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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
February 18, 2010
4:00 p.m.
State Capitol, Conference Room 308

in consideration of
HB 2631 HD 1
RELATING TO ENERGY INDUSTRY REPORTING.

Good afternoon, Chair Marcus Oshiro, Vice Chair Marilyn Lee, and Members of the Committee.

HB 2631 establishes energy industry data reporting and analysis program within the Department of Business, Economic Development, and Tourism (DBEDT) but, in its current form, HB 2631 HD 1, has repealed the petroleum industry information reporting requirements, monitoring, analysis, and the PIMAR special fund. Energy data and analysis are essential in carrying out the Energy Resources Coordinator's (ERC) statutory function of energy planning, policy development, and energy emergency preparedness and response.

DBEDT recommends that Section 5 of HB 2631 HD 1 be amended to include the following changes to ensure that DBEDT meet its statutory responsibilities.

- (a) Each month, every refiner and distributor, on the reporting date as established by the director, shall file with forms furnished by and to the department showing separately for each county and for the islands of Lanai and Molokai within which and wherein fuel is sold or used during the last preceding month, the following:

- (1) The total volume of fuel imported into and exported from Hawaii, and if for ultimate sale or consumption in another county or on another island, the total volume of fuel, in barrels, by import location (foreign and domestic), by specific crude oil imported and by liquid fuel type, aviation fuel, diesel fuel, and other types of fuel as required by the department, that is sold, exchanged, or otherwise transferred or used by the distributor;
- (2) The total volume of fuel refined, manufactured, or compounded by refineries, in barrels, by company, and by liquid fuel type, aviation fuel, diesel fuel, and other types of fuel as required by the department, including No. 2 diesel fuel, No. 1 distillate, No. 2 fuel oil, No. 4 fuel oil, kerosene, finished aviation gasoline, kerosene-type jet fuel, residual fuel oil, consumer grade propane, gasoline (regular, midgrade and premium);
- (3) The total volume of fuel distributed, in barrels, by company, by island, and by liquid fuel type, aviation fuel, diesel fuel, and other types of fuel as required by the department, and by
 - i. Classes of Retail Trade;
 - ii. Federal, state, county agencies, ships stores, or base exchanges, commercial agriculture accounts, commercial non-agriculture accounts, retail dealers, and other customers as required by the department.

Included in the amendments to HB 2631 HD 1, DBEDT also recommends the inclusion of the following definitions: "Aviation fuel", "Classes of retail trade", "Energy", and "Month" or "calendar month".

Attached is a revision of the bill that includes the changes prescribed in our recommendations listed above.

Thank you for the opportunity to testify.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 17, 2010 7:13 PM
To: FINTestimony
Cc: james.bac@dbedt.hawaii.gov
Subject: Testimony for HB2631 on 2/18/2010 4:00:00 PM
Attachments: BILL ATTACHMENT_HB2631 HD1_BED_02-18-10_FIN.doc

Testimony for FIN 2/18/2010 4:00:00 PM HB2631

Conference room: 308
Testifier position: comments only
Testifier will be present: No
Submitted by: James Bac
Organization: DBEDT
Address: 235 S. Beretania St. Honolulu, HI
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E-mail: james.bac@dbedt.hawaii.gov
Submitted on: 2/17/2010

Comments:
BILL ATTACHMENT TO HB2631, HD1

A BILL FOR AN ACT

RELATING TO ENERGY INDUSTRY REPORTING.

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

1 SECTION 1. Section 486H-13, Hawaii Revised Statutes, is amended
2 as follows:

3 1. By amending subsection (1) to read as follows:

4 "(1) The suspension of the maximum pre-tax wholesale
5 gasoline price shall suspend the commission's duty to calculate
6 and publish the maximum pre-tax wholesale gasoline price that
7 would have been in effect but for the suspension, but shall not
8 suspend or affect:

9 (1) Any duty to register, timely provide information, make
10 a report, or file a statement under chapter 486J; or

11 (2) Any duty of the commission to[÷

12 ~~(A) Timely obtain, analyze, or publicly disclose or~~
13 ~~report information under chapter 486J; and~~

14 ~~(B) Enforce]~~ enforce chapter 486B."

