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# A BILL FOR AN ACT

RELATING TO HAWAII'S CLEAN ENERGY INITIATIVE IN TRANSPORTATION ENERGY.

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

PART I

1  
2 SECTION 1. The Hawaii Clean Energy Initiative set goals  
3 for energy efficiency; renewable and indigenous electricity  
4 production; energy delivery and improvements to the electrical  
5 grid; and diversification of energy sources for transportation  
6 to enable energy efficiency and renewable energy resources to  
7 meet seventy per cent of Hawaii's energy demand by 2030.

8 Hawaii's transportation systems are nearly completely  
9 dependent on petroleum-based fuels for their operation. The  
10 purpose of this Act is to begin the transformation of Hawaii's  
11 transportation sector from almost completely dependent on  
12 petroleum towards the use of efficient, stable, secure,  
13 renewable, non-petroleum energy sources through the  
14 establishment of:

- 15 (1) Transportation energy infrastructure capable of  
16 supporting vehicles using alternative transportation  
17 energy sources, including electricity and biofuels;

- 1 (2) Incentives to accelerate transformation to non-
- 2 petroleum energy sources;
- 3 (3) Requirements for transportation energy
- 4 diversification; and
- 5 (4) Plans and analysis.

6 PART II

7 TRANSPORTATION ENERGY INFRASTRUCTURE

8 SECTION 2. Section 226-18, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§226-18 Objectives and policies for facility systems--**

11 **energy.** (a) Planning for the State's facility systems with  
12 regard to energy shall be directed toward the achievement of the  
13 following objectives, giving due consideration to all:

- 14 (1) Dependable, efficient, and economical statewide energy  
15 systems capable of supporting the needs of the people;
- 16 (2) Increased energy self-sufficiency where the ratio of  
17 indigenous to imported energy use is increased;
- 18 (3) Greater energy security and diversification in the  
19 face of threats to Hawaii's energy supplies and  
20 systems; and
- 21 (4) Reduction, avoidance, or sequestration of greenhouse  
22 gas emissions from energy supply and use.

1 (b) To achieve the energy objectives, it shall be the  
2 policy of this State to ensure the short- and long-term  
3 provision of adequate, reasonably priced, and dependable energy  
4 services to accommodate demand.

5 (c) To further achieve the energy objectives, it shall be  
6 the policy of this State to:

7 (1) Support research and development as well as promote  
8 the use of renewable energy sources;

9 (2) Ensure that the combination of energy supplies and  
10 energy-saving systems is sufficient to support the  
11 demands of growth;

12 (3) Base decisions of least-cost supply-side and demand-  
13 side energy resource options on a comparison of their  
14 total costs and benefits when a least-cost is  
15 determined by a reasonably comprehensive,  
16 quantitative, and qualitative accounting of their  
17 long-term, direct and indirect economic,  
18 environmental, social, cultural, and public health  
19 costs and benefits;

20 (4) Promote all cost-effective conservation of power and  
21 fuel supplies through measures, including:

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- 1 (A) Development of cost-effective demand-side
- 2 management programs;
- 3 (B) Education; and
- 4 (C) Adoption of energy-efficient practices and
- 5 technologies;
- 6 (5) Ensure, to the extent that new supply-side resources
- 7 are needed, that the development or expansion of
- 8 energy systems uses the least-cost energy supply
- 9 option and maximizes efficient technologies;
- 10 (6) Support research, development, [and] demonstration,
- 11 and utilization of energy efficiency, load management,
- 12 and other demand-side management programs, practices,
- 13 and technologies;
- 14 (7) Promote alternate fuels and transportation energy
- 15 efficiency [~~by encouraging diversification of~~
- 16 ~~transportation modes and infrastructure~~];
- 17 (8) Support actions that reduce, avoid, or sequester
- 18 greenhouse gases in utility, transportation, and
- 19 industrial sector applications;
- 20 (9) Support actions that reduce, avoid, or sequester
- 21 Hawaii's greenhouse gas emissions through agriculture
- 22 and forestry initiatives; and

1 (10) Provide priority handling and processing for all state  
2 and county permits required for renewable energy  
3 projects."

4 SECTION 3. Chapter 235, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§235- Electric vehicle charging; income tax credit.

8 (a) There shall be allowed to each taxpayer subject to the  
9 taxes imposed by this chapter a tax credit for code compliant  
10 electric vehicle charging infrastructure installed and placed in  
11 service in the State that shall be deductible from the  
12 taxpayer's net income tax liability. The tax credit may be  
13 claimed for the taxable year in which the code compliant  
14 electric vehicle charging system is placed in service in the  
15 State.

16 (b) The amount of the credit shall be seventy per cent of  
17 the cost of the electric vehicle charging system or \$500 per  
18 electric vehicle charge point of the system, whichever is less.  
19 The cost of the electric vehicle charging system includes all  
20 costs to acquire, construct and install the electric vehicle  
21 charging system that are required to be capitalized under  
22 section 263 of the Internal Revenue Code to the electric vehicle

1 charging system. The cost of the electric vehicle charging  
2 system does not include costs that are properly allocable to  
3 land or to a building and its structural components, including,  
4 but not limited to costs related to the acquisition of land on  
5 which the electric vehicle charging system is located, expenses  
6 for permits, legal fees, project management, or engineering to  
7 the extent such expenses are related to the land.

8 (c) If a deduction is taken under section 179 of the  
9 Internal Revenue Code, no tax credit shall be allowed for that  
10 portion of the cost for which the deduction is taken.

11 (d) The basis of eligible property for depreciation or  
12 accelerated cost recovery system purposes for state income taxes  
13 shall be reduced by the amount of credit allowable and claimed.  
14 In the alternative, the taxpayer shall treat the amount of the  
15 credit allowable and claimed as a taxable income item for the  
16 taxable year in which it is properly recognized under the method  
17 of accounting used to compute taxable income.

18 (e) The costs used to compute this tax credit may not be  
19 used to compute any other tax credit.

20 (f) For the purposes of this section:

1       "Electric vehicle charge point" means the part of the  
2 electric vehicle charging system that delivers electricity from  
3 a source outside an electric vehicle into one electric vehicle.

4       "Electric vehicle charging system" means a system that is  
5 designed in compliance with Article 625 of the National  
6 Electrical Code and delivers electricity from a source outside  
7 an electric vehicle into one or more electric vehicles. An  
8 electric vehicle charging system may include several charge  
9 points simultaneously connecting several electric vehicles to  
10 the system.

11       (g) The director of taxation shall prepare any forms that  
12 may be necessary to claim a tax credit under this section. The  
13 director may also require the taxpayer to furnish reasonable  
14 information to ascertain the validity of the claim for credit  
15 made under this section and may adopt rules necessary to  
16 effectuate the purposes of this section pursuant to chapter 91.

17       (h) If the tax credit under this section exceeds the  
18 taxpayer's income tax liability, the excess of the credit over  
19 liability may be used as a credit against the taxpayer's income  
20 tax liability in subsequent years until exhausted. Every claim,  
21 including amended claims, for a tax credit under this section  
22 shall be filed on or before the end of the twelfth month

1 following the close of the taxable year for which the credit may  
2 be claimed. Failure to comply with the foregoing provision  
3 shall constitute a waiver of the right to claim the credit.

4 (i) This tax credit applies to electric vehicle charging  
5 systems placed in service after July 1, 2009 and before January  
6 1, 2016."

7 SECTION 4. Chapter 235, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§235- Alternative fuel refueling; income tax credit.

11 (a) There shall be allowed to each taxpayer subject to the  
12 taxes imposed by this chapter a tax credit for any alternative  
13 fuel refueling infrastructure installed and placed in service in  
14 the State that shall be deductible from the taxpayer's net  
15 income tax liability. The tax credit may be claimed for the  
16 taxable year in which the alternative fuel refueling  
17 infrastructure is placed in service.

18 (b) The amount of the credit shall be thirty per cent of  
19 the cost of the alternative fuel refueling infrastructure or  
20 \$10,000, whichever is less. The cost of the alternative fuel  
21 refueling infrastructure includes all costs to acquire,  
22 construct and install the alternative fuel refueling



1 infrastructure that are required to be capitalized under section  
2 263 of the Internal Revenue Code to the alternative fuel  
3 refueling infrastructure. The cost of the alternative fuel  
4 refueling infrastructure does not include costs that are  
5 properly allocable to land or to a building and its structural  
6 components, including, but not limited to costs related to the  
7 acquisition of land on which the alternative fuel refueling  
8 infrastructure is located, expenses for permits, legal fees,  
9 project management, or engineering to the extent such expenses  
10 are related to the land.

