

Report Title:

Hawaii Clean Energy Initiative (HCEI)

Description:

Establishes initiatives necessary for and sufficient to the transition of Hawaii's energy sector from almost completely dependent on petroleum to 70% dependent on efficient, stable, secure, renewable, non-petroleum energy sources by 2030.

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A BILL FOR AN ACT

RELATING TO HAWAII'S CLEAN ENERGY INITIATIVE.

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

1 PART I

2 SECTION 1. Attaining independence from our detrimental
3 reliance on fossil fuels has been a long-standing objective for
4 the State.

5 Hawaii is the most petroleum dependent State in the use of
6 petroleum for its energy needs. It pays the highest electricity
7 prices in the U.S., and its gasoline costs are among the highest
8 in the country. Fuel surcharges that pass the increases in fuel
9 costs to consumers have significantly increased the cost of over
10 80% of the goods and services sold in Hawaii. Household fuels
11 and utilities costs rose 36.4%, from the previous year, as
12 reflected in the Honolulu Consumer Price Index during the second
13 quarter of 2008. Hawaii's energy costs approaches 11% of its
14 Gross Domestic Product (GDP), whereas in most states energy
15 costs are 4% of GDP. Between 2005 and 2008, state government
16 consumption of electricity increased 3.9%, but expenditures
17 increased 56.8%.

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1 Reducing our oil dependence and its consequent price
2 volatility and attaining a measure of energy security is
3 critical. More than 96% of petroleum in Hawaii now comes from
4 foreign sources. Clean energy from indigenous renewable
5 resources, as an alternative have the potential to provide an
6 estimated 150% of current installed electrical capacity.

7 On January 28, 2008, the signing of a Memorandum of
8 Understanding between the State of Hawaii and the U.S.
9 Department of Energy (U.S. DOE) launched the Hawaii Clean Energy
10 Initiative (HCEI). This initiative and long-term partnership
11 between Hawaii and U.S. DOE is aimed at accelerating the use and
12 development of energy efficiency and renewable energy
13 technologies; allow Hawaii to serve as a model and demonstration
14 test bed for the U.S. and other island communities; and develop
15 a national partnership to accelerate system transformation,
16 whereby the following goals are attained:

17 (1) Achieve a 70% clean energy economy for Hawaii within a
18 generation.

19 (2) Increase Hawaii's energy security.

20 (3) Capture economic benefits of clean energy for all levels
21 of society.

22 (4) Contribute to Green House Gas reduction.

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1 (5) Foster and demonstrate innovation.

2 (6) Build the workforce of the future.

3 (7) Serve as a national model.

4 The purpose of this Act is to provide a first step in
5 aligning Hawaii's energy policy rules with the State's energy
6 goals. For Hawaii to realize energy independence and economic
7 stability the transformation of its energy system must encompass
8 changes to:

9 (1) Hawaii's policy/regulatory framework;

10 (2) System-level technology development and integration;

11 (3) Financing/capital investment; and

12 (4) Institutional system planning.

13 To enable energy efficiency and renewable energy resources to
14 meet 70% of Hawaii's energy demand by 2030, the Hawaii Clean
15 Energy Initiative set goals for energy efficiency; renewable and
16 indigenous electricity production; energy delivery and
17 improvements to the electrical grid; and diversification of
18 energy sources for transportation. The initiatives to achieve
19 these goals were developed by the U.S. Department of Energy; the
20 Department of Business, Economic Development and Tourism; and
21 members of the five Hawaii Clean Energy Initiative working
22 groups over the course of 2008. It presents a range of

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1 measures—some proven elsewhere, some innovative—to reach
2 aggressive energy goals while balancing the interests of various
3 stakeholders.

4 PART II

5 RENEWABLE PORTFOLIO STANDARDS

6 SECTION 2. Section 269-91, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **§269-91 [Definitions.]** For the purposes of this [part]:

9 "Biofuels" means liquid or gaseous fuels produced from
10 organic sources such as biomass crops, agricultural residues and
11 oil crops, such as palm oil, canola oil, soybean oil, waste
12 cooking oil, grease, and food wastes, animal residues and
13 wastes, and sewage and landfill wastes.

14 "Cost-effective" means the ability to produce or purchase
15 electric energy or firm capacity, or both, from renewable energy
16 resources at or below avoided costs consistent with the
17 methodology set by the public utilities commission in accordance
18 with section 269-27.2.

19 "Electric utility company" means a public utility as
20 defined under section 269-1, for the production, conveyance,
21 transmission, delivery, or furnishing of power.

22 "Renewable electrical energy" means:

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(1) Electrical energy generated using renewable energy as the source;

(2) Electrical energy savings brought about by the use of renewable displacement or off-set technologies, including solar water heating, seawater air-conditioning district cooling systems, solar air conditioning, and customer-sited, grid-connected renewable energy systems[+], provided that such electrical energy savings will not count towards the renewable portfolio standards beginning in 2015; or

(3) Electrical energy savings brought about by the use of energy efficiency technologies, including heat pump water heating, ice storage, ratepayer-funded energy efficiency programs, and use of rejected heat from cogeneration and combined heat and power systems, excluding fossil-fueled qualifying facilities that sell electricity to electric utility companies and central station power projects[+], provided that such electrical energy savings will not count towards the renewable portfolio standards beginning in 2015.

"Renewable energy" means energy generated or produced utilizing the following sources:

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- (1) Wind;
- (2) The sun;
- (3) Falling water;
- (4) Biogas, including landfill and sewage-based digester gas;
- (5) Geothermal;
- (6) Ocean water, currents and waves;
- (7) Biomass, including biomass crops, agricultural and animal residues and wastes, and ~~municipal~~ solid waste;
- (8) Biofuels; and
- (9) Hydrogen produced from renewable energy sources.

"Renewable portfolio standard" means the percentage of electrical energy sales that is represented by renewable electrical energy.

SECTION 3. Section 269-92(a) and section 269-92(b), Hawaii Revised Statutes, are amended to read as follows:

"§269-92 Renewable portfolio standards. (a) Each electric utility company that sells electricity for consumption in the State shall establish a renewable portfolio standard of:

- (1) Ten per cent of its net electricity sales by December 31, 2010;

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(2) Fifteen per cent of its net electricity sales by
December 31, 2015; ~~[and]~~

(3) ~~[Twenty]~~ Twenty-five per cent of its net electricity
sales by December 31, 2020~~[-]~~; and

(4) Forty per cent of its net electricity sales by
December 31, 2030.

(b) The public utilities commission may establish
standards for each utility that prescribe what portion of the
renewable portfolio standards shall be met by specific types of
renewable electrical energy resources; provided that:

(1) Before 2015, [A]at least fifty per cent of the
renewable portfolio standards shall be met by
electrical energy generated using renewable energy as
the source, and beginning 2015, the entire renewable
portfolio standards shall be met by electrical
generation from renewable energy sources;

(2) Where electrical energy is generated or displaced by a
combination of renewable and nonrenewable means, the
proportion attributable to the renewable means shall
be credited as renewable energy; ~~[and]~~

(3) Where fossil and renewable fuels are co-fired in the
same generating unit, the unit shall be considered to

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1 generate renewable electrical energy (electricity) in
2 direct proportion to the percentage of the total heat
3 input value represented by the heat input value of the
4 renewable fuels[-]; and

- 5 (4) The public utilities commission shall not approve
6 applications to build new additional fossil-based
7 electric generation units with rated capacity greater
8 than 2 megawatts."

9 SECTION 4. Section 269-95, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§269-95 Renewable portfolio standards study.** The public
12 utilities commission shall:

- 13 (1) By December 31, 2007, develop and implement a utility
14 ratemaking structure, which may include performance-
15 based ratemaking, to provide incentives that encourage
16 Hawaii's electric utility companies to use cost-
17 effective renewable energy resources found in Hawaii
18 to meet the renewable portfolio standards established
19 in section 269-92, while allowing for deviation from
20 the standards in the event that the standards cannot
21 be met in a cost-effective manner or as a result of
22 events or circumstances, such as described in section

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1 269-92(d), beyond the control of the utility that
2 could not have been reasonably anticipated or
3 ameliorated;

4 (2) Gather, review, and analyze empirical data to
5 determine the extent to which any proposed utility
6 ratemaking structure would impact electric utility
7 companies' profit margins, and to ensure that these
8 profit margins do not decrease as a result of the
9 implementation of the proposed ratemaking structure;

10 (3) Using funds from the public utilities special fund,
11 contract with the Hawaii natural energy institute of
12 the University of Hawaii to conduct independent
13 studies to be reviewed by a panel of experts from
14 entities such as the United States Department of
15 Energy, National Renewable Energy Laboratory, Electric
16 Power Research Institute, Hawaii electric utility
17 companies, and other similar institutes with the
18 required expertise. These studies shall include
19 findings and recommendations regarding:

20 (A) The capability of Hawaii's electric utility
21 companies to achieve renewable portfolio
22 standards in a cost-effective manner and shall

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1 assess factors such as the impact on consumer
2 rates, utility system reliability and stability,
3 costs and availability of appropriate renewable
4 energy resources and technologies, permitting
5 approvals, effects on the economy, balance of
6 trade, culture, community, environment, land and
7 water, climate change policies, demographics, and
8 other factors deemed appropriate by the
9 commission; and

10 (B) Projected renewable portfolio standards to be set
11 five and ten years beyond the then current
12 standards;

13 (4) Evaluate the renewable portfolio standards every five
14 years beginning in 2013, and may [R]revise the
15 standards based on the best information available at
16 the time [~~if the results of the studies conflict with~~]
17 to determine if the renewable portfolio standards
18 established by section 269-92 remain achievable; and

19 (5) Report its findings and revisions to the renewable
20 portfolio standards, based on its own studies and
21 other information [~~those contracted under paragraph~~
22 ~~(3)~~], to the legislature no later than twenty days

3 PART III

SECTION 5. Section 269-101.5, Hawaii Revised Statutes,
relating to Net Energy Metering, shall be amended to read as
follows:

SECTION 6. Section 269-102(b), Hawaii Revised Statutes,
relating to Net Energy Metering, shall be amended to read as
follows:

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1 "(b)Each net energy metering contract or tariff shall be
2 identical, with respect to rate structure, to the contract or
3 tariff to which the same customer would be assigned if the
4 customer was not an eligible customer-generator, provided that
5 the public utilities commission may, by rule or order, allow
6 some electric utility companies to assign eligible customer-
7 generators to other applicable rates, tariffs or contracts
8 determined reasonable by the public utilities commission to
9 encourage the increased use and development of renewable energy
10 systems in Hawaii. The charges for all retail rate components
11 for eligible customer-generators shall be based exclusively on
12 the eligible customer-generator's net kilowatt-hour consumption
13 over a monthly billing period. Any new or additional demand
14 charge, standby charge, customer charge, minimum monthly charge,
15 interconnection charge, or other charge that would increase an
16 eligible customer-generator's costs beyond those of other
17 customers in the rate class to which the eligible customer-
18 generator would otherwise be assigned are contrary to the intent
19 of this section, and shall not form a part of net energy
20 metering contracts or tariffs."

