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# A BILL FOR AN ACT

RELATING TO ENVIRONMENT

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

**SECTION 1.** The Legislature finds that the State of Hawai`i is committed to achieving 100 percent of Hawai`i's electricity from clean energy sources by Year 2045, within the next 26 years. To accomplish this, Hawai`i will cut energy waste in homes, schools, hospitals and offices through energy efficient improvements; modernize the electric grid; and make manufacturing the cleanest, most efficient in the world. These efforts will create hundreds of new jobs and save families and businesses money on their monthly energy bills. Hawai`i's transportation will be required to transform by reducing fossil fuel consumption through cleaner fuels, vehicle electrification, increasing the fuel efficiency of cars, boilers, ships, and trucks. The tax code must be required to reflect Hawai`i's commitment to a clean energy future by preserving and extending tax incentive for energy efficiency and clean energy.

The Legislature finds that carbon dioxide, methane, and other greenhouse gases should be priced to reflect their negative externalities, and to accelerate the transition to a clean energy economy and help meet our climate goals.

The Legislature finds that the citizens of Hawai`i are committed to defending, implementing and extending smart pollution and efficiency standards and fuel economy standards for automobiles and heavy vehicles, building codes and appliance standards. The Legislature finds that citizens of Hawai`i are committed to expanding clean energy research and development.

1           The Legislature finds that conservation and collaborative stewardship of our shared  
2 natural heritage: the public lands and waterways, the oceans, mountains and all that makes  
3 Hawai`i's great outdoors priceless is required to maintain its natural beauty.

4           The Legislature finds that policies and investments that keep Hawai`i's public lands  
5 public, strengthen protections of our natural and cultural resources, increase access to parks and  
6 public lands for all people, protect native species and wildlife and harness the immense  
7 economic and social potential of our public lands and waters are essential to maintain its beauty  
8 in perpetuity.

9           The Legislature finds that a conservation approach to maintaining our public lands and  
10 waters in a way that reflects the diversity of our State by actively engaging all people in the great  
11 outdoors and protecting its natural landscapes and cultural sites that tell the story of Hawai`i's  
12 complex history is essential to the well-being of the citizens of Hawai`i.

13           The Legislature finds that Climate change poses an urgent and severe threat to our  
14 national security, and the Legislature finds that it would be a grave mistake for the United States  
15 to wait for another nation to take the lead in combating the global climate emergency.  
16 According to the military, climate change is a threat multiplier that is already contributing new  
17 conflicts over resources, catastrophic natural disasters, and the degradation of vital ecosystems  
18 across the globe.

19           The Legislature finds that catastrophic consequences are facing our state, our country, our  
20 planet, and civilization if the State does not reduce the production of greenhouse gas emissions.

21           The Legislature finds that Hawai`i must lead in forging a robust global solution to the  
22 climate crisis. It is committed to a national mobilization and to leading a global effort to  
23 mobilize nations to address this threat. This generation must lead the fight against climate

1 change. The Legislature applauds Hawai`i's leadership in joining the historic Paris Climate  
2 Accord.

3 The Legislature finds that Hawai`i will not only strive to meet the goals set in Paris but  
4 will also seek to exceed them and push other states to do the same by slashing carbon pollution  
5 and rapidly driving down emissions of potent greenhouse gases like hydrofluorocarbons.

6 The Legislature supports other States and developing countries in their efforts to mitigate  
7 carbon pollution and other greenhouse gases, deploy more clean energy, and invest in climate  
8 resilience and adaptation. *Democratic Party of Hawai`i Platform (2018), p. 18, lines 14-46, p.*  
9 *19, lines 2-16.*

10 The Legislature finds that energy independence, self-sufficiency, affordability and  
11 reliability for Hawai`i through the development of renewable alternative energy sources is vital.  
12 Specifically, policies that foster the development of energy production methods that de-  
13 emphasize carbon-based fuels and promote renewable sources such as wind, solar, wave,  
14 geothermal and Ocean Thermal Energy Conversion (OTEC) are encouraged and necessary to  
15 meet its 100 percent energy by clean energy sources goals by 2045.

16 The Legislature further finds that electricity rates in Hawai`i are among the highest in the  
17 Nation even though we enjoy an abundance of sunshine year-round. Electric utility companies  
18 and cooperatives must open the grid to alternative power sources including solar panels and  
19 geothermal energy.

20 The Legislature finds that utilities must also provide for the maximum, comprehensive,  
21 integrated use of renewable energy and associated technologies such as storage and smart grid  
22 technologies. *Democratic Party of Hawai`i Platform (2018), p. 18, Lines 1-10.*

1           Furthermore, the Legislature finds that State law requires environmental review for  
2 power-generating facility, defined as a new or expanded fossil-fueled, electricity-generating  
3 facility that exceeds 5 megawatts. Projects with minimal impacts are exempt. However, so too  
4 are power-generating facilities, including but not limited to, gas facilities that primarily create  
5 heat, virgin forest biomass facilities which emit significant levels of greenhouse gases, and  
6 facilities that use large amounts of cement/concrete created by greenhouse gas intensive  
7 processes.

8           For these reasons, the Legislature finds that the definition of power-generating facility  
9 should be deleted and that all power generating facilities be required to complete an  
10 environmental review, subject to the Environmental Council excluding those types with minimal  
11 environmental and greenhouse gas impact.

12 SECTION 2. HRS 343-2 is amended as follows:

13 **§343-2 Definitions.** As used in this chapter unless the context otherwise requires:

14       "Acceptance" means a formal determination that the document required to be filed pursuant to  
15 section 343-5 fulfills the definition of an environmental impact statement, adequately describes  
16 identifiable environmental impacts, and satisfactorily responds to comments received during the  
17 review of the statement.