11 (c) If a deduction is taken under section 179 of the  
12 Internal Revenue Code, no tax credit shall be allowed for that  
13 portion of the cost for which the deduction is taken.

14 (d) The basis of eligible property for depreciation or  
15 accelerated cost recovery system purposes for state income taxes  
16 shall be reduced by the amount of credit allowable and claimed.  
17 In the alternative, the taxpayer shall treat the amount of the  
18 credit allowable and claimed as a taxable income item for the  
19 taxable year in which it is properly recognized under the method  
20 of accounting used to compute taxable income.

21 (e) The costs used to compute this tax credit may not be  
22 used to compute any other tax credit.

1        (f) Recapture provisions shall conform with the recapture  
2 provisions applied to "alternative fuel refueling property"  
3 credits described in section 30C of the Internal Revenue Code.

4        (g) For the purposes of this section:

5        "Alternative fuel refueling infrastructure" means equipment  
6 for the storage and dispensing of alternative fuels for the  
7 refueling of alternative fuel vehicles, and shall conform with  
8 the definition of "alternative fuel refueling property"  
9 contained in section 30C of the Internal Revenue Code.

10       (h) The director of taxation shall prepare any forms that  
11 may be necessary to claim a tax credit under this section. The  
12 director may also require the taxpayer to furnish reasonable  
13 information to ascertain the validity of the claim for credit  
14 made under this section and may adopt rules necessary to  
15 effectuate the purposes of this section pursuant to chapter 91.

16       (i) If the tax credit under this section exceeds the  
17 taxpayer's income tax liability, the excess of the credit over  
18 liability may be used as a credit against the taxpayer's income  
19 tax liability in subsequent years until exhausted. Every claim,  
20 including amended claims, for a tax credit under this section  
21 shall be filed on or before the end of the twelfth month  
22 following the close of the taxable year for which the credit may

1 be claimed. Failure to comply with the foregoing provision  
2 shall constitute a waiver of the right to claim the credit.

3 (j) This tax credit applies to alternative fuel refueling  
4 infrastructure placed in service after July 1, 2009 and before  
5 January 1, 2016."

6 SECTION 5. The Hawaii Revised Statutes is amended by  
7 adding a new section to be appropriately designated and to read  
8 as follows:

9 "§ - Designation of parking spaces for electric  
10 vehicles. All commercial and public parking lots with at least  
11 100 parking spaces shall designate at least one prime (near the  
12 entrance) spot exclusively for electric vehicles. An additional  
13 electric vehicle parking location shall be required for each  
14 additional 100 parking spaces in the lot; the additional spaces  
15 shall be located either near the building entrance or near  
16 electrical service, at the discretion of the facility manager.  
17 Such spaces shall be designated, clearly marked, and enforced by  
18 December 31, 2010.

19 For the purposes of this section, "electric vehicle" means  
20 an electric vehicle or neighborhood electric vehicle with an  
21 electric vehicle ("EV") license plate."

1 SECTION 6. Chapter 291, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§291- Parking spaces reserved for electric vehicles;  
5 penalties. (a) Beginning January 1, 2011, any person who parks  
6 a non-electric vehicle in a space designated and marked as  
7 reserved for electric vehicles shall receive a warning.

8 (b) Beginning July 1, 2011, any person who parks a non-  
9 electric vehicle in a space designated and marked as reserved  
10 for electric vehicles shall be guilty of a traffic infraction  
11 under chapter 291D and shall be fined not less than \$50 nor more  
12 than \$100 and pay any costs incurred by the court related to  
13 assessing the fine.

14 (c) Any citation issued under this chapter may be mailed  
15 to the violator pursuant to section 291C-165(b)."

16 SECTION 7. The Hawaii Revised Statutes is amended by  
17 adding a new section to be appropriately designated and to read  
18 as follows:

19 "§ - Requirement for electric vehicle charging  
20 capability. Electric vehicle charging capability shall be  
21 required on all new single family housing units constructed

1 after January 1, 2015. Charging capability shall follow  
2 standards adopted by SAE International."

3 SECTION 8. Section 269-1, Hawaii Revised Statutes, is  
4 amended by amending the definition of "public utility" to read  
5 as follows:

6 ""Public utility":

7 (1) Includes every person who may own, control,  
8 operate, or manage as owner, lessee, trustee,  
9 receiver, or otherwise, whether under a  
10 franchise, charter, license, articles of  
11 association, or otherwise, any plant or  
12 equipment, or any part thereof, directly or  
13 indirectly for public use, for the transportation  
14 of passengers or freight, or the conveyance or  
15 transmission of telecommunications messages, or  
16 the furnishing of facilities for the transmission  
17 of intelligence by electricity by land or water  
18 or air within the State, or between points within  
19 the State, or for the production, conveyance,  
20 transmission, delivery, or furnishing of light,  
21 power, heat, cold, water, gas, or oil, or for the

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1 storage or warehousing of goods, or the disposal  
2 of sewage; provided that the term shall include:

3 (A) Any person insofar as that person owns or  
4 operates a private sewer company or sewer  
5 facility; and

6 (B) Any telecommunications carrier or  
7 telecommunications common carrier;

8 (2) Shall not include:

9 (A) Any person insofar as that person owns or  
10 operates an aerial transportation  
11 enterprise;

12 (B) Persons owning or operating taxicabs, as  
13 defined in this section;

14 (C) Common carriers transporting only freight on  
15 the public highways, unless operating within  
16 localities or along routes or between points  
17 that the public utilities commission finds  
18 to be inadequately serviced without  
19 regulation under this chapter;

20 (D) Persons engaged in the business of  
21 warehousing or storage unless the commission

1 finds that regulation thereof is necessary  
2 in the public interest;

3 (E) The business of any carrier by water to the  
4 extent that the carrier enters into private  
5 contracts for towage, salvage, hauling, or  
6 carriage between points within the State and  
7 the carriage is not pursuant to either an  
8 established schedule or an undertaking to  
9 perform carriage services on behalf of the  
10 public generally;

11 (F) The business of any carrier by water,  
12 substantially engaged in interstate or  
13 foreign commerce, transporting passengers on  
14 luxury cruises between points within the  
15 State or on luxury round-trip cruises  
16 returning to the point of departure;

17 (G) Any person who:  
18 (i) Controls, operates, or manages plants  
19 or facilities for the production,  
20 transmission, or furnishing of power  
21 primarily or entirely from non-fossil  
22 fuel sources; [and]

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1 (ii) Provides, sells, or transmits all of  
2 that power, except such power as is  
3 used in its own internal operations,  
4 directly to a public utility for  
5 transmission to the public; and

6 (iii) Owns, controls, operates, or manages  
7 plants or facilities primarily used to  
8 charge or discharge a vehicle battery,  
9 the purpose of which is to provide the  
10 power for vehicle propulsion;

11 (H) A telecommunications provider only to the  
12 extent determined by the commission pursuant  
13 to section 269-16.9;

14 (I) Any person who controls, operates, or  
15 manages plants or facilities developed  
16 pursuant to chapter 167 for conveying,  
17 distributing, and transmitting water for  
18 irrigation and such other purposes that  
19 shall be held for public use and purpose;

20 (J) Any person who owns, controls, operates, or  
21 manages plants or facilities for the  
22 reclamation of wastewater; provided that:



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(i) The services of the facility shall be provided pursuant to a service contract between the person and a state or county agency and at least ten per cent of the wastewater processed is used directly by the State or county which has entered into the service contract;

(ii) The primary function of the facility shall be the processing of secondary treated wastewater that has been produced by a municipal wastewater treatment facility that is owned by a state or county agency;

(iii) The facility shall not make sales of water to residential customers;

(iv) The facility may distribute and sell recycled or reclaimed water to entities not covered by a state or county service contract; provided that, in the absence of regulatory oversight and direct competition, the distribution and sale of recycled or reclaimed water

1 shall be voluntary and its pricing fair  
2 and reasonable. For purposes of this  
3 subparagraph, "recycled water" and  
4 "reclaimed water" mean treated  
5 wastewater that by design is intended  
6 or used for a beneficial purpose; and

7 (v) The facility shall not be engaged,  
8 either directly or indirectly, in the  
9 processing of food wastes; and

10 (K) Any person who owns, controls, operates, or  
11 manages any seawater air conditioning  
12 district cooling project; provided that at  
13 least fifty per cent of the energy required  
14 for the seawater air conditioning district  
15 cooling system is provided by a renewable  
16 energy resource, such as cold, deep  
17 seawater."