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1 SECTION 7. Section 269-104, Hawaii Revised Statutes,
2 relating to Net Energy Metering, shall be amended to read as
3 follows:

4 **"§269-104 Additional customer-generators.** Notwithstanding
5 section 269-102, an electric utility is not obligated to provide
6 net energy metering to additional customer-generators in its
7 service area when the combined total peak generating capacity of
8 all eligible customer-generators served by all the electric
9 utilities in that service area furnishing net energy metering to
10 eligible customer-generators equals .5 per cent of the system
11 peak demand of those electric utilities; provided that the
12 public utilities commission may, by rule or order, increase or
13 eliminate the limit to [~~by rule or order,~~] the allowable
14 percentage of the electric utility's system peak demand produced
15 from eligible customer-generators in the electric utility's
16 service area, whereupon the electric utility will be obligated
17 to provide net energy metering to additional eligible customer-
18 generators in that service area [~~up to the increased percentage~~
19 ~~amount~~]."

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1 PART IV

2 ENERGY RESOURCES COORDINATOR

3 SECTION 8. Section 196-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§196-4 Powers and duties.** Subject to the approval of the
6 governor, the coordinator shall:

7 (1) Formulate plans, including objectives, criteria to
8 measure accomplishment of objectives, programs through
9 which the objectives are to be attained, and financial
10 requirements for the optimum development of Hawaii's
11 energy resources;

12 (2) Conduct systematic analysis of existing and proposed
13 energy resource programs, evaluate the analysis
14 conducted by government agencies and other
15 organizations and recommend to the governor and to the
16 legislature programs which represent the most
17 effective allocation of resources for the development
18 of energy sources;

19 (3) Formulate and recommend specific proposals, as
20 necessary, for conserving energy and fuel, including
21 the allocation and distribution thereof, to the
22 governor and to the legislature;

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

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1 conservation program, and perform such other services
2 as may be required by the governor and the
3 legislature;

4 (11) Prepare and submit an annual report and such other
5 reports as may be requested to the governor and to the
6 legislature on the implementation of this chapter and
7 all matters related to energy resources; ~~and~~

8 (12) Formulate a systematic process including the
9 development of requirements, to identify geographic
10 areas that are rich with renewable energy resource
11 potential which can be developed in cost-effective and
12 environmentally benign manner, and designate such
13 areas as Renewable Energy Zones (REZ);

14 (13) Develop and recommend incentives plans and programs to
15 encourage the development of renewable energy resource
16 projects within the renewable energy zones;

17 (14) Assist public and private agencies in identifying the
18 utility transmission projects or infrastructure that
19 are required to accommodate and facilitate the
20 development of renewable energy resources;

21 (15) Assist public and private agencies in coordination
22 with department of budget and finance in accessing use

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1 of special purpose revenue bonds to finance the
2 engineering, design, and construction of transmission
3 projects and infrastructure that are deemed critical
4 to the development of renewable energy resources;

5 (16) Develop the criteria or requirements for identifying
6 and qualifying specific transmission projects or
7 infrastructure that are critical to the development of
8 renewable energy resources, and which the energy
9 resources coordinator will assist in accessing the use
10 of special purpose revenue bonds to finance such
11 projects or infrastructure; and

12 ~~[(12)]~~ (17) Adopt rules for the administration of this
13 chapter pursuant to chapter 91, provided that the
14 rules shall be submitted to the legislature for
15 review."

16 PART V

17 RENEWABLE ENERGY RESOURCES

18 SECTION 9. The definition of "Qualified business" in
19 Section 209E-2, Hawaii Revised Statutes, is amended to read as
20 follows:

21 "Qualified business" means any corporation, partnership, or
22 sole proprietorship authorized to do business in the State that

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is qualified under section 209E-9, subject to the state corporate or individual income tax under chapter 235, and is:

- (1) Engaged in manufacturing, the wholesale sale of tangible personal property as defined in Section 237-4, or a service business as defined in this chapter;
- (2) Engaged in producing agricultural products where the business is a producer as defined in section 237-5, or engaged in processing agricultural products, all or some of which were grown within an enterprise zone;
- (3) Engaged in research, development, sale, or production of all types of genetically-engineered medical, agricultural, or maritime biotechnology products; or
- (4) Engaged in development or production of ~~[producing electric power from wind energy for sale primarily to a public utility company for resale to the public.]~~ fuels or thermal energy or electrical energy from renewable resources, including:
 - i. Wind;
 - ii. The sun;
 - iii. Falling water;
 - iv. Biogas, including landfill and sewage-based digester gas;

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v. Geothermal;

vi. Ocean water, currents and waves;

vii. Biomass, including biomass crops,
agriculture and animal residues and
wastes, and solid waste;

viii. Biofuels; and

ix. Hydrogen produced from renewable energy
sources.

PART VI

RENEWABLE ENERGY FACILITATOR

SECTION 10. Section 201-12.5(b) shall be amended to read
as follows:

"(b) The renewable energy facilitator shall have the
following duties:

- (1) Facilitate the efficient permitting of renewable
energy projects which include the land parcel on which
the facility is situated, any renewable energy
production structure or equipment, any energy
transmission line from the facility to a public
utility's electricity system, and any on-site
infrastructure necessary for the production of
electricity or biofuel from the renewable energy site;

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- 1 (2) Initiate the implementation of key renewable energy
2 projects by permitting various efficiency improvement
3 strategies identified by the department;
- 4 (3) Administer the day-to-day coordination for renewable
5 energy projects on behalf of the department and the
6 day-to-day operations of the renewable energy facility
7 siting process established in [Act 207, Session Laws
8 of Hawaii 2008]; and
- 9 (4) Submit periodic reports to the legislature on
10 renewable energy facilitation activities and the
11 progress of the renewable energy facility siting
12 process."

13 PART VII

14 RENEWABLE ENERGY PERMITTING

15 SECTION 11. Section 201N-1 relating to the definition
16 'renewable energy facility' shall be amended to read as follows:

17 "Renewable energy facility" or "facility" means a new
18 facility located in the State with the capacity to produce from
19 renewable energy at least two hundred megawatts of electricity;
20 provided that biofuel production facilities and electricity
21 production facilities with capacities between 5 and 200
22 megawatts may apply to the coordinator for designation as

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renewable energy facilities, with such designation to be at the
sole discretion of the coordinator. The term includes any of
the following associated with the initial permitting and
construction of the facility:

- (1) The land parcel on which the facility is situated;
- (2) Any renewable energy production structure or
equipment;
- (3) Any energy transmission line from the facility to a
public utility's electricity transmission or
distribution system;
- (4) Any on-site infrastructure; and
- (5) Any on-site building, structure, other improvement, or
equipment necessary for the production of electricity
or biofuel from the renewable energy site,
transmission of the electricity or biofuel, or any
accommodation for employees of the facility.

SECTION 12. Section 201N-4(g) shall be amended to read as
follow:

"(g) Each appropriate state and county agency shall
diligently endeavor to process and approve or deny any permit in
the permit plan no later than twelve months after a completed
permit plan application is approved by the coordinator. If a

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1 permit is not approved or denied within twelve months after
2 approval of a completed permit plan application, the permitting
3 agency shall, within thirty days following the twelve month
4 period, provide the coordinator with a report identifying
5 diligent measures that are being taken by the agency to complete
6 processing and action as soon as practicable[, ~~and unless the~~
7 ~~coordinator expressly disapproves the permit in writing within~~
8 ~~five months after receipt of the report from the permitting~~
9 ~~agency]~~. If no further processing and action are reported by
10 the permitting agency within five months, the permit shall be
11 deemed approved. If a permitting agency fails to provide this
12 report and if the permit has not been approved or denied within
13 eighteen months following the approval of a completed permit
14 plan application by the coordinator, the permit shall be deemed
15 approved."

16 SECTION 13. There is appropriated out of the renewable
17 energy facility siting special fund the sum of \$1,000,000 or so
18 much thereof as may be necessary for each year of the fiscal
19 biennium 2009-2011. The sum appropriated by this Act shall be
20 expended by the department of business, economic development,
21 and tourism for the purposes of the fund created in section
22 201N-11, Hawaii Revised Statutes.

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1 across all end use sectors. The Administrator will submit
2 annual reports to the Public Utilities Commission by March 1 of
3 each year, beginning March 1, 2010, reporting energy efficiency
4 savings achieved during the previous calendar year. The Public
5 Utilities Commission will monitor and evaluate progress against
6 this standard.

7 Penalties for not meeting the standard shall be established
8 by the Public Utilities Commission.

9 SECTION 15. Chapter _____, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 § _____ Energy efficiency studies and planning. The Public
13 Benefits Fee Administrator shall be authorized \$500,000 from the
14 Public Utilities Commission special fund to conduct energy
15 efficiency assessments to identify current energy use patterns
16 in Hawaii and areas of greatest potential for energy efficiency
17 savings. The assessments shall include end use research
18 regarding Hawaii's homes, businesses, and other utility
19 customers. The energy potential assessments will identify and
20 recommend energy efficiency programs to target.

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1 The assessments shall be forwarded to the Legislature, the
2 Public Utilities Commission, the Energy Resources Coordinator,
3 and the utilities.

4 The assessments must be completed by December 31, 2010.

5 The Public Benefits Fee Administrator will establish
6 aggressive Efficiency Plans with the provision that efficiency
7 will be the first loaded resource in all cases where it is cost
8 effective. Cost effectiveness shall be defined as all resources
9 deemed to effectively cover the incremental cost of investment
10 within 15 years when measured against average electricity rates
11 for residential, small commercial, large commercial, industrial,
12 and agricultural customers.

13 To the extent that the building code changes between
14 Efficiency Plans, the net impact of the code should be netted
15 out of the requirements.

16 Until the full energy efficiency plan is available, the
17 Public Utilities Commission, department of business, economic
18 development, and tourism, utilities and the Public Benefits Fee
19 Administrator should work with stakeholders to identify a small
20 set of cost-effective energy efficiency measures that will have
21 high energy-saving impact and can be implemented in significant

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1 volumes with high penetration goals, so the state can begin
2 realizing energy savings immediately.