15 2. By amending subsection (n) to read as follows:

16 "(n) The commission shall have the power to determine the
17 extent to which a manufacturer, wholesaler, or jobber is
18 complying with any requirement imposed or rule adopted under

1 this section, including the power to compel a manufacturer,
2 wholesaler, or jobber to submit documents, data, and information
3 necessary and appropriate for the commission to determine [~~such~~]
4 compliance. [~~The commission may use data collected pursuant to~~
5 ~~chapter 486J in determining such compliance.~~]"

6 SECTION 2. Section 486J-1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§486J-1 Definitions.** As used in this chapter:

9 "Aviation fuel" means and includes all liquid substances of
10 whatever chemical composition usable for the propulsion of
11 airplanes.

12 "Classes of retail trade" means the separate subdivisions,
13 or "classes", of outlets or methods of retail sales of liquid
14 fuels, typically but not always limited to gasoline and diesel
15 for motor vehicles, and includes any:

16 (1) Company-operated station that is a retail service
17 station owned and operated by a refiner or wholesale
18 distributor and where retail prices are set by that
19 refiner or wholesale distributor;

20 (2) Lessee dealer-operated station that is a retail
21 service station owned by a refiner or wholesale
22 distributor and operated by a qualified gasoline

1 dealer other than a refiner or wholesale distributor
2 under a franchise; or
3 (3) Owner-operated station that is a retail service
4 station not owned by a refiner or wholesale
5 distributor and operated by a qualified gasoline
6 dealer.

7 "Commission" means the public utilities commission.

8 ~~["Competitively priced" means fuel-grade ethanol for which~~
9 ~~the wholesale price, minus the value of all applicable federal,~~
10 ~~state, and county tax credits and exemptions, is not more than~~
11 ~~the average posted rack price of unleaded gasoline of comparable~~
12 ~~grade published in the State.~~

13 ~~"Corporate overhead expenses" means the expenses or costs~~
14 ~~allocated by the refiners that reflect their Hawaii business~~
15 ~~units' share of corporate staff costs, such as legal, finance,~~
16 ~~accounting, information technology, and similar costs.~~

17 ~~"Dealer tank wagon price" means the wholesale price at~~
18 ~~which liquid fuel is sold to any retail outlet by any~~
19 ~~distributor priced on a delivered basis to a retail outlet.]~~

20 "Department" means the department of business, economic
21 development, and tourism.

1 "Director" means the director of business, economic
2 development, and tourism.

3 "Distributor" means:

4 (1) Every person who refines, manufactures, produces, or
5 compounds fuel in the [~~State~~] state and sells it at
6 wholesale or at retail;

7 (2) Every person who imports or causes to be imported into
8 the [~~State,~~] state, or exports or causes to be
9 exported from the [~~State,~~] state, any fuel;

10 (3) Every person who acquires fuel through exchanges with
11 another distributor; or

12 (4) Every person who purchases fuel for resale at
13 wholesale or retail from any person described in
14 paragraph (1), (2), or (3); provided that
15 "distributor" shall not include a marina, lessee
16 dealer-operated station, owner-operated station, or
17 other retailer that retails fuel only to end users or
18 the public.

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

21 "Fuel" means fuels, whether liquid, solid, or gaseous,
22 commercially usable for energy needs, power generation, and

1 fuels manufacture, that may be manufactured, grown, produced, or
2 imported into the [~~State~~] state or that may be exported
3 therefrom, including petroleum and petroleum products and gases,
4 coal, coal tar, vegetable ferments, and all fuel alcohols.

5 "Liquid fuel" means fuels in liquid form, commercially
6 usable for energy needs, power generation, and fuels that may be
7 manufactured, produced, or imported into the [~~State~~] state or
8 that may be exported therefrom, including petroleum and
9 petroleum products and all fuel alcohols.

10 ~~["Major fuel user" means any person who uses fuel in the
11 manufacture of products or for the generation of power in
12 amounts determined by the commission as having a major effect on
13 energy supplies.~~

14 ~~"Major marketer" means any person who sells natural gas,
15 propane, synthetic natural gas, or oil in amounts determined by
16 the commission as having a major effect on energy supplies.~~

17 ~~"Major oil producer" means any person who produces oil in
18 amounts determined by the commission as having a major effect on
19 energy supplies.~~

20 ~~"Major oil storer" means any person who stores oil or other
21 petroleum products in amounts determined by the commission as
22 having a major effect on energy supplies.~~

1 ~~"Major oil transporter" means any person who transports oil~~
2 ~~or other petroleum products in amounts determined by the~~
3 ~~commission as having a major effect on energy supplies.~~

4 "Month" or "calendar month" means each full month of the
5 calendar year.