18 PART III

19 TRANSPORTATION ENERGY INCENTIVES

20 SECTION 9. Chapter 237, Hawaii Revised Statutes, is  
21 amended by adding a new section to be appropriately designated  
22 and to read as follows:

1 "§237- Exemption of sale or lease of certain vehicles.

2 (a) Beginning January 1, 2010, and expiring December 31, 2015,  
3 there shall be exempted from the measure of the taxes imposed by  
4 this chapter all of the gross proceeds arising from the sale or  
5 lease of new or used light duty motor vehicles classified as  
6 alternative fuel vehicles and fuel economy leader vehicles.

7 (b) As used in this section:

8 "Alternative fuel" means alcohol fuels; mixtures containing  
9 eighty-five per cent or more by volume of alcohols with gasoline  
10 or other fuels; natural gas; liquefied petroleum gas; hydrogen;  
11 biodiesel; mixtures containing twenty per cent or more by volume  
12 of biodiesel with diesel or other fuels; other fuels derived  
13 from biological materials; and electricity provided by off-board  
14 energy sources.

15 "Alternative fuel vehicle" means a vehicle capable of  
16 operating on an alternative fuel.

17 "Fuel economy leader vehicle" means a vehicle that is  
18 identified by the United States Environmental Protection Agency  
19 as a "fuel economy leader" in its class and model year.

20 "Light duty motor vehicle" has the same meaning as  
21 contained in 10 Code of Federal Regulations Part 490. It does  
22 not include any vehicle incapable of traveling on highways or

1 any vehicle with a gross vehicle weight rating greater than  
2 8,500 pounds."

3 SECTION 10. Section 238-9.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§238-9.5 Motor vehicle importation; report by dealers;**  
6 **proof of payment.** (a) Every dealer, as defined in section 437-  
7 1.1, shall submit a report to the director, on or before the  
8 last day of each calendar month, for all motor vehicles  
9 delivered by the dealer in the prior month as a courtesy  
10 delivery. The report shall contain the name and address of the  
11 dealer making the courtesy delivery, name and address of the  
12 seller of the vehicle, type of motor vehicle, the landed value  
13 of the vehicle, the name and address of the purchaser or  
14 importer, the date of importation, and other information  
15 relevant to the courtesy delivery as requested by the director.

16 As used in this section, "courtesy delivery" means the  
17 preparation for delivery and the delivery by a dealer of a motor  
18 vehicle imported into the State by a person who purchased the  
19 motor vehicle from an out-of-state motor vehicle manufacturer or  
20 an out-of-state dealer and does not apply to motor vehicles sold  
21 by the in-state dealer.

1 (b) The director of taxation shall prepare forms necessary  
2 for individuals importing motor vehicles into the State to prove  
3 payment of, or exemption from, [the] any use tax necessary to  
4 register the motor vehicle."

5 SECTION 11. Section 286-41, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§286-41 Application for registration; full faith and**  
8 **credit to current certificates; this part not applicable to**  
9 **certain equipment.** (a) Every owner of a motor vehicle which is  
10 to be operated upon the public highways shall, for each vehicle  
11 owned, except as herein otherwise provided, apply to the  
12 director of finance of the county where the vehicle is to be  
13 operated, for the registration thereof. If a vehicle is moved  
14 to another county and is to be operated upon the public highways  
15 of that county, the existing certificate of registration shall  
16 be valid until its expiration date, at which time the owner  
17 shall apply to the director of finance of the county in which  
18 the vehicle is then located for the registration of the vehicle,  
19 whether or not the owner is domiciled in the county or the  
20 owner's principal place of business is in that county, except  
21 that this provision shall not apply to vehicles which are

1 temporarily transferred to another county for a period of not  
2 more than three months.

3 (b) Application for the registration of a vehicle shall be  
4 made upon the appropriate form furnished by the director of  
5 finance and shall contain the name, occupation, and address of  
6 the owner and legal owner; and, if the applicant is a member of  
7 the United States naval or military forces, the applicant shall  
8 give the organization and station. All applications shall also  
9 contain a description of the vehicle, including the name of the  
10 maker, the type of fuel for the use of which it is adapted  
11 (e.g., gasoline, diesel oil, liquefied petroleum gas), the  
12 serial or motor number, and the date first sold by the  
13 manufacturer or dealer, and such further description of the  
14 vehicle as is called for in the form, and such other information  
15 as may be required by the director of finance, to establish  
16 legal ownership. A person applying for initial registration of  
17 a neighborhood electric vehicle shall certify in writing that a  
18 notice of the operational restrictions applying to the vehicle  
19 as provided in section 291C-134 [are] is contained on a  
20 permanent notice attached to or painted on the vehicle in a  
21 location that is in clear view of the driver.

1 (c) If the vehicle to be registered is specially  
2 constructed, reconstructed, or rebuilt; is a special interest  
3 vehicle; or is an imported vehicle, this fact shall be stated in  
4 the application and upon the registration of the special  
5 interest motor vehicle and imported motor vehicle, which has  
6 been registered until that time in any other state or county,  
7 and the owner shall surrender to the director of finance the  
8 certificates of registration or other evidence of such form of  
9 registration as may be in the applicant's possession or control.  
10 The director of finance shall grant full faith and credit to the  
11 currently valid certificates of title and registration  
12 describing the vehicle, the ownership thereof, and any liens  
13 noted thereon, issued by any title state or county in which the  
14 vehicle was last registered. The acceptance by the director of  
15 finance of a certificate of title or of registration issued by  
16 another state or county, as provided in this subsection, in the  
17 absence of knowledge that the certificate is forged, fraudulent,  
18 or void, shall be a sufficient determination of the genuineness  
19 and regularity of the certificate and of the truth of the  
20 recitals therein, and no liability shall be incurred by any  
21 officer or employee of the director of finance by reason of so  
22 accepting the certificate.

1           (d) The owner of every motor vehicle of the current,  
2 previous, and subsequent year model bought out-of-state,  
3 subsequently brought into the State, and subject to the use tax  
4 under chapter 238 shall provide with the application for  
5 registration proof of payment of the use tax pursuant to  
6 requirements established by the department of taxation. No  
7 registration certificate shall be issued without proof of  
8 payment of the use tax[-] unless the vehicle is an alternative  
9 fuel vehicle or fuel economy leader vehicle exempt from the use  
10 tax as provided in chapter 238.

11           (e) Notwithstanding any other law to the contrary, the  
12 director of finance of the county in which the application for  
13 registration is sought shall not require proof of insurance as a  
14 condition to satisfy the requirements of this part. This  
15 subsection shall apply only to the initial registration of any  
16 motor vehicle.

17           (f) The provisions of this part requiring the registration  
18 of motor vehicles shall not apply to:

- 19           (1) Special mobile equipment;  
20           (2) Implements of husbandry temporarily drawn, moved, or  
21 otherwise propelled upon the public highways; and



1           (3) Aircraft servicing vehicles which are being used  
2                   exclusively on lands set aside to the department of  
3                   transportation for airport purposes.

4           (g) Beginning January 1, 2010, and expiring December 31,  
5 2015, the state portion of the motor vehicle registration fee  
6 and other fees, if any, assessed upon or associated with the  
7 registration of an electric vehicle in this State, including any  
8 state fees associated with the issuance of an electric vehicle  
9 license plate, shall be waived. The counties may also waive  
10 fees associated with registration of an electric vehicle."

11           SECTION 12. The Hawaii Revised Statutes is amended by  
12 adding a new section to be appropriately designated and to read  
13 as follows:

14           "§ - Transportation energy transformation grant fund.

15           (a) There is established a special fund to be designated as the  
16 transportation energy transformation grant fund. Moneys  
17 transferred to the transportation energy transformation grant  
18 fund may be expended by the director to carry out the director's  
19 duties and obligations under this chapter. Disbursements from  
20 the transportation energy transformation grant fund shall not be  
21 subject to chapter 42F or 103D.

22           (b) As used in this chapter:

1        "Director" means the director of Business, Economic  
2 Development, and Tourism.

3        "Electric vehicle" has the same meaning as contained in  
4 Title 26, Section 30, of the Internal Revenue Code, for 'new  
5 qualified plug-in electric drive motor vehicle,' and means a  
6 motor vehicle, including a plug-in hybrid electric vehicle:

7        (1) Which draws propulsion using a traction battery with  
8 at least 4 kilowatt hours of capacity;

9        (2) Which uses an off-board source of energy to recharge  
10 such battery;

11        (3) The original use of which commences with the taxpayer;  
12 and

13        (4) Which is acquired for use or lease by the taxpayer and  
14 not for resale.

