarity and to take  
11 into account the changes in the State's energy  
12 resources, markets, and systems;
- 13 (2) Establish definitive policy guidance needed on the  
14 nature and relationship of energy data analyses to the  
15 State's energy program, and to clearly delineate  
16 distinctive analytic roles and responsibilities of  
17 state agencies conducting energy data functions; and
- 18 (3) Provide the statutory basis for a systematic state  
19 energy analytic capacity and capability, which is  
20 essential to support the energy resources  
21 coordinator's role.

1 SECTION 2. Section 196-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§196-1 Findings and declaration of necessity.** The  
4 legislature finds that:

5 (1) The global demand for petroleum and its derivatives  
6 has resulted in a significant and fundamental market  
7 escalation in oil prices and has caused severe  
8 economic hardships throughout the State, and threatens  
9 to impair the public health, safety, and welfare.

10 The State of Hawaii, with its near total  
11 dependence on imported fossil fuel, is particularly  
12 vulnerable to dislocations in the global energy  
13 market. This [~~is an anomalous~~] situation[7] can be  
14 changed, as there are few places in the world so  
15 generously endowed with natural energy: geothermal,  
16 solar radiation, ocean temperature differential, wind,  
17 biomass, waves, and currents--all potential non-  
18 polluting power sources;

19 (2) There is a real need for comprehensive strategic  
20 [~~comprehensive~~] planning in the effort towards  
21 achieving full [~~utilization~~] use of Hawaii's energy  
22 [~~resource programs~~] resources and the most effective



1 allocation of energy resources throughout the State.  
2 Planning is necessary and desirable in order that the  
3 State may recognize and declare the major problems and  
4 opportunities in the field of energy resources. Both  
5 short-range and long-range planning will permit the  
6 articulation of:

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

8 (B) Criteria for measuring and evaluating  
9 accomplishments of objectives;

10 (C) Identification and implementation of programs  
11 that will carry out such objectives; and

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

14 Such planning efforts will identify present conditions  
15 and major problems relating to energy resources, their  
16 exploration, development, production, and  
17 distribution. It will show the projected nature of  
18 the situation and rate of change [~~and~~], present  
19 conditions for the foreseeable future based on a  
20 projection of current trends in the development of  
21 energy resources in Hawaii[+], and include initiatives  
22 designed to fundamentally change how Hawaii consumes

1 energy, by accelerating the production of renewable  
2 and alternative energy, increasing energy efficiency,  
3 developing and adopting new technologies, and ensuring  
4 the State's energy security;

5 (3) The State requires an in-depth understanding of the  
6 causes and effects of any transitional issues and  
7 trends related to changes in the State's energy  
8 resources, systems, and markets;

9 ~~(+3)~~ (4) There are many agencies of the federal, state,  
10 and county governments in Hawaii, as well as many  
11 private agencies[~~7~~] and a broad set of non-  
12 governmental entities, engaged in, or expressing an  
13 interest in, various aspects of the exploration,  
14 research, distribution, transportation, storage,  
15 conservation, and production of all forms of energy  
16 resources in Hawaii. Some of these agencies include  
17 the University of Hawaii[~~7~~]; the department of land  
18 and natural resources[~~7~~]; the department of business,  
19 economic development, and tourism[~~7~~]; the division of  
20 consumer advocacy[~~7~~]; the public utilities commission;  
21 the state civil defense agency; the federal energy  
22 office[~~7~~]; and various county agencies, as well as

