

Honolulu, Hawaii

April 28, 2006

RE: H.B. No. 3115
H.D. 2
S.D. 2
C.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 3115, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE PETROLEUM INDUSTRY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to provide Hawaii's gasoline consumers with fair market-related gasoline prices in a local oligopolistic petroleum industry.

Specifically, this measure:

- (1) Amends chapter 486J, Hawaii Revised Statutes, to require additional and more pertinent information to be provided by the petroleum industry, thereby providing more transparency in the petroleum industry;



- (2) Establishes the petroleum industry monitoring, analysis, and reporting program and special fund;
- (3) Suspends the maximum pre-tax wholesale gasoline price provision, while authorizing the Public Utilities Commission to temporarily lift the suspension on a zone-by-zone basis if for two weeks oil companies raise and maintain wholesale gasoline prices above the weekly maximum pre-tax wholesale gasoline price that would have been in effect had it not been suspended;
- (4) During any time that the maximum pre-tax wholesale gasoline price provision is suspended:
 - (A) Requires the gasoline distributors and dealers to continue to provide information and data required by chapter 486J; and
 - (B) Requires the Public Utilities Commission to continue to calculate and publish what the maximum pre-tax wholesale gasoline price would have been had the provision not been suspended;
- (5) Amends section 486H-13, Hawaii Revised Statutes, by:
 - (A) Adding the Singapore spot price weekly average price of conventional regular unleaded gasoline to the baseline price determination, with the lowest three of the four average weekly geographic prices being averaged to determine the state baseline price of regular unleaded gasoline;
 - (B) In the event of a holiday or holidays in a prior week, requiring the Public Utilities Commission to average the prices of the days that were not holidays;
 - (C) Eliminating the location adjustment factor;
 - (D) Reducing the marketing margin to 14 cents;
 - (E) Allocating percentages of zone price adjustments in zones 2 through 8 to distributors based upon the different function of the distributors; and



- (F) Providing for zone price adjustments and allocations of zone price adjustments on a zone by zone basis;
- (6) Makes an appropriation from the general fund into the petroleum industry monitoring, analysis, and reporting special fund and an appropriation from the special fund to establish and maintain the petroleum industry monitoring, analysis, and reporting program; and
- (7) Sets forth and prohibits unfair trade practices by the petroleum industry.

Your Committee finds that the State needs a true and effective system of transparency that ensure that elected officials and the public would have all of the data they need to effectively monitor the pricing schemes and anti-competitive practices of the oil industry. Your Committee recognizes that a major goal of transparency is to raise the curtain of secrecy around industry-pricing practices to deter price-fixing and other anti-competitive practices. This measure would require the industry to report to the Public Utilities Commission sales volumes and the effective date, time, and amount of changes in wholesale prices for gasoline and diesel. Within fourteen days of receipt of this information, the Public Utilities Commission would be required to use the best technology available to publicly disclose the sales and pricing data that the industry reports. The Public Utilities Commission still would keep the industry's legitimately confidential information under seal.

Your Committee has amended this measure by:

- (1) Eliminating the authority of the Public Utilities Commission to temporarily reinstate the maximum wholesale gasoline price if oil companies raise and maintain wholesale gasoline prices above the fair price indicator;
- (2) Giving the governor the authority to reinstate the weekly maximum pre-tax wholesale gasoline price for thirty-days upon the governor's publication of a statewide notice that the reinstatement would be beneficial to the economic well-being, health, and safety of the people of the State;
- (2) Giving the governor the authority, upon reinstatement, to increase the maximum wholesale gasoline price within a zone;



- (3) Repealing section 486H-15, relating to the governor's emergency powers;
- (4) Adding a definition of "conventional gasoline" to section 486H-1;
- (5) Adding the department of business, economic development and tourism to the agencies authorized to examine reports or statements filed pursuant to chapter 486J and to obtain information pertinent to the commission's duties under chapter 486J;
- (6) Establishing the number of full-time staff positions in the commission to implement and maintain the petroleum industry monitoring, analysis, and reporting program; and
- (7) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

Your Committee finds that Hawaii gasoline prices will not go down to competitive levels without increased transparency and government pressure. Although this measure would allow the oil companies to set prices at whatever levels they want, there must be mechanisms in place, in addition to increased transparency, to ensure that oil companies do not again raise prices artificially high.

The measure would give the governor authority to reinstate the maximum wholesale price ceiling for thirty days upon a published finding that reinstatement would be beneficial to the economic well-being, health, and safety of the people of the State. The governor's reinstatement authority would be triggered when the wholesale price of gasoline went above the fair price indicator. The governor's reinstatement authority also would be triggered when other events or circumstances, such as a natural disaster, justified a finding that temporary reinstatement would be beneficial to the economic well-being, health, and safety of the people of the State.

Your Committee finds that this measure should have the desired effect of providing Hawaii's gasoline consumers with fair market-related gasoline prices, by providing more transparency in the petroleum industry and by giving the governor the authority to reinstate the maximum pre-tax wholesale gasoline price provision in the event that the industry transparency does not result in the desired fair market-related gasoline prices.



In approving this measure, your Committee is doing its best to accommodate the desire of some members of the legislature to put the mandatory price ceiling on hold and to give oil companies greater latitude in setting prices. However, this measure also addresses the belief of consumer advocates and this Committee that the State must have some kind of fallback mechanism in place to authorize the governor to roll back prices should the oil companies resort to raising prices artificially high.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 3115, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3115, H.D. 2, S.D. 2, C.D. 1.

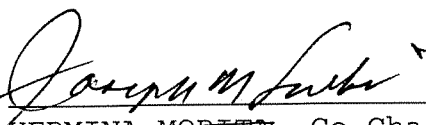
Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE


ON THE PART OF THE HOUSE



RON MENOR, Chair



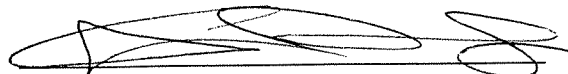
~~HERMINA MORITA, Co-Chair~~



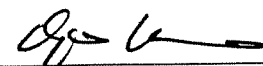
BRIAN T. TANIGUCHI, Co-Chair



ROBERT N. HERKES, Co-Chair



SYLVIA LUKE, Co-Chair



DWIGHT TAKAMINE, Co-Chair