6 ~~"Nonrefiner wholesale price" means the wholesale price at~~
7 ~~which liquid fuel is sold by any distributor, not a refiner, to~~
8 ~~any other distributor, not a refiner, for resale at any~~
9 ~~subsequent wholesale or retail transaction.]~~

10 "Person" means any person, firm, association, organization,
11 partnership, business trust, corporation, or company. "Person"
12 also includes any city, county, public district or agency, the
13 State, or any department or agency thereof, and the United
14 States to the extent authorized by federal law.

15 "Refiner" means any person who owns, operates, or controls
16 the operations of one or more refineries in Hawaii.

17 ~~["Refiner wholesale price" means the wholesale price at~~
18 ~~which liquid fuel is sold by a refiner to any distributor, not a~~
19 ~~refiner, for resale at any subsequent wholesale or retail~~
20 ~~transaction.~~

1 ~~"Refinery" means any industrial plant, regardless of~~
2 ~~capacity, processing crude oil feedstock and manufacturing oil~~
3 ~~products.~~

4 ~~"Wholesale liquid fuel prices" means the prices at which~~
5 ~~liquid fuel is sold at wholesale for resale at wholesale or~~
6 ~~retail, typically but not limited to gasoline and diesel for~~
7 ~~motor vehicles, and include "dealer tank wagon price",~~
8 ~~"nonrefiner wholesale price", and "refiner wholesale price".]~~"

9 SECTION 3. Section 486J-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§486J-6 Confidential information.** (a) Confidential
12 commercial information provided to the commission at any time
13 pursuant to this chapter that is exempt from public disclosure
14 under section 92F-13 shall be held in confidence by the
15 commission or aggregated to the extent necessary in the
16 commission's discretion to ensure confidentiality as required by
17 chapter 92F.

18 (b) No data or information submitted to the commission at
19 any time shall be deemed confidential if it is shown that the
20 person submitting the information or data has made it public.

21 (c) Unless otherwise provided by law, with respect to data
22 that the commission [~~obtains~~] obtained or [~~is~~] was provided

1 pursuant to section 486J-3, 486J-4, 486J-4.5, or 486J-5[~~7~~] prior
2 to their repeal, neither the commission nor any employee of the
3 commission may do any of the following:

- 4 (1) Use the information furnished or obtained for any
5 purpose other than the purposes for which it is
6 supplied;
- 7 (2) Make any publication whereby the data furnished by any
8 person can be identified; or
- 9 (3) Permit any person other than the commission, the
10 department of taxation, the attorney general, the
11 consumer advocate, the department of business,
12 economic development, and tourism, and the authorized
13 representatives and employees of each to examine the
14 individual reports or statements provided."

15 SECTION 4. Section 486J-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§486J-7 Confidential information obtained by another**
18 **state agency.** Any confidential information pertinent to the
19 responsibilities of the commission or the director specified in
20 this chapter that is obtained by another state agency, including
21 the department of taxation, the attorney general, and the
22 consumer advocate, shall be available only to the attorney

1 general, the attorney general's authorized representatives, the
2 department of business, economic development, and tourism, and
3 the commission and shall be treated in a confidential manner."

4 SECTION 5. Section 486J-3, Hawaii Revised Statutes, shall
5 be amended as follows, is repealed.

6 (a) Each month, every refiner and distributor, on the
7 reporting date as established by the director, shall
8 file with forms furnished by and to the department
9 showing separately for each county and for the islands
10 of Lanai and Molokai within which and wherein fuel is
11 sold or used during the last preceding month, the
12 following:

13 (1) The total volume of fuel imported into and
14 exported from Hawaii, and if for ultimate sale or
15 consumption in another county or on another
16 island, the total volume of fuel, in barrels, by
17 import location (foreign and domestic), by
18 specific crude oil imported and by liquid fuel
19 type, aviation fuel, diesel fuel, and other types
20 of fuel as required by the department, that is
21 sold, exchanged, or otherwise transferred or used
22 by the distributor;