1           ~~[the oil companies, gas stations, and other private~~  
2           ~~enterprises;]~~ Hawaii's energy and energy-related  
3           companies; and  
4        [(-4)] (5) There is ~~[immediate]~~ an ongoing need in this  
5           State to coordinate the efforts of ~~[all these~~  
6           ~~agencies;]~~ statewide industry and government energy  
7           sectors, maintain the technical capability and  
8           adequate capacity to quantitatively and qualitatively  
9           evaluate, analyze, develop, and coordinate  
10          implementation of private and public sector energy  
11          planning efforts, recommend market-based policies to  
12          develop Hawaii's energy resources, systems, and  
13          markets, establish and coordinate programs to preserve  
14          and protect the State's energy security, maintain a  
15          robust energy emergency preparedness program, and  
16          effectuate the conservation of ~~[fuel;]~~ energy  
17          resources, to provide for the equitable distribution  
18          thereof, and to formulate plans for the development  
19          and use of alternative energy sources. There is a  
20          need for such coordination, capability, and capacity  
21          so that there will be maximum conservation and  
22          ~~[utilization]~~ use of energy resources in the State."

1 SECTION 3. Section 196-2, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By adding twelve new definitions to be appropriately  
4 inserted and to read:

5 "Agent" means a person who is designated by the  
6 coordinator as an authorized representative.

7 "Commission" means the public utilities commission.

8 "Department" means the department of business, economic  
9 development, and tourism.

10 "Distributor" means:

11 (1) Every person who refines, manufactures, produces, or  
12 compounds fuel in the State and sells it at wholesale  
13 or retail, or who uses it directly in the manufacture  
14 of products or for the generation of power;

15 (2) Every person who imports or causes to be imported into  
16 the State, or exports or causes to be exported from  
17 the State, any fuel;

18 (3) Every person who acquires fuel through exchanges with  
19 another distributor; and

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

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

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

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

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

20       "Major energy producer" means any person who produces  
21 energy resources in amounts determined by the coordinator as

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

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

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

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

15 2. By amending the definition of "energy resources" to  
16 read:

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

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

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

11 "**§196-4 Powers and duties.** Subject to the approval of the  
12 governor, the coordinator shall:

13 (1) Formulate plans, including objectives, criteria to  
14 measure accomplishment of objectives, programs through  
15 which the objectives are to be attained, and financial  
16 requirements for the optimum development of Hawaii's  
17 energy resources;

18 (2) Conduct systematic analysis of existing and proposed  
19 energy resource programs, evaluate the analysis  
20 conducted by government agencies and other  
21 organizations and recommend to the governor and to the  
22 legislature programs [~~which~~] that represent the most

- 1 effective allocation of resources for the development  
2 of energy [~~sources~~] resources;
- 3 (3) Formulate and recommend specific proposals, as  
4 necessary, for conserving energy [~~and fuel~~],  
5 resources, including the allocation and distribution  
6 thereof, to the governor and to the legislature;
- 7 (4) Assist public and private agencies in implementing  
8 energy conservation and related measures;
- 9 (5) Coordinate the State's energy conservation and  
10 allocation programs with that of the federal  
11 government, other state governments, governments of  
12 nations with interest in common energy resources, and  
13 the political subdivisions of the State;
- 14 (6) Develop programs to encourage private and public  
15 exploration and research of alternative energy  
16 resources [~~which~~] that will benefit the State;
- 17 (7) Conduct public education programs to inform the public  
18 of the energy resources situation as may exist from  
19 time to time and of the government actions taken  
20 [~~thereto~~];
- 21 (8) Serve as consultant to the governor, public agencies,  
22 and private industry on matters related to the



- 1 acquisition, [~~utilization~~] use, and conservation of  
2 energy resources;
- 3 (9) Contract for services when required for the  
4 implementation of this chapter;
- 5 (10) Review proposed state actions [~~which~~] that the  
6 coordinator finds to have significant effect on energy  
7 [~~consumption~~] resources and report to the governor  
8 their effect on the energy conservation program, and  
9 perform such other services as may be required by the  
10 governor and the legislature;
- 11 (11) Prepare and submit an annual report and [~~such~~] other  
12 reports as may be requested to the governor and to the  
13 legislature on the implementation of this chapter and  
14 all matters related to energy resources; [~~and~~]
- 15 (12) Adopt rules for the administration of this chapter  
16 pursuant to chapter 91[~~7~~]; provided that the rules  
17 shall be submitted to the legislature for review[~~-~~];  
18 and
- 19 (13) Develop and maintain a comprehensive and systematic  
20 quantitative and qualitative capacity to analyze the  
21 status of energy resources, systems, and markets, both  
22 in-state and those to which Hawaii is directly tied,

1           particularly in relation to the State's economy, and  
2           to recommend, develop proposals for, and assess the  
3           effectiveness of policy and regulatory decisions, and  
4           conduct energy emergency planning."