3 SECTION 16. Section _____, Hawaii Revised Statutes, is
4 amended to read as follows:

5 § _____ **Building Codes.** The Public Benefits Fee
6 Administrator shall be funded \$600,000 from the Public Utilities
7 Commission special fund to implement following responsibilities.

8 The Public Benefits Fee Administrator will set up
9 procedures for and conduct measurement and verification of
10 buildings and homes constructed under the code to assess code
11 compliance and building performance. The results will help
12 inform necessary changes to code and code training delivery in
13 subsequent amendments.

14 The counties will also work with the Public Benefits Fee
15 Administrator to conduct an analysis of the energy intensity of
16 residential and commercial buildings built to code compared to
17 baseline homes.

18 The Public Benefits Fee Administrator shall conduct surveys
19 of builders to determine actual costs associated with meeting
20 code for residential and commercial buildings.

21 Results of these analyses and surveys must be delivered to
22 the Legislature in annual reports 20 days prior the convening of

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1 each legislative session. The report shall include
2 recommendations for code updates, which can be adopted by the
3 state building code council on a biennial basis.

4 The Public Benefits Fee Administrator shall assess the
5 feasibility of implementing a net zero energy building code for
6 residential and commercial construction.

7 Residential building codes will apply to all single family
8 homes, duplexes, and low-rise residential buildings less than
9 three stories for both new construction and major renovation
10 projects.

11 The Public Benefits Fee Administrator will determine
12 technical code amendments to complement the International Energy
13 Conservation Code residential building code in order to take
14 advantage of Hawaii's climate.

15 Building code analysis should also consider the costs and
16 benefits of requiring advanced meters and energy 'dashboard'
17 technologies that improve the ability of the occupant to monitor
18 and improve building performance, cool roof requirements;
19 requirement that the roofs of new homes to be solar-ready;
20 requirement that all homes built or rehabilitated in Hawaii have
21 and present an energy label; and any other measures that can

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1 improve the ability of the homeowner to better understand and
2 manage their energy use.

3 Commercial code compliance must include on the building
4 permit application a designated commissioning agent who has
5 experience related to energy and buildings. In order to be
6 eligible for an occupancy certificate, the building owner must
7 submit to the appropriate agency a building commissioning report
8 completed by the designated commissioning agent. Builders shall
9 remedy any deficiencies found in the commissioning report within
10 60 days of receipt of the report to ensure that the building
11 operates as designed under code. The counties are authorized to
12 set and assess fines on any building that does not provide proof
13 of having remedied the building's deficiencies within 60 days.

14 The Public Benefits Fee Administrator shall create
15 commissioning guidelines appropriate for building practices in
16 Hawaii by January 1, 2010.

17 SECTION 17. **Section 107-28, Hawaii Revised Statutes, is**
18 **amended to read as follows:**

19 "[§107-28] **County building code authority to amend the**
20 **state model building code without state approval.** (a) The
21 governing body of each county shall amend the state building
22 code as it applies within its respective jurisdiction, in

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1 accordance with section 46-1.5(13), without approval of the
2 council. Each county shall use the model codes and standards
3 listed in section 107-25, as the referenced model building codes
4 and standards for its respective county building code ordinance,
5 no later than two years after the adoption of the state building
6 code.

7 (b) If a county does not amend the statewide model code
8 within the [~~two-year~~] one year timeframe, the state building
9 code shall become applicable as an interim county building code
10 until the county adopts the amendments.

11 (c) State Building Code Council shall adapt and adopt the
12 latest International Code Council and International Energy
13 Conservation Code updates within 6 months of adoption by the
14 International Code Council; each county shall adapt and adopt
15 the updates within 6 months of the State Building Codes Council
16 adoption or the State Building Codes Council update shall become
17 county code if not adopted within 6 months."

18 SECTION 18. Section 196-6.5, Hawaii Revised States, is
19 amended to read as follows:

20 **"[§196-6.5] Solar water heater system required for new**
21 **single-family residential construction.** (a) On or after January
22 1, 2010, [~~no building permit shall be issued for~~] a new single-

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1 family dwelling [~~that does not~~] shall include a solar water
2 heater system that meets the standards established pursuant to
3 section 269-44, unless the [~~energy resources coordinator~~] Public
4 Benefits Fee Administrator approves a variance. A variance shall
5 only be approved if an architect or engineer licensed under
6 chapter 464 attests that:

7 (1) Installation is impracticable due to poor solar
8 resource;

9 (2) Installation is cost-prohibitive based upon a life
10 cycle cost-benefit analysis that incorporates the
11 average residential utility bill and the cost of the
12 new solar water heater system with a life cycle that
13 does not exceed fifteen years;

14 (3) A substitute renewable energy technology system, as
15 defined in section 235-12.5, is used as the primary
16 energy source for heating water; or

17 (4) A demand water heater device approved by Underwriters
18 Laboratories, Inc., is installed; provided that at
19 least one other gas appliance is installed in the
20 dwelling. For the purposes of this paragraph, "demand
21 water heater" means a gas-tankless instantaneous water
22 heater that provides hot water only as it is needed.

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(b) A request for a variance shall be submitted to the
[~~energy resources coordinator~~] Public Benefits Fee Administrator
on an application prescribed by the [~~energy resources~~
~~coordinator~~] Public Benefits Fee Administrator and shall include,
but not be limited to, a description of the location of the
property and justification for the approval of a variance using
the criteria established in subsection (a). A variance shall be
deemed approved if not denied within thirty working days after
receipt of the variance application.

(c) Nothing in this section shall preclude any county from
establishing procedures and standards required to implement this
section.

(d) Nothing in this section shall preclude participation in
any utility demand-side management program or public benefits
fund under part VII of chapter 269."

SECTION 19. Section _____, Hawaii Revised Statutes, is
amended to read as follows:

"§ _____ **Public buildings.** (a) The public sector should be
a leader in energy efficiency for buildings. Public buildings
can serve as a training ground for contractors and building
professionals to design and construct buildings with excellent
energy performance that goes beyond code. The government also

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1 has a greater level of certainty about the duration that it will
2 occupy a building, so the lifecycle savings realized from low
3 operating costs are more assured for public sector investments
4 than for private investments. (b) Each state department with
5 responsibilities for the design and construction of buildings and
6 facilities shall benchmark every existing public building that is
7 either larger than 5000 square feet or uses more than 8000 kWh
8 per year by December 31, 2010, and use the results to determine
9 the state's investment in improving the efficiency of its own
10 building stock. Benchmarking shall be conducted using the ENERGY
11 STAR portfolio management tool or an equivalent tool, as
12 determined by the Public Benefits Fee Administrator. The Public
13 Benefits Fee Administrator shall provide training to affected
14 departments on the ENERGY STAR portfolio management tool or an
15 equivalent tool.

16 Public buildings must be retro-commissioned not less than
17 every five years. The Public Benefits Fee Administrator shall
18 create retro-commissioning guidelines by January 1, 2010.

19 The performance target for energy efficiency in existing
20 public buildings, including schools, universities, community
21 colleges, hospitals, and public housing, will be 30% better than
22 the most recent building code for the building type.

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1 Departments may enter into energy savings performance contracts
2 with a third party to cover the capital costs of energy
3 efficiency measures and distributed generation as long as the
4 terms of the energy savings performance contracts conform to
5 this standard. The comptroller may review and exempt specific
6 projects as appropriate to take into account cost-effectiveness.

7 Energy savings performance contracts will be executed
8 according to state guidelines issued by the Comptroller and
9 reviewed by the Comptroller. To expedite energy saving
10 performance contracting for public buildings, the department of
11 accounting and general services will develop a master energy
12 savings performance contracts agreement that any department may
13 use to contract with an energy savings performance contracts
14 provider for energy efficiency and renewable energy services.

15 Departments, schools, and other public facilities that
16 validate the amount of money they save with energy efficiency
17 measures can keep at least 50% of the energy savings achieved
18 through those upgrades for programmatic activities. Agencies
19 which are allowed to keep at least 50% of the energy savings
20 shall not have their budgets comparably reduced in subsequent
21 years.

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1 Existing public buildings that undergo a major retrofit or
2 renovation must achieve a level of energy efficiency that is 30%
3 better than code, provided that the cost of the measures can be
4 recouped within 20 years."

5 SECTION 20. Chapter _____, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 **"§ _____ On-bill financing for energy efficiency and**
9 **renewable energy.** By December 31, 2009, the Public Utilities
10 Commission will institute a rule governing the on-bill financing
11 program, to be administered by the Public Benefits Fee
12 Administrator.

13 The program's goal is to change out inefficient
14 refrigerators, install solar water heaters, and install
15 photovoltaic systems. The Public Utilities Commission will
16 establish the details of this program.

17 Residential and small commercial customers will make no
18 upfront payments, and will pay the cost of the system over time
19 on their electric bill at an interest rate to be determined by
20 the Public Utilities Commission.

21 The program will provide the customer with 1) an ENERGY
22 STAR refrigerator in exchange for their existing one if the

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1 existing refrigerator was purchased before a certain date or
2 uses a certain amount of energy per month, with guidelines and
3 qualifications to be determined by the Public Utilities
4 Commission, 2) install a solar water heating system on the
5 customer's roof if the system will pay back in a time period to
6 be determined by the Public Utilities Commission, and 3) install
7 a photovoltaic system on the roof, with limitations and payback
8 period to be determined by the Public Utilities Commission.

9 Customers who take advantage of this program will receive
10 an energy audit partially paid for by the Public Benefits Fee
11 Administrator; the Public Utilities Commission will determine
12 the level of cost-share, if any, that consumers must provide for
13 the energy audit.

14 The Public Benefits Fee Administrator may contract to
15 appropriately licensed contractors or installers to install the
16 systems and conduct the necessary follow-up in the form of
17 energy audits, measurement, and verification.

18 The Public Benefits Fee Administrator shall ensure that the
19 old appliances are decommissioned so that they are not returned
20 to service, and that they are disposed of in a manner that
21 complies with all environmental requirements.

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1 The Public Benefits Fee Administrator must provide a
2 program report to the Public Utilities Commission eight months
3 and 14 months after the start of the program. After the first
4 full year of the program, and at any time thereafter, the Public
5 Utilities Commission may conduct independent evaluation of the
6 program effectiveness. The Public Utilities Commission shall
7 forward these reports to the Energy Resources Coordinator.