1 (2) The total volume of fuel refined, manufactured,
2 or compounded by refineries, in barrels, by
3 company, and by liquid fuel type, aviation fuel,
4 diesel fuel, and other types of fuel as required
5 by the department, including No. 2 diesel fuel,
6 No. 1 distillate, No. 2 fuel oil, No. 4 fuel oil,
7 kerosene, finished aviation gasoline, kerosene-
8 type jet fuel, residual fuel oil, consumer grade
9 propane, gasoline (regular, midgrade and
10 premium);

11 (3) The total volume of fuel distributed, in barrels,
12 by company, by island, and by liquid fuel type,
13 aviation fuel, diesel fuel, and other types of
14 fuel as required by the department, and by

15 i. Classes of Retail Trade;

16 ii. Federal, state, county agencies, ships
17 stores, or base exchanges, commercial
18 agriculture accounts, commercial non-
19 agriculture accounts, retail dealers, and
20 other customers as required by the
21 department.

1 ~~["§486J-3 Statements. (a) Each week every distributor~~
2 ~~and major fuel user shall file with the commission, on forms~~
3 ~~prescribed, prepared, and furnished by the commission, a~~
4 ~~certified statement showing on a statewide consolidated basis,~~
5 ~~and separately for each county and for the islands of Lanai and~~
6 ~~Molokai within which and whereon fuel is sold or used during the~~
7 ~~last preceding reporting week, the following:~~

8 ~~(1) The total number of gallons or units of fuel, by type~~
9 ~~or grade, refined, manufactured, or compounded by the~~
10 ~~distributor within the State and, if for ultimate sale~~
11 ~~or consumption in another county or on another island,~~
12 ~~the number of gallons or units of fuel, by type or~~
13 ~~grade, sold, exchanged, or otherwise transferred or~~
14 ~~used by the distributor in each county or island;~~

15 ~~(2) The total number of gallons or units of fuel, by type~~
16 ~~or grade, imported or exported by the distributor; the~~
17 ~~total volumes of fuel, by type or grade, sold,~~
18 ~~exchanged, or otherwise transferred or used by the~~
19 ~~distributor; and if for ultimate sale or consumption~~
20 ~~in another county or on another island, the number of~~
21 ~~gallons or units of fuel, by type or grade, sold,~~

1 ~~exchanged, or otherwise transferred or used by the~~
2 ~~distributor in each county or island;~~

3 ~~(3) The total number of gallons or units of fuel sold as~~
4 ~~liquid fuel, aviation fuel, diesel fuel, and other~~
5 ~~types of fuel as required by the commission;~~

6 ~~(4) The total number of gallons or units of fuel, by type~~
7 ~~or grade, and their respective sales prices for all~~
8 ~~fuel sold to federal, state, and county agencies,~~
9 ~~ships stores, or base exchanges, commercial~~
10 ~~agricultural accounts, commercial nonagricultural~~
11 ~~accounts, retail dealers, and other customers as~~
12 ~~required by the commission;~~

13 ~~(5) Weekly weighted average acquisition cost per barrel~~
14 ~~and volumes of foreign or domestic crude oil or other~~
15 ~~liquid fuels, finished or unfinished, imported to~~
16 ~~Hawaii, including information identifying the source~~
17 ~~of the crude oil or other liquid fuels;~~

18 ~~(6) The effective date and time, and the amount of change~~
19 ~~in cents per gallon, of any increase or decrease in~~
20 ~~wholesale price occurring during the week and the~~
21 ~~weekly weighted average wholesale prices and sales~~
22 ~~volumes of finished unleaded regular and premium motor~~

1 ~~gasoline, and of each other grade of gasoline sold, by~~
2 ~~island, to retail outlets, by classes of retail trade,~~
3 ~~and to wholesale distributors;~~

4 ~~(7) Weekly weighted average retail prices, and sales~~
5 ~~volumes of finished unleaded regular and premium motor~~
6 ~~gasoline, and of each other grade of gasoline sold, by~~
7 ~~island, by retail distributor outlets of all classes~~
8 ~~of retail trade and by any distributor to other end-~~
9 ~~users; provided that the commission may purchase~~
10 ~~retail price data from data service companies that the~~
11 ~~commission may use to substitute some or all data to~~
12 ~~meet the reporting requirement for retail price data~~
13 ~~under this paragraph;~~