15        "Fleet" means more than fifty light duty motor vehicles in  
16 the state owned or operated by related entities.

17        "Integrated intelligently with the electrical grid" means  
18 that the demand of the vehicle for electricity from the grid is  
19 controlled to reduce the electrical demand on the grid during  
20 peak demand times and maximize the use of renewable energy  
21 sources or use of renewable energy potentially available off  
22 peak that would otherwise be curtailed.

1        (c) The transportation energy transformation grant fund  
2 may be used by the director to make transportation energy  
3 transformation grants authorized under this chapter. The  
4 transportation energy transformation grant fund shall also be  
5 used by the director to pay for any administrative and  
6 operational costs, including personnel costs and marketing  
7 costs, associated with a transportation energy transformation  
8 grant program. Any law to the contrary notwithstanding, the  
9 director may use the moneys in the transportation energy  
10 transformation grant fund to employ or retain, by contract or  
11 otherwise, without regard to chapters 76 and 78, necessary  
12 professional, expert, managerial, technical, and support  
13 personnel to implement and carry out the purposes of this  
14 article.

15        (d) Before June 30 of each calendar year, fifty per cent  
16 of the grants shall be reserved for non fleet vehicles and no  
17 more than ten per cent of the grants may be provided to any one  
18 fleet.

19        (e) Subject to the availability of funds and the standards  
20 in this chapter, grants for approved electric vehicles shall be  
21 provided to purchasers of electric vehicles intended to be

1 integrated intelligently with the electrical grid and licensed  
2 for use on Hawaii's highways, as follows:

3 (1) Beginning January 1, 2010, and expiring December 31,  
4 2010: up to \$4000 per vehicle; limited to the first  
5 500 vehicles.

6 (2) Beginning January 1, 2011, and expiring December 31,  
7 2011: up to \$3500 per vehicle; limited to the first  
8 1000 vehicles.

9 (3) Beginning January 1, 2012, and expiring December 31,  
10 2013: up to \$2500 per vehicle; limited to the first  
11 2000 vehicles per year.

12 (4) Beginning January 1, 2014, and expiring December 31,  
13 2015: up to \$2000 per vehicle; limited to the first  
14 2500 vehicles per year.

15 (5) Beginning January 1, 2016, and expiring December 31,  
16 2021: up to \$500 per vehicle; limited to the first  
17 10000 vehicles per year.

18 (f) The description, specifications, guidelines, and  
19 requirements for intelligent integration with the electrical  
20 grid shall be further developed and determined by the director  
21 by rule. The director may amend, narrow, or expand the

1 definitions, descriptions, specifications, and requirements of  
2 intelligent integration.

3 (g) A grant may be made to an applicant only if the  
4 applicant:

5 (1) Has met the descriptions, specifications, guidelines,  
6 and requirements established by the director for the  
7 grant program;

8 (2) Has filed a completed application form, as determined  
9 solely by the director, together with all supporting  
10 documentation required by the director;

11 (3) Has, in the case of a fleet, filed completed grant  
12 applications together for all vehicles in the fleet;

13 (4) Has completed the purchase or lease, licensing, and  
14 registration of the vehicle, prior to applying for the  
15 grant;

16 (5) Has provided any other information deemed necessary by  
17 the director; and

18 (6) Has met all additional requirements needed to  
19 implement the grant program as determined by the  
20 director.

21 (h) The director shall include information on the  
22 transportation energy transformation grant fund and statistical

1 information on program participation in the department's annual  
2 report to the governor and the legislature."

3 SECTION 13. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$3,750,000, or so  
5 much thereof as may be necessary, for fiscal year 2009-2010, to  
6 develop and implement the transportation energy transformation  
7 grant fund. The sum appropriated shall be expended by the  
8 department of Business, Economic Development, and Tourism. The  
9 appropriation shall not lapse at the end of the fiscal period  
10 for which the appropriation is made; provided that any  
11 unexpended and unencumbered money as of June 30, 2012, shall  
12 lapse as of that date.

13 SECTION 14. Section 235-110.3, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§235-110.3** [~~Ethanol~~] **Biofuel** facility tax credit. (a)  
16 Each year during the credit period, there shall be allowed to  
17 each taxpayer subject to the taxes imposed by this chapter, [~~an~~  
18 ~~ethanol~~] a biofuel facility tax credit that shall be applied to  
19 the taxpayer's net income tax liability, if any, imposed by this  
20 chapter for the taxable year in which the credit is properly  
21 claimed.

1 For each qualified [~~ethanol~~] biofuel production facility,  
2 the annual dollar amount of the [~~ethanol~~] biofuel facility tax  
3 credit during the eight-year period shall be equal to thirty per  
4 cent of its nameplate capacity if the nameplate capacity is  
5 greater than five hundred thousand [~~but less than fifteen~~  
6 ~~million~~] gallons. A taxpayer may claim this credit for the  
7 first fifteen million gallons of capacity of each qualifying  
8 [~~ethanol~~] biofuel facility; provided that:

9 (1) The claim for this credit by any taxpayer of a  
10 qualifying [~~ethanol~~] biofuel production facility shall  
11 not exceed one hundred per cent of the total of all  
12 investments made by the taxpayer in the qualifying  
13 [~~ethanol~~] biofuel production facility prior to and  
14 during the credit period;

15 (2) The qualifying [~~ethanol~~] biofuel production facility  
16 operated at a level of production of at least seventy-  
17 five per cent of its nameplate capacity on an  
18 annualized basis;

19 (3) The qualifying [~~ethanol~~] biofuel production facility  
20 is in production on or before January 1, 2017; and

1 (4) No taxpayer that claims the credit under this section  
2 shall claim any other tax credit under this chapter  
3 for the same taxable year.

4 (b) As used in this section:

5 "Biofuel" means ethanol, biodiesel, diesel, jet fuel, or  
6 other liquid fuel meeting the relevant fuel specifications of  
7 ASTM International (formerly ASTM, the American Society for  
8 Testing and Materials).

9 "Credit period" means a maximum period of eight years  
10 beginning from the first taxable year in which the qualifying  
11 [~~ethanol~~] biofuel production facility begins production even if  
12 actual production is not at seventy-five per cent of nameplate  
13 capacity.

14 "Investment" means a nonrefundable capital expenditure  
15 related to the development and construction of any qualifying  
16 [~~ethanol~~] biofuel production facility, including processing  
17 equipment, waste treatment systems, pipelines, and liquid  
18 storage tanks at the facility or remote locations, including  
19 expansions or modifications. Capital expenditures shall be  
20 those direct and certain indirect costs determined in accordance  
21 with section 263A of the Internal Revenue Code, relating to  
22 uniform capitalization costs, but shall not include expenses for



1 compensation paid to officers of the taxpayer, pension and other  
2 related costs, rent for land, the costs of repairing and  
3 maintaining the equipment or facilities, training of operating  
4 personnel, utility costs during construction, property taxes,  
5 costs relating to negotiation of commercial agreements not  
6 related to development or construction, or service costs that  
7 can be identified specifically with a service department or  
8 function or that directly benefit or are incurred by reason of a  
9 service department or function. For the purposes of determining  
10 a capital expenditure under this section, the provisions of  
11 section 263A of the Internal Revenue Code shall apply as it read  
12 on March 1, 2004. For purposes of this section, investment  
13 excludes land costs and includes any investment for which the  
14 taxpayer is at risk, as that term is used in section 465 of the  
15 Internal Revenue Code (with respect to deductions limited to  
16 amount at risk).

17 "Nameplate capacity" means the qualifying [~~ethanol~~] biofuel  
18 production facility's production design capacity, in gallons of  
19 [~~motor fuel grade ethanol~~] biofuel per year.

20 "Net income tax liability" means net income tax liability  
21 reduced by all other credits allowed under this chapter.

1 "Qualifying [~~ethanol~~] biofuel production" means [~~ethanol~~]  
2 biofuel produced from renewable, organic feedstocks, or waste  
3 materials, including municipal solid waste. All qualifying  
4 production shall be fermented, distilled, gasified, or produced  
5 by physical chemical conversion methods such as reformation and  
6 catalytic conversion and dehydrated at the facility.

7 "Qualifying [~~ethanol~~] biofuel production facility" or  
8 "facility" means a facility located in Hawaii which produces  
9 [~~motor~~] fuel grade [~~ethanol meeting the minimum specifications~~  
10 ~~by the American Society of Testing and Materials standard D-~~  
11 ~~4806, as amended.~~] biofuel.