8 The responsibility and execution for customer billing shall
9 remain with the utility."

10 SECTION 21. Chapter _____, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "**§ Appliances and equipment.** The Public Benefits Fee
14 Administrator will offer a cash incentive to Hawaii residents to
15 turn in their air-conditioners made before 2000 and replace them
16 with and ENERGY STAR model. The Public Benefits Fee
17 Administrator's goal will be to replace at least 50% of the
18 State's qualifying appliances within 5 years of the program's
19 start. The program will include a certification that the
20 inefficient appliances are scrapped and disposed of in an
21 environmentally appropriate manner. The Public Benefits Fee
22 Administrator may add other appliances if analysis and

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1 evaluation show that such additions are warranted. In addition,
2 the Public Benefits Fee Administrator may offer a cash incentive
3 for homeowners to retire any second refrigerators. Resources to
4 administer the program may come out of the Public Benefits
5 Funds."

6 SECTION 22. Section _____, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§ 235-_____ **Tax credit for a net zero energy building.**

10 (a) There shall be allowed to each taxpayer who owns a net zero
11 energy building fixed to real property located in the state an
12 income tax credit which shall be deductible from the taxpayer's
13 net income tax liability, if any, imposed by this chapter only
14 for the first taxable year in which the building meets the
15 definition of net zero energy building.

16 (b) The amount of the credit shall be:

17 (1) For a building that is up to 1000 square feet,
18 the tax credit shall be \$9.00 per square foot;

19 (2) For a building that is more than 1000 square feet
20 but less than 4,000 square feet, the tax credit
21 shall be \$6.00 per square foot;

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1 (3) For a building that is more than 4,000 square
2 feet, the tax credit shall be \$3.00 per square
3 foot for a maximum credit of \$50,000.

4 (c) In the case of a partnership, S corporation, estate,
5 or trust, the tax credit allowable is for every net zero energy
6 building owned by the entity. Distribution and share of the
7 credit shall be determined pursuant to section 235-110.7(a).

8 In the case of a building owned by more than one person,
9 the tax credit shall be determined as if owned by one person,
10 and then apportioned among the various owners in proportion to
11 their ownership interest in the building.

12 (d) For purposes of this section:

13 "Net zero energy building" means any building that produces
14 more electricity from renewable energy technology systems than
15 it consumes from all sources on a monthly basis during any 9
16 months of the tax year.

17 "Renewable energy technology system" means a system that
18 captures and converts a renewable source of energy into
19 electricity.

20 (e) The director of taxation shall prepare any forms that
21 may be necessary to claim a tax credit under this section. The
22 director of taxation may require the taxpayer to furnish

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1 reasonable information to ascertain the validity of the claim
2 for credit made under this section and may adopt rules necessary
3 to effectuate the purposes of this section pursuant to chapter
4 91.

5 (f) If the tax credit under this section exceeds the
6 taxpayer's income tax liability, the excess of the credit over
7 liability may be used as a credit against the taxpayer's income
8 tax liability in subsequent years until exhausted. All claims
9 for the tax credit under this section, including amended claims,
10 shall be filed on or before the end of the twelfth month
11 following the close of the taxable year for which the credit may
12 be claimed. Failure to comply with this subsection shall
13 constitute a waiver of the right to claim the credit.

14 (g) This section shall apply to taxable years beginning
15 after December 31, 2009, and shall not apply to taxable years
16 after December 31, 2019.

17 (h) Taxpayers claiming tax credits for renewable energy
18 systems under this section are not eligible for tax credits
19 under section 235-12.5.

20 (i) (1) If, during any taxable year, a net zero energy
21 building ceases to be a net zero energy building and is owned by
22 the taxpayer who claimed the tax credit, then the tax credit

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1 shall be recaptured. To recapture, the taxpayer must add to
2 taxable income for the taxable year in which the building ceases
3 to be a net zero energy building, the amount of the recapture
4 percentage of the the credits allowed and claimed under this
5 section.

6 (2) For purposes of subsection (1), the recapture
7 percentage shall be determined in accordance with the following
8 table:

9 If the property ceases to be the recapture percentage is:
10 a net zero energy building within:

11 (i) One full year after the taxable year in which the
12 credit is claimed: 100 percent.

13 (ii) One full year after the close of the period
14 described in clause (i) 80 percent.

15 (iii) One full year after the close of the period
16 described in clause (ii) 60 percent.

17 (iv) One full year after the close of the period
18 described in clause (iii) 40 percent.

19 (v) One full year after the close of the period
20 described in clause (iv) 20 percent.

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1 (j) If a deduction is taken under section 179 of the
2 Internal Revenue Code, no tax credit shall be allowed for that
3 portion of the cost for which the deduction is taken.

4 (k) The basis of eligible property for depreciation or
5 accelerated cost recovery system purposes for state income taxes
6 shall be reduced by the amount of credit allowable and claimed.
7 In the alternative, the taxpayer shall treat the amount of the
8 credit allowable and claimed as a taxable income item for the
9 taxable year in which it is properly recognized under the method
10 of accounting used to compute taxable income."

11 SECTION 23. Chapter _____, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "**§_____ Consumer Information.** Energy consumption
15 information shall be required in sale/lease of property.
16 Financial institutions and new occupant consumers shall be
17 provided energy information before lease/sale.

18 The Public Benefits Fee Administrator shall develop rules
19 for reporting energy information to consumers at the time of
20 sale or rental of commercial/residential buildings.

21 The Public Benefits Fee Administrator shall develop
22 programs and information to educate financial institutions,

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1 mortgage brokers, and consumers on the economics of energy
2 efficient properties, including savings over the life-cycle of
3 such properties.

4 The Public Benefits Fee Administrator will establish a web-
5 based model showing data and publicize to realtors and others."

6 PART IX

7 RENEWABLE ENERGY INCOME TAX CREDITS

8 SECTION 24. Section 235-12.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§235-12.5 Renewable energy technologies; income tax**

11 **credit.** (a) When the requirements of subsection [~~(e)~~] (d) are
12 met, each individual or corporate taxpayer that files an
13 individual or corporate net income tax return for a taxable year
14 may claim a tax credit under this section against the Hawaii
15 state individual or corporate net income tax. The tax credit
16 may be claimed for every eligible renewable energy technology
17 system that is installed and placed in service in the [~~State~~]
18 state by a taxpayer during the taxable year. [~~This credit shall~~
19 ~~be available for systems installed and placed in service in the~~
20 ~~State after June 30, 2003.~~] The tax credit may be claimed as
21 follows:

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(1) ~~[Solar thermal energy systems for:]~~ For each solar energy system: Thirty-five per cent of the actual cost or the cap amount determined in subsection (b), whichever is less; or

~~[(A) Single-family residential property for which a building permit was issued prior to January 1, 2010: thirty-five per cent of the actual cost or \$2,250, whichever is less;~~

~~(B) Multi-family residential property: thirty-five per cent of the actual cost or \$350 per unit, whichever is less; and~~

~~(C) Commercial property: thirty-five per cent of the actual cost or \$250,000, whichever is less;]~~

(2) ~~[Wind-powered energy systems for:]~~ For each wind-powered energy system: Twenty per cent of the actual cost or the cap amount determined in subsection (b), whichever is less;

~~[(A) Single-family residential property: twenty per cent of the actual cost or \$1,500, whichever is less;~~

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1 ~~(B) Multi-family residential property: twenty per~~
2 ~~cent of the actual cost or \$200 per unit, which~~
3 ~~is less; and~~

4 ~~(C) Commercial property: twenty per cent of the~~
5 ~~actual cost or \$500,000, whichever is less; and~~

6 ~~(3) Photovoltaic energy systems for:~~

7 ~~(A) Single-family residential property: thirty-five~~
8 ~~per cent of the actual cost or \$5,000, whichever~~
9 ~~is less;~~

10 ~~(B) Multi-family residential property: thirty-five~~
11 ~~per cent of the actual cost or \$350 per unit,~~
12 ~~whichever is less; and~~

13 ~~(C) Commercial property: thirty-five per cent of the~~
14 ~~actual cost or \$500,000, whichever is less;]~~

15 provided that multiple owners of a single system shall be
16 entitled to a single tax credit; and provided further that the
17 tax credit shall be apportioned between the owners in proportion
18 to their contribution to the cost of the system.

19 In the case of a partnership, S corporation, estate, or
20 trust, the tax credit allowable is for every eligible renewable
21 energy technology system that is installed and placed in service
22 in the State by the entity. The cost upon which the tax credit

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1 is computed shall be determined at the entity level.

2 Distribution and share of credit shall be determined pursuant to
3 section 235-110.7(a).

4 (b) The amount of credit allowed for each eligible
5 renewable energy technology system shall not exceed the
6 applicable cap amount, which is determined as follows:

7 (1) If the primary purpose of the solar energy system is
8 to use energy from the sun to heat water for household
9 use, then the cap amounts shall be:

10 (A) \$2,250 per system for single-family residential
11 property;

12 (B) \$350 per unit per system for multi-family
13 residential property; and

14 (C) \$250,000 per system for commercial property.

15 (2) For all other solar energy systems, the cap amounts
16 shall be:

17 (A) \$5,000 per system for single-family residential
18 property;

19 (B) \$350 per unit per system for multi-family
20 residential property; and

21 (C) \$500,000 per system for commercial property.

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(3) For all wind-power energy systems, the cap amounts that apply shall be:

(A) \$1,500 per system for single-family residential property;

(B) \$200 per unit per system for multi-family residential property; and

(C) \$500,000 per system for commercial property.

~~[(b)]~~ (c) For the purposes of this section:

"Actual cost" means costs related to the renewable energy technology systems under subsection (a), including accessories and installation, but not including the cost of consumer incentive premiums unrelated to the operation of the system or offered with the sale of the system and costs for which another credit is claimed under this chapter.

"Household use" means any use that heated water is commonly put to in a residential setting, including commercial application of those uses.

"Renewable energy technology system" means a system that captures and converts a renewable source of energy, such as ~~[wind, heat (solar thermal), or light (photovoltaic) from the sun]~~ sun or wind energy, into:

(1) A usable source of thermal or mechanical energy;

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1 (2) Electricity; or

2 (3) Fuel.

3 "Solar or wind energy system" means any identifiable
4 facility, equipment, apparatus, or the like that converts
5 [~~insolation~~] sun or wind energy to useful thermal or electrical
6 energy for heating, cooling, or reducing the use of other types
7 of energy that are dependent upon fossil fuel for their
8 generation.

9 [~~(c)~~] (d) For taxable years beginning after December 31,
10 2005, the dollar amount of any utility rebate shall be deducted
11 from the cost of the qualifying system and its installation
12 before applying the state tax credit.