14 ~~(8) The effective date and time, and the amount of change~~
15 ~~in cents per gallon, of any increase or decrease in~~
16 ~~wholesale price occurring during the week and the~~
17 ~~weekly weighted average wholesale prices, and sales~~
18 ~~volumes of No. 2 diesel fuel and No. 2 fuel oil, by~~
19 ~~island, to retail distributor outlets, by classes of~~
20 ~~retail trade, and to all other wholesale~~
21 ~~distributors. Weighted average wholesale prices and~~

1 ~~sales volumes shall be reported by type of wholesale~~
2 ~~liquid fuel price;~~

3 ~~(9) Weekly weighted average retail prices, and sales~~
4 ~~volumes of No. 2 diesel fuel and No. 2 fuel oil sold,~~
5 ~~by island, by retail distributor outlets of all~~
6 ~~classes of retail trade and by any distributor to~~
7 ~~other end-users. The commission may purchase retail~~
8 ~~price data from data service companies that the~~
9 ~~commission may use to substitute some or all data to~~
10 ~~meet the reporting requirement for retail price data~~
11 ~~under this paragraph;~~

12 ~~(10) Weekly weighted average prices, and sales volumes for~~
13 ~~retail sales and wholesale sales, by island, of No. 1~~
14 ~~distillate, kerosene, finished aviation gasoline,~~
15 ~~kerosene-type jet fuel, No. 4 fuel oil, residual fuel~~
16 ~~oil, and consumer grade propane;~~

17 ~~(11) For each distributor that is a refiner, the gross~~
18 ~~margins or spreads between a refiner's average~~
19 ~~weighted acquisition price for each gallon of crude~~
20 ~~oil and blendstock refined within the State and the~~
21 ~~average weighted prices for each gallon or unit of~~

- 1 ~~fuel sold, by county or island, to another~~
2 ~~distributor, a retail dealer, end-user, and consumer;~~
3 ~~(12) For each distributor that is not a refiner, the gross~~
4 ~~margins or spreads between the distributor's average~~
5 ~~weighted price for each gallon or unit of fuel~~
6 ~~acquired by the distributor and the average weighted~~
7 ~~prices for each gallon or unit of fuel sold, by county~~
8 ~~or island, to another distributor, a retail dealer,~~
9 ~~end-user, or consumer; and~~
10 ~~(13) Revenues, expenses, profits and losses, and any other~~
11 ~~financial or operating information as may be required~~
12 ~~by the commission.~~

13 ~~The commission shall prescribe applicable standards and~~
14 ~~practices for reporting to facilitate uniformity, consistency,~~
15 ~~and comparability of the data to be submitted.~~

16 ~~(b) Each major marketer shall submit to the commission, at~~
17 ~~a time and in a form as the commission shall prescribe,~~
18 ~~information, including petroleum and petroleum product receipts,~~
19 ~~exchanges, inventories, and distributions.~~

20 ~~(c) The commission may require additional information as~~
21 ~~and when the commission deems necessary to perform the~~
22 ~~commission's responsibilities under this chapter.~~

1 ~~(d) Information in the statements filed pursuant to this~~
2 ~~section shall be collected and maintained for the purpose of~~
3 ~~facilitating the analysis required by this chapter; provided~~
4 ~~that the commission shall make the information available to the~~
5 ~~public, to the extent permitted under sections 486J-6 and 486J-~~
6 ~~8."]~~

7 SECTION 6. Section 486J-4, Hawaii Revised Statutes, is
8 repealed.

9 ~~["**486J-4 Informational reports.** (a) Each major oil~~
10 ~~producer, refiner, marketer, oil transporter, and oil storer~~
11 ~~shall submit to the commission, in a form as the commission~~
12 ~~shall prescribe, information that includes the following:~~

13 ~~(1) Major oil transporters shall report on petroleum by~~
14 ~~reporting the capacities of each major transportation~~
15 ~~system, the amount transported by each system, and~~
16 ~~inventories thereof. The provision of the information~~
17 ~~shall not be construed to increase and decrease any~~
18 ~~authority the commission may otherwise have;~~

19 ~~(2) Major oil storers shall report on storage capacity,~~
20 ~~inventories, receipts and distributions, and methods~~
21 ~~of transportation of receipts and distributions;~~