12 (c) In the case of a taxable year in which the cumulative  
13 claims for the credit by the taxpayer of a qualifying [~~ethanol~~]  
14 biofuel production facility exceeds the cumulative investment  
15 made in the qualifying [~~ethanol~~] biofuel production facility by  
16 the taxpayer, only that portion that does not exceed the  
17 cumulative investment shall be claimed and allowed.

18 (d) The department of business, economic development, and  
19 tourism shall:

20 (1) Maintain records of the total amount of investment  
21 made by each taxpayer in a facility;

22 (2) Verify the amount of the qualifying investment;

1 (3) Total all qualifying and cumulative investments that  
2 the department of business, economic development, and  
3 tourism certifies; and

4 (4) Certify the total amount of the tax credit for each  
5 taxable year and the cumulative amount of the tax  
6 credit during the credit period.

7 Upon each determination, the department of business,  
8 economic development, and tourism shall issue a certificate to  
9 the taxpayer verifying the qualifying investment amounts, the  
10 credit amount certified for each taxable year, and the  
11 cumulative amount of the tax credit during the credit period.

12 The taxpayer shall file the certificate with the taxpayer's tax  
13 return with the department of taxation. Notwithstanding the  
14 department of business, economic development, and tourism's  
15 certification authority under this section, the director of  
16 taxation may audit and adjust certification to conform to the  
17 facts.

18 If in any year, the annual amount of certified credits  
19 reaches \$12,000,000 in the aggregate, the department of  
20 business, economic development, and tourism shall immediately  
21 discontinue certifying credits and notify the department of  
22 taxation. In no instance shall the total amount of certified

1 credits exceed \$12,000,000 per year. Notwithstanding any other  
2 law to the contrary, this information shall be available for  
3 public inspection and dissemination under chapter 92F.

4 (e) If the credit under this section exceeds the  
5 taxpayer's income tax liability, the excess of credit over  
6 liability shall be refunded to the taxpayer; provided that no  
7 refunds or payments on account of the tax credit allowed by this  
8 section shall be made for amounts less than \$1. All claims for  
9 a credit under this section must be properly filed on or before  
10 the end of the twelfth month following the close of the taxable  
11 year for which the credit may be claimed. Failure to comply  
12 with the foregoing provision shall constitute a waiver of the  
13 right to claim the credit.

14 (f) If a qualifying [~~ethanol~~] biofuel production facility  
15 or an interest therein is acquired by a taxpayer prior to the  
16 expiration of the credit period, the credit allowable under  
17 subsection (a) for any period after such acquisition shall be  
18 equal to the credit that would have been allowable under  
19 subsection (a) to the prior taxpayer had the taxpayer not  
20 disposed of the interest. If an interest is disposed of during  
21 any year for which the credit is allowable under subsection (a),  
22 the credit shall be allowable between the parties on the basis

1 of the number of days during the year the interest was held by  
2 each taxpayer. In no case shall the credit allowed under  
3 subsection (a) be allowed after the expiration of the credit  
4 period.

5 ~~[(g) Once the total nameplate capacities of qualifying  
6 ethanol production facilities built within the State reaches or  
7 exceeds a level of forty million gallons per year, credits under  
8 this section shall not be allowed for new ethanol production  
9 facilities. If a new facility's production capacity would cause  
10 the statewide ethanol production capacity to exceed forty  
11 million gallons per year, only the ethanol production capacity  
12 that does not exceed the statewide forty million gallon per year  
13 level shall be eligible for the credit.]~~

14 ~~[(h)]~~ (g) Prior to construction of any new qualifying  
15 ~~[ethanol]~~ biofuel production facility, the taxpayer shall  
16 provide written notice of the taxpayer's intention to begin  
17 construction of a qualifying ~~[ethanol]~~ biofuel production  
18 facility. The information shall be provided to the department  
19 of taxation and the department of business, economic  
20 development, and tourism on forms provided by the department of  
21 business, economic development, and tourism, and shall include  
22 information on the taxpayer, facility location, facility

1 production capacity, anticipated production start date, and the  
2 taxpayer's contact information. Notwithstanding any other law  
3 to the contrary, this information shall be available for public  
4 inspection and dissemination under chapter 92F.

5 ~~[(i)]~~ (h) The taxpayer shall provide written notice to the  
6 director of taxation and the director of business, economic  
7 development, and tourism within thirty days following the start  
8 of production. The notice shall include the production start  
9 date and expected ~~[ethanol]~~ biofuel fuel production for the next  
10 twenty-four months. Notwithstanding any other law to the  
11 contrary, this information shall be available for public  
12 inspection and dissemination under chapter 92F.

13 ~~[(j)]~~ (i) If a qualifying ~~[ethanol]~~ biofuel production  
14 facility fails to achieve an average annual production of at  
15 least seventy-five per cent of its nameplate capacity for two  
16 consecutive years, the stated capacity of that facility may be  
17 revised by the director of business, economic development, and  
18 tourism to reflect actual production for the purposes of  
19 determining ~~[statewide production capacity under subsection (g)~~  
20 ~~and]~~ allowable credits for that facility under subsection (a).  
21 Notwithstanding any other law to the contrary, this information

1 shall be available for public inspection and dissemination under  
2 chapter 92F.

3 ~~[(\*)]~~ (j) Each calendar year during the credit period, the  
4 taxpayer shall provide information to the director of business,  
5 economic development, and tourism on the ~~[number of]~~ gallons ~~[of~~  
6 ~~ethanol]~~ and type of biofuel produced and sold during the  
7 previous calendar year, how much was sold in Hawaii versus  
8 overseas, percentage of Hawaii-grown feedstocks and other  
9 feedstocks used for ~~[ethanol]~~ biofuel production, the number of  
10 employees of the facility, and the projected ~~[number of]~~ gallons  
11 ~~[of ethanol]~~ and type of biofuel production for the succeeding  
12 year.

13 ~~[(l)]~~ (k) In the case of a partnership, S corporation,  
14 estate, or trust, the tax credit allowable is for every  
15 qualifying ~~[ethanol]~~ biofuel production facility. The cost upon  
16 which the tax credit is computed shall be determined at the  
17 entity level. Distribution and share of credit shall be  
18 determined pursuant to section 235-110.7(a)..

19 ~~[(m)]~~ (l) Following each year in which a credit under this  
20 section has been claimed, the director of business, economic  
21 development, and tourism shall ~~[submit a written]~~ include in its  
22 annual report to the governor and legislature ~~[regarding the~~

1 ~~production and sale of ethanol. The report shall include] the~~  
2 following:

- 3 (1) The number, location, and nameplate capacities of  
4 qualifying ~~[ethanol]~~ biofuel production facilities in  
5 the State;
- 6 (2) The total number of gallons of ~~[ethanol]~~ biofuel  
7 produced and sold during the previous year; and
- 8 (3) The projected number of gallons of ~~[ethanol]~~ biofuel  
9 production for the succeeding year.

10 ~~[(n)]~~ (m) The director of taxation shall prepare forms  
11 that may be necessary to claim a credit under this section.  
12 Notwithstanding the department of business, economic  
13 development, and tourism's certification authority under this  
14 section, the director may audit and adjust certification to  
15 conform to the facts. The director may also require the  
16 taxpayer to furnish information to ascertain the validity of the  
17 claim for credit made under this section and may adopt rules  
18 necessary to effectuate the purposes of this section pursuant to  
19 chapter 91."

20 SECTION 15. Section 251-2, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "§251-2   **Rental motor vehicle and tour vehicle surcharge**

2 **tax.**   (a)   There is levied and shall be assessed and collected  
3 each month a rental motor vehicle surcharge tax of \$2 a day,  
4 except that for the period of September 1, 1999, to August 31,  
5 2011, the tax shall be \$3 a day, or any portion of a day that a  
6 rental motor vehicle is rented or leased. The rental motor  
7 vehicle surcharge tax shall be levied upon the lessor; provided  
8 that the tax shall not be levied on the lessor if:

9       (1)   The lessor is renting the vehicle to replace a vehicle  
10           of the lessee that is being repaired; and

11       (2)   A record of the repair order for the vehicle is  
12           retained either by the lessor for two years for  
13           verification purposes or by a motor vehicle repair  
14           dealer for two years as provided in section 437B-16.

15       (b)   There is levied and shall be assessed and collected  
16 each month a tour vehicle surcharge tax of:

17       (1)   \$65 for each tour vehicle used or partially used  
18           during the month that falls into the over twenty-five  
19           passenger seat category; and

20       (2)   \$15 for each tour vehicle used or partially used  
21           during the month that falls into the eight to twenty-  
22           five passenger seat category.