13 [~~(d)~~] (e) The director of taxation shall prepare any forms
14 that may be necessary to claim a tax credit under this section,
15 including forms identifying the technology type of each tax
16 credit claimed under this section, whether for [~~solar thermal,~~
17 ~~photovoltaic from the sun,~~] solar or wind. The director may also
18 require the taxpayer to furnish reasonable information to
19 ascertain the validity of the claim for credit made under this
20 section and may adopt rules necessary to effectuate the purposes
21 of this section pursuant to chapter 91.

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1 [~~(e)~~] (f) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of the credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted~~[+]~~, unless
5 otherwise elected by the taxpayer pursuant to subsection (g) or
6 (h).

7 All claims for the tax credit under this section, including
8 amended claims, shall be filed on or before the end of the
9 twelfth month following the close of the taxable year for which
10 the credit may be claimed. Failure to comply with this
11 subsection shall constitute a waiver of the right to claim the
12 credit.

13 (g) For solar energy systems, a taxpayer may elect to
14 reduce the eligible credit amount by 30% and if this reduced tax
15 credit exceeds the amount of income tax payment due from the
16 taxpayer, the excess of the credit over payments due shall be
17 refunded to the taxpayer; provided that tax credits properly
18 claimed by a taxpayer who has no income tax liability shall be
19 paid to the taxpayer; and provided further that no refund on
20 account of the tax credit allowed by this section shall be made
21 for amounts less than \$1.

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1 The election required by this subsection shall be made in a
2 manner prescribed by the director on the taxpayer's return for
3 the taxable year in which the system is installed and placed in
4 service. A separate election may be made for each separate
5 system that generates a credit. An election once made is
6 irrevocable.

7 (h) For any renewable energy technology system, an
8 individual taxpayer may elect to have any excess of the credit
9 over payments due refunded to the taxpayer, if:

10 (1) All of the taxpayer's income is exempt from
11 taxation under section 235-7(a) (2) or section
12 235-7(a) (3); or

13 (2) The taxpayer's adjusted gross income is \$20,000
14 or less (or \$40,000 or less if filing a tax
15 return as married filing jointly);

16 provided that tax credits properly claimed by a taxpayer who has
17 no income tax liability shall be paid to the taxpayer; and
18 provided further that no refund on account of the tax credit
19 allowed by this section shall be made for amounts less than \$1.
20 A husband and wife who do not file a joint tax return shall only
21 be entitled to make this election to the extent that they would

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1 have been entitled to make the election had they filed a joint
2 tax return.

3 The election required by this subsection shall be made in a
4 manner prescribed by the director on the taxpayer's return for
5 the taxable year in which the system is installed and placed in
6 service. A separate election may be made for each separate
7 system that generates a credit. An election once made is
8 irrevocable.

9 ~~[(f) By or before December, 2005, to the extent feasible,~~
10 ~~using existing resources to assist the energy efficiency policy~~
11 ~~review and evaluation, the department shall assist with data~~
12 ~~collection on the following:~~

13 ~~(1) The number of renewable energy technology systems that~~
14 ~~have qualified for a tax credit during the past year~~
15 ~~by:~~

16 ~~(A) Technology type (solar thermal, photovoltaic from~~
17 ~~the sun, and wind); and~~

18 ~~(B) Taxpayer type (corporate and individual); and~~

19 ~~(2) The total cost of the tax credit to the State during~~
20 ~~the past year by:~~

21 ~~(A) Technology type; and~~

22 ~~(B) Taxpayer type.]~~

6 (i) No taxpayer shall be allowed a credit under this
7 section for a solar water heater system required by section 196-
8 6.5 that is installed and placed in service on any newly
9 constructed residence authorized by a building permit issued on
10 or after January 1, 2010."

14 PART X

15 TRANSPORTATION ENERGY INFRASTRUCTURE

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

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

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(1) Dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people;

(2) Increased energy self-sufficiency where the ratio of indigenous to imported energy use is increased;

(3) Greater energy security and diversification in the face of threats to Hawaii's energy supplies and systems; and

(4) Reduction, avoidance, or sequestration of greenhouse gas emissions from energy supply and use.

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

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

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

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

(3) Base decisions of least-cost supply-side and demand-side energy resource options on a comparison of their

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1 total costs and benefits when a least-cost is
2 determined by a reasonably comprehensive,
3 quantitative, and qualitative accounting of their
4 long-term, direct and indirect economic,
5 environmental, social, cultural, and public health
6 costs and benefits;

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

9 (A) Development of cost-effective demand-side
10 management programs;

11 (B) Education; and

12 (C) Adoption of energy-efficient practices and
13 technologies;

14 (5) Ensure, to the extent that new supply-side resources
15 are needed, that the development or expansion of
16 energy systems uses the least-cost energy supply
17 option and maximizes efficient technologies;

18 (6) Support research, development, ~~[and]~~ demonstration and
19 utilization of energy efficiency, load management, and
20 other demand-side management programs, practices, and
21 technologies;

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(7) Promote alternate fuels and transportation energy efficiency[~~by encouraging diversification of transportation modes and infrastructure~~];

(8) Support actions that reduce, avoid, or sequester greenhouse gases in utility, transportation, and industrial sector applications;

(9) Support actions that reduce, avoid, or sequester Hawaii's greenhouse gas emissions through agriculture and forestry initiatives; and

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

SECTION 27. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235-__ Electric vehicle charging; income tax credit. (a)
There shall be allowed to each taxpayer subject to the taxes imposed by this chapter a tax credit for code compliant electric vehicle charging infrastructure installed and placed in service in the State that shall be deductible from the taxpayer's net income tax liability. The tax credit may be claimed for the

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1 taxable year in which the code compliant electric vehicle
2 charging system is placed in service in the State.

3 (b) The amount of the credit shall be 70% of the cost of
4 the electric vehicle charging system or \$500 per electric
5 vehicle charge point of the system, whichever is less. The cost
6 of the electric vehicle charging system includes all costs to
7 acquire, construct and install the electric vehicle charging
8 system that are required to be capitalized under section 263 of
9 the Internal Revenue Code to the electric vehicle charging
10 system. The cost of the electric vehicle charging system does
11 not include costs that are properly allocable to land or to a
12 building and its structural components, including, but not
13 limited to costs related to the acquisition of land on which the
14 electric vehicle charging system is located, expenses for
15 permits, legal fees, project management, or engineering to the
16 extent such expenses are related to the land.

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

20 (d) The basis of eligible property for depreciation or
21 accelerated cost recovery system purposes for state income taxes
22 shall be reduced by the amount of credit allowable and claimed.

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1 In the alternative, the taxpayer shall treat the amount of the
2 credit allowable and claimed as a taxable income item for the
3 taxable year in which it is properly recognized under the method
4 of accounting used to compute taxable income.

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

7 (f) For the purposes of this section:

8 "Electric vehicle charge point" means the part of the
9 electric vehicle charging system that delivers electricity from
10 a source outside an electric vehicle into one electric vehicle.

11 "Electric vehicle charging system" means a system that is
12 designed in compliance with Article 625 of the National
13 Electrical Code and delivers electricity from a source outside
14 an electric vehicle into one or more electric vehicles. An
15 electric vehicle charging system may include several charge
16 points simultaneously connecting several electric vehicles to
17 the system.

18 (g) The director of taxation shall prepare any forms that
19 may be necessary to claim a tax credit under this section. The
20 director may also require the taxpayer to furnish reasonable
21 information to ascertain the validity of the claim for credit

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1 made under this section and may adopt rules necessary to
2 effectuate the purposes of this section pursuant to chapter 91.

3 (h) If the tax credit under this section exceeds the
4 taxpayer's income tax liability, the excess of the credit over
5 liability may be used as a credit against the taxpayer's income
6 tax liability in subsequent years until exhausted. Every claim,
7 including amended claims, for a tax credit under this section
8 shall be filed on or before the end of the twelfth month
9 following the close of the taxable year for which the credit may
10 be claimed. Failure to comply with the foregoing provision
11 shall constitute a waiver of the right to claim the credit.

12 (i) This tax credit applies to electric vehicle charging
13 systems placed in service after July 1, 2009 and before January
14 1, 2016."

15 SECTION 28. Chapter 235, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 **"§235-__ Alternative fuel refueling; income tax credit.**

19 (a) There shall be allowed to each taxpayer subject to the taxes
20 imposed by this chapter a tax credit for any alternative fuel
21 refueling infrastructure installed and placed in service in the
22 State that shall be deductible from the taxpayer's net income

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1 tax liability. The tax credit may be claimed for the taxable
2 year in which the alternative fuel refueling infrastructure is
3 placed in service.

4 (b) The amount of the credit shall be 30% of the cost of
5 the alternative fuel refueling infrastructure or \$10,000,
6 whichever is less. The cost of the alternative fuel refueling
7 infrastructure includes all costs to acquire, construct and
8 install the alternative fuel refueling infrastructure that are
9 required to be capitalized under section 263 of the Internal
10 Revenue Code to the alternative fuel refueling infrastructure.
11 The cost of the alternative fuel refueling infrastructure does
12 not include costs that are properly allocable to land or to a
13 building and its structural components, including, but not
14 limited to costs related to the acquisition of land on which the
15 alternative fuel refueling infrastructure is located, expenses
16 for permits, legal fees, project management, or engineering to
17 the extent such expenses are related to the land.

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

21 (d) The basis of eligible property for depreciation or
22 accelerated cost recovery system purposes for state income taxes

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1 shall be reduced by the amount of credit allowable and claimed.
2 In the alternative, the taxpayer shall treat the amount of the
3 credit allowable and claimed as a taxable income item for the
4 taxable year in which it is properly recognized under the method
5 of accounting used to compute taxable income.

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

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

11 (g) For the purposes of this section:

12 "Alternative fuel refueling infrastructure" means equipment
13 for the storage and dispensing of alternative fuels for the
14 refueling of alternative fuel vehicles, and shall conform with
15 the definition of "alternative fuel refueling property"
16 contained in section 30C of the Internal Revenue Code.

17 (h) The director of taxation shall prepare any forms that
18 may be necessary to claim a tax credit under this section. The
19 director may also require the taxpayer to furnish reasonable
20 information to ascertain the validity of the claim for credit
21 made under this section and may adopt rules necessary to
22 effectuate the purposes of this section pursuant to chapter 91.