18       "Action" means any program or project to be initiated by any agency or applicant.

19       "Agency" means any state or county department, office, board, authority or commission.

20       "Applicant" means any person who, pursuant to statute, ordinance, or rule, officially requests  
21 approval for a proposed action.

22       "Approval" means a discretionary consent required from an agency prior to actual  
23 implementation of an action.

1 "Council" means the environmental council.

2 "Discretionary consent" means a consent, sanction, or recommendation from an agency for  
3 which judgment and free will may be exercised by the issuing agency, as distinguished from a  
4 ministerial consent.

5 "Environmental assessment" means a written evaluation to determine whether an action may  
6 have a significant effect.

7 "Environmental impact statement" or "statement" means an informational document prepared  
8 in compliance with the rules adopted under section 343-6 and which discloses the environmental  
9 effects of a proposed action, effects of a proposed action on the economic welfare, social  
10 welfare, and cultural practices of the community and State, effects of the economic activities  
11 arising out of the proposed action, measures proposed to minimize adverse effects, and  
12 alternatives to the action and their environmental effects.

13 The initial statement filed for public review shall be referred to as the draft statement and  
14 shall be distinguished from the final statement which is the document that has incorporated the  
15 public's comments and the responses to those comments. The final statement is the document  
16 that shall be evaluated for acceptability by the respective accepting authority.

17 "Finding of no significant impact" means a determination based on an environmental  
18 assessment that the subject action will not have a significant effect and, therefore, will not  
19 require the preparation of an environmental impact statement.

20 "Helicopter facility" means any area of land or water which is used, or intended for use for the  
21 landing or takeoff of helicopters; and any appurtenant areas which are used, or intended for use  
22 for helicopter related activities or rights-of-way.

23 "Office" means the office of environmental quality control.

1 "Person" includes any individual, partnership, firm, association, trust, estate, private  
2 corporation, or other legal entity other than an agency.

3 ~~"Power-generating facility" means:~~

4 ~~—(1) A new, fossil-fueled, electricity-generating facility, where the electrical output rating of~~  
5 ~~the new equipment exceeds 5.0 megawatts; or~~

6 ~~—(2) An expansion in generating capacity of an existing, fossil-fueled, electricity-generating~~  
7 ~~facility, where the incremental electrical output rating of the new equipment exceeds 5.0~~  
8 ~~megawatts.~~

9 "Renewable energy facility". DELETED.

10 "Significant effect" means the sum of effects on the quality of the environment, including  
11 actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the  
12 environment, are contrary to the State's environmental policies or long-term environmental goals  
13 as established by law, or adversely affect the economic welfare, social welfare, or cultural  
14 practices of the community and State.

15 "Wastewater treatment unit" means any plant or facility used in the treatment of wastewater.

16 SECTION 3. HRS 343-5(a) is amended as follows:

17 **§343-5 Applicability and requirements.** (a) Except as otherwise provided, an

18 environmental assessment shall be required for actions that:

19 (1) Propose the use of state or county lands or the use of state or county funds, other than  
20 funds to be used for feasibility or planning studies for possible future programs or projects that  
21 the agency has not approved, adopted, or funded, or funds to be used for the acquisition of  
22 unimproved real property; provided that the agency shall consider environmental factors and  
23 available alternatives in its feasibility or planning studies; provided further that an environmental

1 assessment for proposed uses under section 205-2(d)(11) or 205-4.5(a)(13) shall only be required  
2 pursuant to section 205-5(b);

3 (2) Propose any use within any land classified as a conservation district by the state land use  
4 commission under chapter 205;

5 (3) Propose any use within a shoreline area as defined in section 205A-41;

6 (4) Propose any use within any historic site as designated in the National Register or Hawaii  
7 Register, as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter  
8 6E;

9 (5) Propose any use within the Waikiki area of Oahu, the boundaries of which are delineated  
10 in the land use ordinance as amended, establishing the "Waikiki Special District";

11 (6) Propose any amendments to existing county general plans where the amendment would  
12 result in designations other than agriculture, conservation, or preservation, except actions  
13 proposing any new county general plan or amendments to any existing county general plan  
14 initiated by a county;

15 (7) Propose any reclassification of any land classified as a conservation district by the state  
16 land use commission under chapter 205;

17 (8) Propose the construction of new or the expansion or modification of existing helicopter  
18 facilities within the State, that by way of their activities, may affect:

19 (A) Any land classified as a conservation district by the state land use commission under  
20 chapter 205;

21 (B) A shoreline area as defined in section 205A-41; or

22 (C) Any historic site as designated in the National Register or Hawaii Register, provided  
23 for in the Historic Preservation Act of 1966, Public Law 89-665, or

1 chapter 6E; or until the statewide historic places inventory is completed,  
2 any historic site that is found by a field reconnaissance of the area affected  
3 by the helicopter facility and is under consideration for placement on the  
4 National Register or the Hawaii Register of Historic Places; and

5 (9) Propose any:

6 (A) Wastewater treatment unit, except an individual wastewater system or a wastewater  
7 treatment unit serving fewer than fifty single-family dwellings or the  
8 equivalent;

9 (B) Waste-to-energy facility;

10 (C) Landfill;

11 (D) Oil refinery; or

12 (E) Power-generating facility that sells electricity to a utility through a power purchase  
13 contract.

14 SECTION 4. This Act shall be effective upon approval on July 1, 2019.

15  
16 INTRODUCED BY: \_\_\_\_\_.