1       The tour vehicle surcharge tax shall be levied upon the  
2 tour vehicle operator.

3       (c) For the period of January 1, 2010, through December  
4 31, 2015, up to two hundred alternative fueled light duty motor  
5 vehicles per rental car fleet shall be exempt from the rental  
6 motor vehicle surcharge tax.

7       (d) For the purposes of this section:

8       "Alternative fuel" means alcohol fuels; mixtures containing  
9 eighty-five per cent or more by volume of alcohols with gasoline  
10 or other fuels; natural gas; liquefied petroleum gas; hydrogen;  
11 biodiesel; mixtures containing twenty per cent or more by volume  
12 of biodiesel with diesel or other fuels; other fuels derived  
13 from biological materials; and electricity provided by off-board  
14 energy sources.

15       "Alternative fuel vehicle" means a vehicle capable of  
16 operating on an alternative fuel.

17       "Light duty motor vehicle" has the same meaning as  
18 contained in 10 Code of Federal Regulations Part 490. It does  
19 not include any vehicle incapable of traveling on highways or  
20 any vehicle with a gross vehicle weight rating greater than  
21 8,500 pounds.

1 "Related entities" has the same meaning as defined by  
2 section 237-23.5.

3 "Rental car fleet" refers to all vehicles in the State  
4 owned or operated by related entities."

6 PART IV

7 TRANSPORTATION ENERGY REQUIREMENTS

8 SECTION 16. Section 103D-412, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 **"§103D-412 ~~[Energy-efficient vehicles.]~~ Light duty motor**  
11 **vehicle requirements.** (a) The procurement policy for all  
12 agencies purchasing or leasing light duty motor vehicles shall  
13 be to ~~[obtain energy-efficient vehicles. All covered fleets are~~  
14 ~~directed to procure increasing percentages of energy-efficient~~  
15 ~~vehicles as part of their annual vehicle acquisition plans,~~  
16 ~~which shall be as follows:~~

17 ~~(1) In the fiscal year beginning July 1, 2006, at least~~  
18 ~~twenty per cent of newly purchased light-duty vehicles~~  
19 ~~acquired by each covered fleet shall be energy-~~  
20 ~~efficient vehicles;~~

21 ~~(2) In the fiscal year beginning July 1, 2007, at least~~  
22 ~~thirty per cent of newly purchased light-duty vehicles~~

1 ~~acquired by each covered fleet shall be energy-~~  
2 ~~efficient vehicles;~~

3 ~~(3) In the fiscal year beginning July 1, 2008, at least~~  
4 ~~forty per cent of newly purchased light-duty vehicles~~  
5 ~~acquired by each covered fleet shall be energy-~~  
6 ~~efficient vehicles; and~~

7 ~~(4) For each subsequent fiscal year, the percentage of~~  
8 ~~energy-efficient vehicles newly purchased shall be~~  
9 ~~five percentage points higher than the previous year,~~  
10 ~~until at least seventy-five per cent of each covered~~  
11 ~~fleet's newly purchased, light-duty vehicles are~~  
12 ~~energy-efficient vehicles.]~~

13 reduce dependence on petroleum for transportation energy.

14 Beginning January 1, 2010, all state and county entities shall,  
15 when purchasing new vehicles, seek vehicles with reduced  
16 dependence on petroleum-based fuels, in the following descending  
17 order of priority:

18 (1) The agency shall first evaluate any available electric  
19 or plug-in hybrid electric vehicle and, if it meets  
20 the needs of the agency, such vehicle shall be  
21 selected.

1        (2) If an electric or plug-in hybrid electric vehicle that  
2            meets the needs of the agency is not available, the  
3            agency may select a hydrogen or fuel cell vehicle.

4        (3) If a hydrogen or fuel cell vehicle that meets the  
5            needs of the agency is not available, the agency may  
6            select an alternative fuel vehicle.

7        (4) If an alternative fuel vehicle that meets the needs of  
8            the agency is not available, the agency may select a  
9            hybrid electric vehicle.

10       (5) If a hybrid electric vehicle that meets the needs of  
11           the agency is not available, the agency shall select a  
12           vehicle that is identified by the United States  
13           Environmental Protection Agency in its annual "Fuel  
14           Economy Leaders" report as being among the top  
15           performers for fuel economy in its class.

16       (b) For the purposes of this section:

17       "Agency" means a state agency, office, or department.

18       "Alternative fuel" [~~has the same meaning as contained in 10~~  
19       ~~Code of Federal Regulations Part 490]~~ means alcohol fuels;  
20       mixtures containing eighty-five per cent or more by volume of  
21       alcohols with gasoline or other fuels; natural gas; liquefied  
22       petroleum gas; hydrogen; biodiesel; mixtures containing twenty

1 per cent or more by volume of biodiesel with diesel or other  
2 fuels; other fuels derived from biological materials; and  
3 electricity provided by off-board energy sources.

4 "Covered fleet" has the same meaning as contained in 10  
5 Code of Federal Regulations Part 490 Subpart C.

6 [~~"Energy-efficient vehicle" means a vehicle that:~~

7 ~~(1) Is capable of using an alternative fuel;~~

8 ~~(2) Is powered primarily through the use of an electric~~  
9 ~~battery or battery pack that stores energy produced by~~  
10 ~~an electric motor through regenerative braking to~~  
11 ~~assist in vehicle operation;~~

12 ~~(3) Is propelled by power derived from one or more cells~~  
13 ~~converting chemical energy directly into electricity~~  
14 ~~by combining oxygen with hydrogen fuel that is stored~~  
15 ~~on board the vehicle in any form;~~

16 ~~(4) Draws propulsion energy from onboard sources of stored~~  
17 ~~energy generated from an internal combustion or heat~~  
18 ~~engine using combustible fuel and a rechargeable~~  
19 ~~energy storage system; or~~

20 ~~(5) Is on the list of "Most Energy Efficient Vehicles" in~~  
21 ~~its class or is in the top one-fifth of the most~~  
22 ~~energy-efficient vehicles in its class available in~~

1 ~~Hawaii as shown by vehicle fuel efficiency lists,~~  
2 ~~rankings, or reports maintained by the United States~~  
3 ~~Environmental Protection Agency.]~~

4 "Excluded vehicles" has the same meaning as provided in 10  
5 Code of Federal Regulations Section 490.3.

6 [~~"Light duty vehicle"~~] "Light duty motor vehicle" has the  
7 same meaning as contained in 10 Code of Federal Regulations Part  
8 490. It does not include any vehicle incapable of traveling on  
9 highways or any vehicle with a gross vehicle weight rating  
10 greater than 8,500 pounds.

11 [~~(c) Agencies may offset energy efficient vehicle purchase~~  
12 ~~requirements by successfully demonstrating percentage~~  
13 ~~improvements in overall light-duty vehicle fleet mileage~~  
14 ~~economy. The offsets shall be measured against the fleet~~  
15 ~~average miles per gallon of petroleum-based gasoline and diesel~~  
16 ~~fuel, using the fiscal year beginning July 1, 2006, as a~~  
17 ~~baseline, on a percentage-by-percentage basis.~~

18 [~~(d) Agencies that use biodiesel fuel may offset the~~  
19 ~~vehicle purchase requirements of this section at the rate of one~~  
20 ~~vehicle for each four hundred fifty gallons of neat biodiesel~~  
21 ~~fuel used. Neat biodiesel fuel is one hundred per cent~~  
22 ~~biodiesel (B100) by volume.]~~

1           ~~[(+)]~~ (c) Agencies may apply to the chief procurement  
2 officer for exemptions from the requirements of this section to  
3 the extent that the vehicles required by this section are not  
4 available or do not meet the specific needs of the agency. Life  
5 cycle vehicle and fuel costs may be included in the  
6 determination of whether a particular vehicle meets the needs of  
7 the agency. Estimates of future fuel prices shall be based on  
8 projections from the United States Energy Information  
9 Administration.

10           ~~[(+)]~~ (d) Vehicles acquired from another state agency and  
11 excluded vehicles are exempt from the requirements of this  
12 section.

13           ~~[(+)]~~ (e) Nothing in this section is intended to interfere  
14 with ~~[an agency's]~~ the ability of a covered fleet to comply with  
15 ~~[federally imposed]~~ the vehicle purchase mandates ~~[such as~~  
16 ~~these]~~ required by 10 Code of Federal Regulations Part 490  
17 Subpart C."