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1 (i) If the tax credit under this section exceeds the
2 taxpayer's income tax liability, the excess of the credit over
3 liability may be used as a credit against the taxpayer's income
4 tax liability in subsequent years until exhausted. Every claim,
5 including amended claims, for a tax credit under this section
6 shall be filed on or before the end of the twelfth month
7 following the close of the taxable year for which the credit may
8 be claimed. Failure to comply with the foregoing provision
9 shall constitute a waiver of the right to claim the credit.

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

13 SECTION 29. Chapter ____, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 **"§ ____ Designation of parking spaces for electric**
17 **vehicles.** All commercial and public parking lots with at least
18 100 parking spaces shall designate at least one prime (near the
19 entrance) spot exclusively for electric vehicles. An additional
20 electric vehicle parking location shall be required for each
21 additional 100 parking spaces in the lot; the additional spaces
22 shall be located either near the building entrance or near

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1 electrical service, at the discretion of the facility manager.
2 Such spaces shall be designated, clearly marked, and enforced by
3 December 31, 2010.

4 For the purposes of this section, "electric vehicle" means
5 an electric vehicle or neighborhood electric vehicle with an
6 electric vehicle ("EV") license plate."

7 SECTION 30. Chapter 291, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 **"§291-__ Parking spaces reserved for electric vehicles;**
11 **penalties.** (a) Beginning January 1, 2011, any person who parks
12 a non-electric vehicle in a space designated and marked as
13 reserved for electric vehicles shall receive a warning. (b)
14 Beginning July 1, 2011, any person who parks a non-electric
15 vehicle in a space designated and marked as reserved for
16 electric vehicles shall be guilty of a traffic infraction under
17 chapter 291D and shall be fined not less than \$50 nor more than
18 \$100 and pay any costs incurred by the court related to
19 assessing the fine.

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

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1 SECTION 31. Chapter ____, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "Electric vehicle charging capability will be required on
5 all new single family housing units constructed after January 1,
6 2015. Charging capability shall follow standards adopted by SAE
7 International."

8 SECTION 32. Section 269-1, Hawaii Revised Statutes,
9 subparagraph (2) (G) under the definition of "Public Utility" is
10 modified to read as follows:

11 "(G) Any person who:

12 (i) Controls, operates, or manages plants or
13 facilities for the production, transmission,
14 or furnishing of power primarily or entirely
15 from non-fossil fuel sources; [~~and~~]

16 (ii) Provides, sells, or transmits all of that
17 power, except such power as is used in its
18 own internal operations, directly to a
19 public utility for transmission to the
20 public;

21 (iii) Any person or business who owns, controls,
22 operates or manages plants or facilities

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1 primarily used to charge or discharge a
2 vehicle battery, the purpose of which is to
3 provide the power for vehicle propulsion;"

4 PART XI

5 TRANSPORTATION ENERGY INCENTIVES

6 SECTION 33. Chapter 237, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 **"§237-__ Exemption of sale or lease of certain vehicles.**

10 (a) Beginning January 1, 2010 and expiring December 31, 2015,
11 there shall be exempted from and excluded from the measure of
12 the taxes imposed by this chapter all of the gross proceeds
13 arising from the sale or lease of new or used light duty
14 vehicles classified as alternative fuel vehicles and fuel
15 economy leader vehicles.

16 (b) As used in this section:

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

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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 "Fuel economy leader vehicle" means a vehicle that is
6 identified by the United States Environmental Protection Agency
7 as a "Fuel Economy Leader" in its class and model year.

8 "Light duty vehicle" means a light duty truck or light duty
9 vehicle, as such terms are defined under section 216(7) of the
10 Clean Air Act (42 U.S.C. §7550(7)), having a gross vehicle
11 weight rating of 8,500 pounds or less."

12 SECTION 34. Section 238-9.5, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§238-9.5 Motor vehicle importation; report by dealers;**
15 **proof of payment.** (a) Every dealer, as defined in section 437-
16 1.1, shall submit a report to the director, on or before the
17 last day of each calendar month, for all motor vehicles
18 delivered by the dealer in the prior month as a courtesy
19 delivery. The report shall contain the name and address of the
20 dealer making the courtesy delivery, name and address of the
21 seller of the vehicle, type of motor vehicle, the landed value
22 of the vehicle, the name and address of the purchaser or

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1 importer, the date of importation, and other information
2 relevant to the courtesy delivery as requested by the director.

3 As used in this section, "courtesy delivery" means the
4 preparation for delivery and the delivery by a dealer of a motor
5 vehicle imported into the State by a person who purchased the
6 motor vehicle from an out-of-state motor vehicle manufacturer or
7 an out-of-state dealer and does not apply to motor vehicles sold
8 by the in-state dealer.

9 (b) The director of taxation shall prepare forms necessary
10 for individuals importing motor vehicles into the State to prove
11 payment of the use tax necessary to register the motor vehicle.

12 (c) The tax imposed by this chapter shall not apply to any
13 alternative fuel vehicles and fuel economy leader vehicles
14 exempted under chapter 237."

15 SECTION 35. Section 286-41, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§286-41 Application for registration; full faith and**
18 **credit to current certificates; this part not applicable to**
19 **certain equipment.** (a) Every owner of a motor vehicle which is
20 to be operated upon the public highways shall, for each vehicle
21 owned, except as herein otherwise provided, apply to the
22 director of finance of the county where the vehicle is to be

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1 operated, for the registration thereof. If a vehicle is moved
2 to another county and is to be operated upon the public highways
3 of that county, the existing certificate of registration shall
4 be valid until its expiration date, at which time the owner
5 shall apply to the director of finance of the county in which
6 the vehicle is then located for the registration of the vehicle,
7 whether or not the owner is domiciled in the county or the
8 owner's principal place of business is in that county, except
9 that this provision shall not apply to vehicles which are
10 temporarily transferred to another county for a period of not
11 more than three months.

12 (b) Application for the registration of a vehicle shall be
13 made upon the appropriate form furnished by the director of
14 finance and shall contain the name, occupation, and address of
15 the owner and legal owner; and, if the applicant is a member of
16 the United States naval or military forces, the applicant shall
17 give the organization and station. All applications shall also
18 contain a description of the vehicle, including the name of the
19 maker, the type of fuel for the use of which it is adapted
20 (e.g., gasoline, diesel oil, liquefied petroleum gas), the
21 serial or motor number, and the date first sold by the
22 manufacturer or dealer, and such further description of the

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1 vehicle as is called for in the form, and such other information
2 as may be required by the director of finance, to establish
3 legal ownership. A person applying for initial registration of
4 a neighborhood electric vehicle shall certify in writing that a
5 notice of the operational restrictions applying to the vehicle
6 as provided in section 291C-134 are contained on a permanent
7 notice attached to or painted on the vehicle in a location that
8 is in clear view of the driver.

9 (c) If the vehicle to be registered is specially
10 constructed, reconstructed, or rebuilt; is a special interest
11 vehicle; or is an imported vehicle, this fact shall be stated in
12 the application and upon the registration of the special
13 interest motor vehicle and imported motor vehicle, which has
14 been registered until that time in any other state or county,
15 and the owner shall surrender to the director of finance the
16 certificates of registration or other evidence of such form of
17 registration as may be in the applicant's possession or control.
18 The director of finance shall grant full faith and credit to the
19 currently valid certificates of title and registration
20 describing the vehicle, the ownership thereof, and any liens
21 noted thereon, issued by any title state or county in which the
22 vehicle was last registered. The acceptance by the director of

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1 finance of a certificate of title or of registration issued by
2 another state or county, as provided in this subsection, in the
3 absence of knowledge that the certificate is forged, fraudulent,
4 or void, shall be a sufficient determination of the genuineness
5 and regularity of the certificate and of the truth of the
6 recitals therein, and no liability shall be incurred by any
7 officer or employee of the director of finance by reason of so
8 accepting the certificate.

9 (d) The owner of every motor vehicle of the current,
10 previous, and subsequent year model bought out-of-state,
11 subsequently brought into the State, and subject to the use tax
12 under chapter 238 shall provide with the application for
13 registration proof of payment of the use tax pursuant to
14 requirements established by the department of taxation. No
15 registration certificate shall be issued without proof of
16 payment of the use tax unless the vehicle is an alternative fuel
17 vehicle or fuel economy leader vehicle exempt from the use tax
18 as provided in chapter 238.

19 (e) Notwithstanding any other law to the contrary, the
20 director of finance of the county in which the application for
21 registration is sought shall not require proof of insurance as a
22 condition to satisfy the requirements of this part. This

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1 subsection shall apply only to the initial registration of any
2 motor vehicle.

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

5 (1) Special mobile equipment;

6 (2) Implements of husbandry temporarily drawn, moved, or
7 otherwise propelled upon the public highways; and

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

11 (g) Beginning January 1, 2010 and expiring December 31,
12 2015, the motor vehicle registration fee and other fees, if any,
13 assessed upon or associated with the registration of an electric
14 vehicle in this State, including any fees associated with the
15 issuance of an electric vehicle license plate, shall be waived."

16 SECTION 36. Chapter ____, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 **"§__-__ Transportation energy transformation grant fund.**

20 (a) There is established a special fund to be designated as the
21 transportation energy transformation grant fund. Moneys
22 transferred to the transportation energy transformation grant

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1 fund may be expended by the director to carry out the director's
2 duties and obligations under this article. Disbursements from
3 the transportation energy transformation grant fund shall not be
4 subject to chapter 42F or 103D.

5 (b) As used in this article:

6 "Director" means the director of _____.

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

11 (1) which draws propulsion using a traction battery with
12 at least 4 kilowatt hours of capacity;

13 (2) which uses an off-board source of energy to recharge
14 such battery;

15 (4) the original use of which commences with the taxpayer;
16 and

17 (5) which is acquired for use or lease by the taxpayer and
18 not for resale.

19 "Fleet" means more than fifty light duty vehicles in the
20 state owned or operated by related entities.

21 "Integrated intelligently with the electrical grid" means
22 that the demand of the vehicle for electricity from the grid is

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1 controlled, to reduce the electrical demand on the grid during
2 peak demand times and maximize the use of renewable energy
3 sources or use of renewable energy potentially available off
4 peak that would otherwise be curtailed.

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

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

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1 (e) Subject to the availability of funds and the standards
2 in this chapter, grants for approved electric vehicles shall be
3 provided to purchasers of electric vehicles intended to be
4 integrated intelligently with the electrical grid and licensed
5 for use on Hawaii's highways, as follows:

6 (1) Beginning January 1, 2010 and expiring December 31,
7 2010: up to \$4000 per vehicle; limited to the first
8 500 vehicles.

9 (2) Beginning January 1, 2011 and expiring December 31,
10 2011: up to \$3500 per vehicle; limited to the first
11 1000 vehicles.