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

7           SECTION 6. This Act shall take effect upon its approval.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

**LINDA LINGLE**  
GOVERNOR  
**THEODORE E. LIU**  
DIRECTOR  
**MARK K. ANDERSON**  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: [www.hawaii.gov/dbedt](http://www.hawaii.gov/dbedt)

Telephone: (808) 586-2355  
Fax: (808) 586-2377

Statement of  
**THEODORE E. LIU**  
Director

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

Friday, February 27, 2009

9:30 a.m.

State Capitol, Conference Room 229

in consideration of  
**SB 868 SD1**  
**RELATING TO ENERGY RESOURCES.**

Chair Baker, Vice Chair Ige, Members of the Committee on  
Commerce and Consumer Protection.

The Department of Business, Economic Development, and  
Tourism (DBEDT) strongly supports SB 868 SD1, an Administration  
bill which provides amendments to Chapter 196, Hawaii Revised  
Statutes, to allow the Energy Resources Coordinator (DBEDT  
Director) the statutory authority to better carry out its  
legislatively-mandated role in governing energy resource  
planning, as well as in preserving and ensuring Hawaii's energy  
security.

SB 868 SD1's proposed amendments provide clarity on the  
fundamental need to maintain the technical capability and  
adequate capacity to quantitatively and qualitatively analyze,  
develop, and coordinate energy planning and policy efforts

essential to support the Energy Resources Coordinator's role in planning for Hawaii's energy future and energy independence. This is a clear implicit expectation which the Legislature, Administration, and people of Hawaii have for the Energy Resource Coordinator. This bill makes this expectation explicit.

Thank you for the opportunity to offer these comments.



**SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**

February 27<sup>th</sup>, 2008, 9:30 A.M.

Room 229

**(Testimony is 1 page long)**

**TESTIMONY IN SUPPORT OF SB 868 SD1**

Chair Baker and members of the committee:

The Blue Planet Foundation supports SB 868 SD1, clarifying and further defining duties and responsibilities of the state energy office. We view this bill as a relatively straightforward housekeeping measure that provides more depth in defining the duties of the increasingly important energy office. Further, it also provides them with greater direction in examining the systemic changes necessary to transform Hawai'i to a clean energy future.

Blue Planet believes, however, that it may be time to consider elevating the level of energy planning and implementation in Hawai'i. If we are serious about ending our addiction to fossil fuel and seek to be powered by 100% clean, renewable, and indigenous sources, the government office charged with guiding the transition deserves greater standing and funding within state government. We would support the creation of a state Hawai'i Energy Security Authority (HESA), something akin to the existing Hawai'i Tourism Authority (HTA). HESA would be a stand-alone entity, tasked with all aspects of planning, permitting, and implementation of Hawaii's clean energy future. The Authority would be funded solely from a fee on each barrel of oil imported into the state; as dependency on oil decreases, so does the work of the Authority, and the budget decreases accordingly. Given Hawaii's energy independence the status, funding, and prioritization it deserves would help ensure that we achieve our clean energy goals.

Nonetheless, the simple changes in SB 868 SD1 are supported as an interim step.

Thank you for the opportunity to testify.

**Jeff Mikulina, executive director • [jeff@blueplanetfoundation.org](mailto:jeff@blueplanetfoundation.org)**

55 Merchant Street 17<sup>th</sup> Floor • Honolulu, Hawai'i 96813 • 808-954-6142 • [blueplanetfoundation.org](http://blueplanetfoundation.org)