18           SECTION 17. Section 196-9(c), Hawaii Revised Statutes, is  
19 amended to read as follows:

20           "(c) With regard to motor vehicles and transportation  
21 fuel, each agency shall:



S.B. NO. 872

- 1 (1) Comply with Title 10, Code of Federal Regulations,  
2 Part 490, Subpart C, "Mandatory State Fleet Program",  
3 if applicable;
- 4 (2) Comply with all applicable state laws regarding  
5 vehicle purchases;
- 6 (3) Once federal and state vehicle purchase mandates have  
7 been satisfied, purchase the most fuel-efficient  
8 vehicles that meet the needs of their programs;  
9 provided that life cycle cost-benefit analysis of  
10 vehicle purchases shall include projected fuel costs;
- 11 (4) Purchase alternative fuels and ethanol blended  
12 gasoline when available;
- 13 (5) ~~[Evaluate a purchase preference for]~~ Purchase  
14 biodiesel blends, ~~[as applicable to agencies with~~  
15 ~~diesel fuel purchases;]~~ in accordance with chapter  
16 103D;
- 17 (6) Promote efficient operation of vehicles;
- 18 (7) Use the most appropriate minimum octane fuel;  
19 ~~[provided that]~~ vehicles shall use 87-octane fuel  
20 unless the owner's manual for the vehicle states  
21 otherwise or the engine experiences knocking or  
22 pinging;

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1           (8) [~~Beginning with fiscal year 2005-2006 as the baseline,~~  
2           ~~collect~~] Collect and maintain, for [~~the life of~~] each  
3           vehicle acquired, the following data:

- 4           (A) Vehicle acquisition cost;
- 5           (B) United States Environmental Protection Agency  
6           rated fuel economy;
- 7           (C) Vehicle fuel configuration, such as gasoline,  
8           diesel, flex-fuel gasoline/E85, and dedicated  
9           propane;
- 10          (D) Actual in-use vehicle mileage;
- 11          (E) Actual in-use vehicle fuel consumption; and
- 12          (F) Actual in-use annual average vehicle fuel  
13          economy [~~;~~ and].

14          (9) [~~Beginning with fiscal year 2005-2006 as the baseline~~  
15          ~~with respect to each~~] Each agency that operates a  
16          fleet of thirty or more vehicles [~~;~~] shall collect and  
17          maintain, in addition to the data in paragraph (8),  
18          the following:

- 19          (A) Information on the vehicles in the fleet,  
20          including vehicle year, make, model, gross  
21          vehicle weight rating, and vehicle fuel  
22          configuration;

S.B. NO. 872

- 1 (B) Fleet fuel usage, by fuel;
- 2 (C) Fleet mileage; and
- 3 (D) Overall annual average fleet fuel economy and
- 4 average miles per gallon of gasoline and diesel."

5 SECTION 18. Section 103D-1012, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[~~f~~]**\$103D-1012**[~~f~~] **Biofuel preference.** (a)

8 Notwithstanding any other law to the contrary, contracts for the  
9 purchase of diesel fuel or boiler fuel shall be awarded to the  
10 lowest responsible and responsive bidders, with preference given  
11 to bids for biofuels or blends of biofuel and petroleum fuel.

12 (b) When purchasing fuel for use in diesel engines, the  
13 preference shall be [~~five cents~~] twenty per cent per gallon of  
14 one hundred per cent [~~biodiesel~~] biomass-based diesel. For  
15 blends containing both [~~biodiesel~~] biomass-based diesel and  
16 petroleum-based diesel, the preference shall be applied only to  
17 the [~~biodiesel~~] biomass-based diesel portion of the blend.

18 (c) When purchasing fuel for use in boilers, the  
19 preference shall be [~~five cents~~] twenty per cent per gallon of  
20 one hundred per cent biofuel. For blends containing both  
21 biofuel and petroleum-based boiler fuel, the preference shall be  
22 applied only to the biofuel portion of the blend.

1 (d) As used in this section, "biodiesel" means a vegetable  
2 oil-based fuel that meets ASTM International standard D6751,  
3 "Standard Specification for Biodiesel (B100) Fuel Blend Stock  
4 for Distillate Fuels", as amended.

5 (e) As used in this section, "biofuel" means fuel from  
6 non-petroleum plant or animal based sources that can be used for  
7 the generation of heat or power.

8 (f) As used in this section, "biomass-based diesel" means  
9 biodiesel or diesel fuel substitute produced in Hawaii from  
10 biomass, provided that the fuel is registered with the  
11 Environmental Protection Agency for use in on-road engines and  
12 meets ASTM International fuel specifications for use in diesel  
13 engines.

14 (g) Beginning January 1, 2012, all state-owned diesel  
15 vehicles and equipment are required to be fueled with blends of  
16 biomass-based diesel, subject to the availability of the fuel,  
17 and so long as the price is no greater than twenty per cent more  
18 per gallon than the price of conventional diesel."

19 SECTION 19. Chapter 196, Hawaii Revised Statutes, is  
20 amended by adding a new section to be appropriately designated  
21 and to read as follows:

1 "§196- Alternative fuel vehicle requirement for private

2 fleets. (a) Beginning January 1, 2015, each fleet operator  
3 controlling more than fifty light duty motor vehicles in the  
4 State shall, when replacing its light duty motor vehicles or  
5 expanding its fleet, acquire increasing percentages of vehicles  
6 capable of operating on non-petroleum energy sources, including  
7 electric vehicles, flexible fuel vehicles, or other alternative  
8 fuel vehicles.

9 (b) At least four per cent of all new light duty motor  
10 vehicles acquired by a fleet operator in the State during  
11 calendar year 2015 shall be alternative fuel vehicles. This  
12 percentage shall increase by four per cent per year, reaching  
13 sixty-four per cent in the calendar year 2030.

14 (c) For the purposes of this section:

15 "Acquire" means to take into possession or control, whether  
16 by lease, purchase, or other arrangement.

17 "Alternative fuel" means alcohol fuels; mixtures containing  
18 eighty-five per cent or more by volume of alcohols with gasoline  
19 or other fuels; natural gas; liquefied petroleum gas; hydrogen;  
20 biodiesel; mixtures containing twenty per cent or more by volume  
21 of biodiesel with diesel or other fuels; other fuels derived

1 from biological materials; and electricity provided by off-board  
2 energy sources.

3 "Alternative fuel vehicle" means a vehicle capable of  
4 operating on an alternative fuel.

5 "Electric vehicle" means a vehicle powered by electricity.  
6 It does not include a neighborhood electric vehicle or any  
7 vehicle that is not designed to obtain electricity from sources  
8 outside the vehicle.

9 "Fleet operator" means an entity controlling more than  
10 fifty light duty motor vehicles for use in a business  
11 enterprise, including vehicle rental, but does not include  
12 vehicles held for retail sale.

13 "Light duty motor vehicle" has the same meaning as  
14 contained in 10 Code of Federal Regulations Part 490. It does  
15 not include any vehicle incapable of traveling on highways or  
16 any vehicle with a gross vehicle weight rating greater than  
17 8,500 pounds.

18 (d) A fleet operator and its affiliates may aggregate  
19 their vehicle purchases.

20 (e) Fleet operators acquiring vehicles earlier than the  
21 program start date or in excess of the number of vehicles  
22 required will be able to accumulate alternative fuel vehicle

1 credits, which may be traded, sold, or banked for later use in  
2 meeting vehicle acquisition requirements.

3 (f) Fleet operators shall file annual reports with the  
4 energy resources coordinator. Reports shall be for each calendar  
5 year, and shall conform to the format, content, and reporting  
6 requirements specified by the energy resources coordinator.  
7 Reports shall be filed by June 30 following the close of the  
8 calendar year of the report.

9 (g) Fleet operators may apply to the energy resources  
10 coordinator for exemptions from the requirements of this section  
11 to the extent that the vehicles required by this section are not  
12 available or do not meet the specific needs of the fleet. To be  
13 eligible for an exemption, a fleet operator must be able to  
14 demonstrate having made a good faith effort to comply with the  
15 requirements.

16 (h) Any fleet operator or any other person violating the  
17 requirements of this section may be subject to a fine of up to  
18 \$1,000 per nonconforming vehicle and up to \$50 per day per  
19 annual report.

20 (i) The energy resources coordinator, in accordance with  
21 chapter 91, shall adopt rules for the administration and  
22 enforcement of this section."

PART V

TRANSPORTATION ENERGY PLANS AND STUDIES

SECTION 20. The department of accounting and general services shall develop an implementation plan for installation of electric vehicle charging stations at State-owned parking facilities.