12 (3) Beginning January 1, 2012 and expiring December 31,
13 2013: up to \$2500 per vehicle; limited to the first
14 2000 vehicles per year.

15 (4) Beginning January 1, 2014 and expiring December 31,
16 2015: up to \$2000 per vehicle; limited to the first
17 2500 vehicles per year.

18 (5) Beginning January 1, 2016 and expiring December 31,
19 2021: up to \$500 per vehicle; limited to the first 10000
20 vehicles per year.

21 (g) The description, specifications, guidelines, and
22 requirements for intelligent integration with the electrical

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1 grid shall be further developed and determined by the director
2 at the director's sole discretion. The director may amend,
3 narrow, or expand the definitions, description, specifications,
4 and requirements of intelligent integration.

5 (h) A grant may be made to an applicant only if the
6 applicant:

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

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

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

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

18 (5) Has provided any other information deemed necessary by
19 the director; and

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

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1 (i) The director shall include information on the
2 transportation energy transformation grant fund and statistical
3 information on program participation in the department's annual
4 report to the governor and the legislature.

5 SECTION 37. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$3,750,000 to develop
7 and implement transportation energy transformation grant fund.
8 The sum appropriated shall be expended by the department of
9 _____. The appropriation shall not lapse at the end of the
10 fiscal biennium for which the appropriation is made; such
11 unexpended appropriation, if any, shall be carried forward to
12 the next calendar year and used to provide additional grants at
13 the new rate; provided that all moneys from the appropriation
14 unencumbered as of December 31, 2021, shall lapse as of that
15 date.

16 SECTION 38. Section 235-110.3, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**\$235-110.3** ~~[Ethanol]~~ **Biofuel** **facility tax credit.** (a)
19 Each year during the credit period, there shall be allowed to
20 each taxpayer subject to the taxes imposed by this chapter, ~~[an~~
21 ~~ethanol]~~ a biofuel facility tax credit that shall be applied to
22 the taxpayer's net income tax liability, if any, imposed by this

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1 chapter for the taxable year in which the credit is properly
2 claimed.

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

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

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

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

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

(b) As used in this section:

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

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

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

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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 per year.

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

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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;

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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

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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

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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

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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 ~~[(j)]~~ (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

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

3 ~~[(k)]~~ (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~~

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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 that
11 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 39. Section 251-2, Hawaii Revised Statutes, is
21 amended to read as follows:

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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.

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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 31,
4 2015, up to two hundred alternative fueled light duty vehicles
5 per rental car fleet shall be exempt from the rental motor
6 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 vehicle" means a light duty truck or light duty
18 vehicle, as such terms are defined under section 216(7) of the
19 Clean Air Act (42 U.S.C. §7550(7)), having a gross vehicle
20 weight rating of 8,500 pounds or less."

21 "Rental car fleet" refers to all vehicles in the state
22 owned or operated by related entities."

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1

2

PART XII

3

TRANSPORTATION ENERGY REQUIREMENTS

4

SECTION 40. Section 103D-412, Hawaii Revised Statutes, is

5

amended to read as follows:

6

"§103D-412 [~~Energy-efficient vehicles~~] Light-duty vehicle

7

requirements. (a) The procurement policy for all agencies

8

purchasing or leasing [~~motor~~] light duty vehicles shall be to

9

[~~obtain energy-efficient vehicles~~] reduce dependence on

10

petroleum for transportation energy. [~~All covered fleets are~~

11

directed to procure increasing percentages of energy-efficient

12

vehicles as part of their annual vehicle acquisition plans,

13

which shall be as follows]

14

[~~(1) In the fiscal year beginning July 1, 2006, at least~~

15

~~twenty per cent of newly purchased light-duty vehicles~~

16

~~acquired by each covered fleet shall be energy-~~

17

~~efficient vehicles;~~

18

~~(2) In the fiscal year beginning July 1, 2007, at least~~

19

~~thirty per cent of newly purchased light-duty vehicles~~

20

~~acquired by each covered fleet shall be energy-~~

21

~~efficient vehicles;~~

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

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

Beginning January 1, 2010, all State and County entities
shall, when purchasing new vehicles, seek vehicles
with reduced dependence on petroleum-based fuels, in
the following descending order of priority:

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

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

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(3) If a hydrogen or fuel cell vehicle that meets the needs of the agency is not available, the agency may select a flexible fuel vehicle.

(4) If a flexible fuel vehicle that meets the needs of the agency is not available, the agency may select a hybrid electric vehicle.

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

(b) For the purposes of this section:

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

"Alternative fuel" [has the same meaning as contained in 10 Code of Federal Regulations Part 490] means alcohol fuels; mixtures containing eighty-five per cent or more by volume of alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; biodiesel; mixtures containing twenty per cent or more by volume of biodiesel with diesel or other fuels; other fuels derived from biological materials; and electricity provided by off-board energy sources.

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

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

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

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

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

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

~~(5) Is on the list of "Most Energy Efficient Vehicles" in
its class or is in the top one-fifth of the most
energy-efficient vehicles in its class available in
Hawaii as shown by vehicle fuel efficiency lists,
rankings, or reports maintained by the United States
Environmental Protection Agency.]~~

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

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

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

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

~~[(e)]~~ (c) Agencies may apply to the chief procurement officer for exemptions from the requirements of this section to the extent that the vehicles required by this section are not available or do not meet the specific needs of the agency. Life

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1 cycle vehicle and fuel costs may be included in the
2 determination of whether a particular vehicle meets the needs of
3 the agency. Estimates of future fuel prices shall be based on
4 projections from the United States Energy Information
5 Administration.

6 ~~[(f)]~~ (d) Vehicles acquired from another state agency and
7 excluded vehicles are exempt from the requirements of this
8 section.

9 ~~[(g)]~~ (e) Nothing in this section is intended to interfere
10 with ~~[an agency's]~~ the ability of a covered fleet to comply with
11 the ~~[federally-imposed]~~ vehicle purchase mandates ~~[such as~~
12 ~~those]~~ required by 10 Code of Federal Regulations Part 490
13 Subpart C."

14 SECTION 41. Section 196-9(c), Hawaii Revised Statutes, is
15 amended to read as follows:

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

- 18 (1) Comply with Title 10, Code of Federal Regulations,
19 Part 490, Subpart C, "Mandatory State Fleet Program",
20 if applicable;
- 21 (2) Comply with all applicable state laws regarding
22 vehicle purchases;

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(3) Once federal and state vehicle purchase mandates have been satisfied, purchase the most fuel-efficient vehicles that meet the needs of their programs; provided that life cycle cost-benefit analysis of vehicle purchases shall include projected fuel costs;

(4) Purchase alternative fuels and ethanol blended gasoline when available;

(5) ~~[Evaluate a purchase preference for]~~ Purchase biodiesel blends, ~~[as applicable to agencies with diesel fuel purchases]~~ in accordance with Chapter 103D;

(6) Promote efficient operation of vehicles;

(7) Use the most appropriate minimum octane fuel; ~~[provided that]~~ vehicles shall use 87-octane fuel unless the owner's manual for the vehicle states otherwise or the engine experiences knocking or pinging;

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

(A) Vehicle acquisition cost;

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(B) United States Environmental Protection Agency
rated fuel economy;

(C) Vehicle fuel configuration, such as gasoline,
diesel, flex-fuel gasoline/E85, and dedicated
propane;

(D) Actual in-use vehicle mileage;

(E) Actual in-use vehicle fuel consumption; and

(F) Actual in-use annual average vehicle fuel
economy[~~;~~ and].

(9) [~~Beginning with fiscal year 2005-2006 as the baseline~~
~~with respect to each~~] Each agency that operates a
fleet of thirty or more vehicles[~~7~~] shall collect and
maintain, in addition to the data in paragraph (8),
the following:

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

(B) Fleet fuel usage, by fuel;

(C) Fleet mileage; and

(D) Overall annual average fleet fuel economy and
average miles per gallon of gasoline and diesel."

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SECTION 42. Section 103D-1012, Hawaii Revised Statutes, is amended to read as follows:

"§103D-1012 Biofuel preference. (a) Notwithstanding any other law to the contrary, contracts for the purchase of diesel fuel or boiler fuel shall be awarded to the lowest responsible and responsive bidders, with preference given to bids for biofuels or blends of biofuel and petroleum fuel.

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

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

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

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

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

10 (g) Beginning January 1, 2012, all State-owned diesel
11 vehicles and equipment are required to be fueled with blends of
12 biomass-based diesel, subject to the availability of the fuel
13 and so long as the price is no greater than 20% more per gallon
14 than the price of conventional diesel."

15 SECTION 43. Chapter 196, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 **"§196-__ Alternative fuel vehicle requirement for fleets.**

19 (a) Beginning January 1, 2012, each fleet operator controlling
20 more than fifty light duty vehicles in the state shall, when
21 replacing its light duty vehicles or expanding its fleet,
22 acquire increasing percentages of vehicles capable of operating

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1 on non-petroleum energy sources, including electric vehicles,
2 flexible fuel vehicles, or other alternative fuel vehicles.

3 (b) At least 4% of all new light duty vehicles acquired by
4 a fleet operator in the state during the calendar year of 2012
5 shall be alternative fuel vehicles. This percentage shall
6 increase by four per cent per year, reaching seventy-six per
7 cent in the calendar year 2030.

8 (c) For the purposes of this section:

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

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

18 "Alternative fuel vehicle" means a vehicle capable of
19 operating on an alternative fuel.

20 "Electric vehicle" means a vehicle powered by electricity.
21 It does not include a neighborhood electric vehicle or any

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1 vehicle that is not designed to obtain electricity from sources
2 outside the vehicle.

3 "Fleet operator" means an entity controlling more than
4 fifty light duty vehicles for use in a business enterprise,
5 including vehicle rental, but does not include vehicles held for
6 retail sale.

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

11 (d) A fleet operator and its affiliates may aggregate
12 their vehicle purchases.

13 (e) Fleet operators acquiring vehicles earlier than the
14 program start date or in excess of the number of vehicles
15 required will be able to accumulate alternative fuel vehicle
16 credits, which may be traded, sold, or banked for later use in
17 meeting vehicle acquisition requirements.

18 (f) Fleet operators shall file annual reports with the
19 energy resources coordinator. Reports shall be for each calendar
20 year, and shall conform to the format, content, and reporting
21 requirements specified by the energy resources coordinator.

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1 Reports shall be filed by June 30 following the close of the
2 calendar year of the report.