SECTION 21. Section 286-172, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Subject to authorization granted by the chief justice with respect to the traffic records of the violations bureaus of the district courts and of the circuit courts, the director of transportation shall furnish information contained in the statewide traffic records system in response to:

(1) Any request from a state, a political subdivision of a state, or a federal department or agency, or any other authorized person pursuant to rules adopted by the director of transportation under chapter 91;

(2) Any request from a person having a legitimate reason, as determined by the director, as provided under the rules adopted by the director under paragraph (1), to obtain the information for verification of vehicle



1 ownership, traffic safety programs, or for research or  
2 statistical reports; [~~or~~]

3 (3) Any request from the energy resources coordinator, to  
4 track the number and type of vehicles in use and the  
5 effectiveness of efforts to increase the efficiency  
6 and diversify the fuel needs of Hawaii's  
7 transportation sector; or

8 [~~(3)~~] (4) Any request from a person required or authorized  
9 by law to give written notice by mail to owners of  
10 vehicles."

11 SECTION 22. Section 92F-19, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§92F-19 Limitations on disclosure of government records**  
14 **to other agencies.** (a) No agency may disclose or authorize  
15 disclosure of government records to any other agency unless the  
16 disclosure is:

17 (1) Necessary for the performance of the requesting  
18 agency's duties and functions and is also:

19 (A) Compatible with the purpose for which the  
20 information was collected or obtained; or

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- 1 (B) Consistent with the conditions or reasonable  
2 expectations of use and disclosure under which  
3 the information was provided;
- 4 (2) To the state archives for the purposes of historical  
5 preservation, administrative maintenance, or  
6 destruction;
- 7 (3) To another agency, another state, or the federal  
8 government, or foreign law enforcement agency or  
9 authority, if the disclosure is:
- 10 (A) For the purpose of a civil or criminal law  
11 enforcement activity authorized by law; and
- 12 (B) Pursuant to:
- 13 (i) A written agreement or written request, or  
14 (ii) A verbal request, made under exigent  
15 circumstances, by an officer or employee of  
16 the requesting agency whose identity has  
17 been verified, provided that such request is  
18 promptly confirmed in writing;
- 19 (4) To a criminal law enforcement agency of this State,  
20 another state, or the federal government, or a foreign  
21 criminal law enforcement agency or authority, if the  
22 information is limited to an individual's name and

- 1 other identifying particulars, including present and  
2 past places of employment;
- 3 (5) To a foreign government pursuant to an executive  
4 agreement, compact, treaty, or statute;
- 5 (6) To the legislature, or a county council, or any  
6 committee or subcommittee thereof;
- 7 (7) Pursuant to an order of a court of competent  
8 jurisdiction;
- 9 (8) To authorized officials of another agency, another  
10 state, or the federal government for the purpose of  
11 auditing or monitoring an agency program that receives  
12 federal, state, or county funding;
- 13 (9) To the offices of the legislative auditor, the  
14 legislative reference bureau, or the ombudsman of this  
15 State for the performance of their respective  
16 functions;
- 17 (10) To the department of human resources development,  
18 county personnel agencies, or line agency personnel  
19 offices for the performance of their respective duties  
20 and functions, including employee recruitment and  
21 examination, classification and compensation reviews,  
22 the administration and auditing of personnel

1 transactions, the administration of training and  
2 safety, workers' compensation, and employee benefits  
3 and assistance programs, and for labor relations  
4 purposes;

5 (11) To the department of business, economic development,  
6 and tourism for the performance of their statutory  
7 responsibilities; or

8 [~~(11)~~] (12) Otherwise subject to disclosure under this  
9 chapter.

10 (b) An agency receiving government records pursuant to  
11 subsection (a) shall be subject to the same restrictions on  
12 disclosure of the records as the originating agency."

13 SECTION 23. Section 226-17, Hawaii Revised Statutes, is  
14 amended by amending subsection (b) to read as follows:

15 "(b) To achieve the transportation objectives, it shall be  
16 the policy of this State to:

17 (1) Design, program, and develop a multi-modal system in  
18 conformance with desired growth and physical  
19 development as stated in this chapter;

20 (2) Coordinate state, county, federal, and private  
21 transportation activities and programs toward the  
22 achievement of statewide objectives;

- 1           (3) Encourage a reasonable distribution of financial  
2           responsibilities for transportation among  
3           participating governmental and private parties;
- 4           (4) Provide for improved accessibility to shipping,  
5           docking, and storage facilities;
- 6           (5) Promote a reasonable level and variety of mass  
7           transportation services that adequately meet statewide  
8           and community needs;
- 9           (6) Encourage transportation systems that serve to  
10          accommodate present and future development needs of  
11          communities;
- 12          (7) Encourage a variety of carriers to offer increased  
13          opportunities and advantages to interisland movement  
14          of people and goods;
- 15          (8) Increase the capacities of airport and harbor systems  
16          and support facilities to effectively accommodate  
17          transshipment and storage needs;
- 18          (9) Encourage the development of transportation systems  
19          and programs which would assist statewide economic  
20          growth and diversification;

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1 (10) Encourage the design and development of transportation  
2 systems sensitive to the needs of affected communities  
3 and the quality of Hawaii's natural environment;

4 (11) Encourage safe and convenient use of low-cost, energy-  
5 efficient, non-polluting means of transportation;

6 (12) Coordinate intergovernmental land use and  
7 transportation planning activities to ensure the  
8 timely delivery of supporting transportation  
9 infrastructure in order to accommodate planned growth  
10 objectives; and

11 (13) [~~Encourage diversification of transportation modes and~~  
12 ~~infrastructure~~] Include transportation energy demand  
13 estimates in statewide and county-wide long-range land  
14 transportation plans that utilize travel demand  
15 forecasting models in order to promote alternate fuels  
16 and energy efficiency."

17 SECTION 24. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 25. This Act shall take effect upon its approval.

21 INTRODUCED BY: \_\_\_\_\_



22 BY REQUEST

**Report Title:**

Hawaii Clean Energy Initiative; Transportation

**Description:**

Establishes transportation energy initiatives necessary for the transition of Hawaii's transportation energy sector from almost completely dependent on petroleum towards the use of efficient, stable, secure, renewable, non-petroleum energy sources by 2030.

SB 872

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO HAWAII'S CLEAN ENERGY INITIATIVE IN TRANSPORTATION ENERGY.

PURPOSE: To begin the transformation of Hawaii's transportation sector from almost completely dependent on petroleum towards the use of efficient, stable, secure, renewable, non-petroleum energy sources through the establishment of:

- (1) Transportation energy infrastructure capable of supporting vehicles using alternative transportation energy sources, including electricity and biofuels;
- (2) Incentives to accelerate transformation to non-petroleum energy sources;
- (3) Requirements for transportation energy diversification; and
- (4) Plans and analysis.

MEANS: Add new sections and amend sections: 92F-19; 103D-412, -1012; 196, -9; 226-17, -18; 235, -110.3; 237; 238-9.5; 251-2; 269-1; 286-41, -172; 291; 437-28; Hawaii Revised Statutes.

JUSTIFICATION: A clean energy economy will reduce Hawaii's oil dependence and its consequent price volatility; provide a measure of energy security; and provide economic diversification. On January 28, 2008, the signing of a Memorandum of Understanding between the State of Hawaii and the U.S. Department of Energy launched the Hawaii Clean Energy Initiative. The objectives of the initiative are to:

- (1) Transform Hawaii's energy sector so that energy efficiency and renewable energy will provide at least 70 percent of Hawaii's energy needs by 2030.



- (2) Increase Hawaii's energy security.
- (3) Contribute to greenhouse gas reduction.
- (4) Capture economic benefits of clean energy for all levels of society.
- (5) Foster and demonstrate innovation.
- (6) Build the workforce of the future.
- (7) Serve as a national model.

Hawaii's transformation will also serve as an integrated model and demonstration test bed for the U.S. and other island communities, attracting demonstration, research, development, and innovation to Hawaii.

Impact on the public: The transformation to a clean energy economy will reduce the dependence and consequent price volatility of petroleum, and attain for the public a measure of energy security and economic diversification.

Impact on the department and other agencies: The activities, programs, and resources of the state energy office will be impacted by the requirements of supporting and implementing this bill. The state energy office's resource requirements are included in the biennium budget.

GENERAL FUND: \$1.67M for FY10

OTHER FUNDS: None

PPBS PROGRAM  
DESIGNATION: BED-120 SI

OTHER AFFECTED  
AGENCIES: Attorney General, Budget and Finance,  
Consumer Advocate, Public Utilities  
Commission, Taxation, Transportation,  
Accounting and General Services, Land and  
Natural Resources

EFFECTIVE DATE: Upon approval.