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

10 (h) Any fleet operator or any other person violating the
11 requirements of this section may be subject to a fine of up to
12 \$1000 per nonconforming vehicle and up to \$50 per day per annual
13 report.

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

17 SECTION 44. Chapter 196, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 **"§196-__ Alternative fuel light duty vehicle sales**
21 **requirement.** (a) Beginning January 1, 2015, each motor vehicle
22 dealer with sales of more than fifty light duty vehicles per

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year in Hawaii shall increase the percentages of new and used light duty vehicle sales represented by vehicles capable of operating on non-petroleum energy sources, including electric vehicles, flexible fuel vehicles, or other alternative fuel vehicles, as follows:

(1) Ten per cent of its annual light duty vehicle sales for each calendar year between January 1, 2015 and December 31, 2019;

(2) Twenty per cent of its annual light duty vehicle sales for each calendar year between January 1, 2020 and December 31, 2024;

(3) Fifty per cent of its annual light duty vehicle sales for each calendar year between January 1, 2025 and December 31, 2029; and

(4) Seventy-five per cent of its annual light duty vehicle sales for each calendar year after January 1, 2030.

(b) For the purposes of this section:

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

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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 "Light-duty vehicle" has the same meaning as contained in
10 10 Code of Federal Regulations Part 490. It does not include any
11 vehicle incapable of traveling on highways or any vehicle with a
12 gross vehicle weight rating greater than 8500 pounds.

13 "Motor vehicle dealer" means a new motor vehicle dealer or
14 a used motor vehicle dealer, as such terms are defined in
15 Chapter 437 of the Hawaii Revised Statutes.

16 "Sale" means the transfer of control, whether by lease,
17 sale, or other arrangement, for a period greater than six
18 months.

19 (c) Dealers may acquire credits for alternative fuel
20 vehicle sales earlier than or in excess of the required amounts.
21 These credits may be banked, sold, or transferred to the
22 dealer's affiliates or other motor vehicle dealers in the state.

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1 Such credits may be used to offset an equivalent number of
2 required vehicle sales.

3 (d) Each dealer shall file an annual report with the
4 energy resources coordinator reporting on number and type of
5 alternative fuel vehicles and non alternative fuel light duty
6 vehicles sold during the previous calendar year, as well as any
7 vehicle credits sold, purchased, traded, or banked. Reports
8 shall be for each calendar year, and shall conform with the
9 format, content, and reporting requirements specified by the
10 energy resources coordinator. Reports shall be filed by June 30
11 following the close of the calendar year of the report.

12 (e) Any vehicle dealer not meeting the alternative fuel
13 vehicle percentage requirement shall include in its report an
14 explanation for not meeting the requirement.

15 (f) Motor vehicle dealers may apply to the energy
16 resources coordinator for exemptions from the requirements of
17 this section to the extent that the vehicles or credits required
18 by this section were not available. To be eligible for an
19 exemption, a motor vehicle dealer must be able to demonstrate
20 having made a good faith effort to comply with the requirements.

21 (g) Any motor vehicle dealer or any other person violating
22 the requirements of this section may be subject to a fine of up

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1 to \$1000 per nonconforming vehicle and up to \$50 per day per
2 annual report.

3 (h) Failure to file the required reports or to comply with
4 the vehicle sales requirements of this section may be grounds
5 for referral to the motor vehicle industry board for
6 disciplinary action.

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

10 SECTION 45. Chapter 437-28, Hawaii Revised Statutes, is
11 amended by amending paragraph (a)(2) to read as follows:

12 "(2) Has failed to comply with, observe, or adhere to any
13 provision of this chapter or any other law relating to the sale,
14 taxing, or licensing of motor vehicles or any rule or order made
15 pursuant to this chapter[+], or has been referred to the board
16 by the state energy resources coordinator for failing to comply
17 with state alternative fuel vehicle requirements;"

18 PART XIII

19 TRANSPORTATION ENERGY PLANS AND STUDIES

20 SECTION 46. The Department of Accounting and General
21 Services shall develop an implementation plan for installation

____.B. NO. _____

1 of electric vehicle charging stations at State owned parking
2 facilities.

3 SECTION 47. Section 286-172, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§286-172 Furnishing of information.** (a) Subject to
6 authorization granted by the chief justice with respect to the
7 traffic records of the violations bureaus of the district courts
8 and of the circuit courts, the director of transportation shall
9 furnish information contained in the statewide traffic records
10 system in response to:

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

15 (2) Any request from a person having a legitimate reason,
16 as determined by the director, as provided under the
17 rules adopted by the director under paragraph (1), to
18 obtain the information for verification of vehicle
19 ownership, traffic safety programs, or for research or
20 statistical reports;

21 (3) the Energy Resources Coordinator, to track the number
22 and type of vehicles in use and the effectiveness of

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1 efforts to increase the efficiency and diversify the
2 fuel needs of Hawaii's transportation sector; or
3 ~~[(3)]~~ (4) Any request from a person required or authorized
4 by law to give written notice by mail to owners of
5 vehicles.

6 (b) Any person requesting information contained in the
7 statewide traffic records system under subsection (a)(2) shall
8 file an affidavit with the director stating the reasons for
9 obtaining the information and making assurances that the
10 information will be used only for such reasons, that individual
11 identities will be properly protected, and that the information
12 will not be used to compile a list of individuals for the
13 purposes of any commercial solicitation by mail or otherwise, or
14 the collection of delinquent accounts or any other purpose not
15 allowed or provided for by the rules.

16 (c) The information provided to any person qualifying to
17 receive information under subsection (a)(2) shall be provided
18 for a fee and under such conditions as set by the director
19 pursuant to rules adopted by the director under chapter 91. The
20 director shall require the person receiving the information to
21 file with the director a corporate surety bond in favor of the
22 State in the penal sum of not more than \$70,000, conditioned

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1 upon the full and faithful compliance of the person receiving
2 the information with the terms and conditions of the affidavit
3 and the conditions set by the director. Any person otherwise
4 qualified to receive information under subsection (a)(2) and who
5 complies with the provisions of this section may receive all the
6 information in the motor vehicle registration file if the person
7 either provides information to or performs recalls on behalf of
8 manufacturers of motor vehicles as authorized by the federal
9 government or as deemed necessary by a manufacturer in order to
10 protect the public health, safety, and welfare or to make a free
11 correction of a manufacturing deficiency.

12 (d) Any person receiving information pursuant to
13 subsection (a)(2) or (3) shall hold harmless the State and any
14 agency thereof from all claims for improper use or release of
15 such information."

16 SECTION 48. Section 92F-19, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§92F-19 Limitations on disclosure of government records**
19 **to other agencies.** (a) No agency may disclose or authorize
20 disclosure of government records to any other agency unless the
21 disclosure is:

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- 1 (1) Necessary for the performance of the requesting
2 agency's duties and functions and is also:
 - 3 (A) Compatible with the purpose for which the
4 information was collected or obtained; or
 - 5 (B) Consistent with the conditions or reasonable
6 expectations of use and disclosure under which
7 the information was provided;
- 8 (2) To the state archives for the purposes of historical
9 preservation, administrative maintenance, or
10 destruction;
- 11 (3) To another agency, another state, or the federal
12 government, or foreign law enforcement agency or
13 authority, if the disclosure is:
 - 14 (A) For the purpose of a civil or criminal
15 law enforcement activity authorized by
16 law; and
 - 17 (B) Pursuant to:
 - 18 (i) A written agreement or written
19 request, or
 - 20 (ii) A verbal request, made under
21 exigent circumstances, by an
22 officer or employee of the

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1 requesting agency whose identity
2 has been verified, provided that
3 such request is promptly confirmed
4 in writing;

5 (4) To a criminal law enforcement agency of this State,
6 another state, or the federal government, or a foreign
7 criminal law enforcement agency or authority, if the
8 information is limited to an individual's name and
9 other identifying particulars, including present and
10 past places of employment;

11 (5) To a foreign government pursuant to an executive
12 agreement, compact, treaty, or statute;

13 (6) To the legislature, or a county council, or any
14 committee or subcommittee thereof;

15 (7) Pursuant to an order of a court of competent
16 jurisdiction;

17 (8) To authorized officials of another agency, another
18 state, or the federal government for the purpose of
19 auditing or monitoring an agency program that receives
20 federal, state, or county funding;

21 (9) To the offices of the legislative auditor, the
22 legislative reference bureau, or the ombudsman of this

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1 State for the performance of their respective
2 functions;

3 (10) To the department of human resources development,
4 county personnel agencies, or line agency personnel
5 offices for the performance of their respective duties
6 and functions, including employee recruitment and
7 examination, classification and compensation reviews,
8 the administration and auditing of personnel
9 transactions, the administration of training and
10 safety, workers' compensation, and employee benefits
11 and assistance programs, and for labor relations
12 purposes;

13 (11) To the department of business, economic development,
14 and tourism for the performance of their statutory
15 responsibilities; or

16 [~~(11)~~](12) Otherwise subject to disclosure under this
17 chapter.

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

21 SECTION 49. Section 226-17, Hawaii Revised Statutes, is
22 amended to read as follows:

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1 **"§226-17 Objectives and policies for facility systems--**
2 **transportation.** (a) Planning for the State's facility systems
3 with regard to transportation shall be directed towards the
4 achievement of the following objectives:

5 (1) An integrated multi-modal transportation system that
6 services statewide needs and promotes the efficient,
7 economical, safe, and convenient movement of people
8 and goods.

9 (2) A statewide transportation system that is consistent
10 with and will accommodate planned growth objectives
11 throughout the State.

12 (b) To achieve the transportation objectives, it shall be
13 the policy of this State to:

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

17 (2) Coordinate state, county, federal, and private
18 transportation activities and programs toward the
19 achievement of statewide objectives;

20 (3) Encourage a reasonable distribution of financial
21 responsibilities for transportation among
22 participating governmental and private parties;

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

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- 1 (11) Encourage safe and convenient use of low-cost,
2 energy-efficient, non-polluting means of
3 transportation;
- 4 (12) Coordinate intergovernmental land use and
5 transportation planning activities to ensure the
6 timely delivery of supporting transportation
7 infrastructure in order to accommodate planned growth
8 objectives; and
- 9 (13) [~~Encourage diversification of transportation modes~~
10 ~~and infrastructure~~] Include transportation energy
11 demand estimates in State-wide and County-wide long-
12 range land transportation plans that utilize travel
13 demand forecasting models in order to promote
14 alternate fuels and energy efficiency."

15 SECTION 50. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 51. This Act shall take effect upon its approval.

18
19 INTRODUCED BY: _____
20