1 ~~(3) Refiners shall report on facility capacity and~~
2 ~~utilization and method of transportation of refinery~~
3 ~~receipts and distributions; and~~

4 ~~(4) Major oil marketers shall report on facility capacity~~
5 ~~and methods of transportation of receipts and~~
6 ~~distributions.~~

7 ~~(b) The commission may require additional information as~~
8 ~~and when the commission deems necessary to perform the~~
9 ~~commission's responsibilities under this chapter."]~~

10 SECTION 7. Section 486J-4.5, Hawaii Revised Statutes, is
11 repealed.

12 ~~["**§486J-4.5 Informational cost reports.** (a) Each~~
13 ~~refiner, on a semi-annual basis, at reporting dates as the~~
14 ~~commission may establish, shall file with the commission, on~~
15 ~~forms prescribed, prepared, and furnished by the commission, a~~
16 ~~certified statement of operating and overhead costs for the~~
17 ~~refiner's Hawaii operations that shall include but not be~~
18 ~~limited to the following:~~

19 ~~(1) Crude oil costs and sources;~~

20 ~~(2) Other feedstock costs and sources;~~

21 ~~(3) Refinery operating expenses;~~

22 ~~(4) Marketing operating expenses by petroleum product;~~

1 ~~(5) Distribution expenses by petroleum product; and~~

2 ~~(6) Corporate overhead expenses.~~

3 ~~(b) In addition to the reporting required under subsection~~

4 ~~(a), each distributor shall file with the commission all~~

5 ~~Securities and Exchange Commission Forms 10-K, 10-Q, annual~~

6 ~~reports, quarterly reports, and earnings supplements published~~

7 ~~by the distributor.~~

8 ~~(c) Each distributor, except a distributor who is so~~

9 ~~defined solely by criteria in paragraph (4) of that definition~~

10 ~~in section 486J-1, who sells liquid fuel only at retail and is~~

11 ~~not a refiner, shall file with the commission, on a semi-annual~~

12 ~~basis at reporting dates as the commission may establish, on~~

13 ~~forms prescribed, prepared, and furnished by the commission, a~~

14 ~~certified statement of operating and overhead costs that shall~~

15 ~~include the following:~~

16 ~~(1) Gasoline purchases and exchanges and sources;~~

17 ~~(2) Diesel purchases and exchanges and sources;~~

18 ~~(3) Marketing expenses; and~~

19 ~~(4) Distribution expenses."]~~

20 SECTION 8. Section 486J-5, Hawaii Revised Statutes, is

21 repealed.

- 1 ~~["§486J-5 Analysis of information; summary reports. (a)~~
2 ~~The commission, with the commission's own staff and other~~
3 ~~support staff with expertise and experience in, or with, the~~
4 ~~petroleum industry, shall gather, analyze, and interpret the~~
5 ~~information submitted to it pursuant to sections 486J-3, 486J-4,~~
6 ~~and 486J-4.5 and other information relating to the supply,~~
7 ~~prices, margins, and profits of petroleum products, with~~
8 ~~particular emphasis on motor vehicle fuels, including but not~~
9 ~~limited to all of the following:~~
- 10 ~~(1) The nature, cause, and extent of any petroleum or~~
11 ~~petroleum product situation or condition affecting~~
12 ~~supply, price, margins, or profits;~~
- 13 ~~(2) The prices, with particular emphasis on wholesale and~~
14 ~~retail motor vehicle fuel prices, and any significant~~
15 ~~changes in prices charged by the petroleum industry~~
16 ~~for petroleum or petroleum products sold in Hawaii and~~
17 ~~the reasons for the changes;~~
- 18 ~~(3) The income, expenses, margins, and profits in Hawaii,~~
19 ~~both before and after taxes, of each distributor and~~
20 ~~the income, expenses, margins, and profits, both~~
21 ~~before and after taxes, of major oil companies in~~

1 ~~other regions of the United States and other~~
2 ~~countries; and~~

3 ~~(4) The emerging trends relating to supply, demand, price,~~
4 ~~margins, and profits.~~

5 ~~(b) The commission shall analyze the effects of state and~~
6 ~~federal policies, rules, and regulations upon the supply and~~
7 ~~pricing of petroleum products.~~

8 ~~(c) The commission shall publish annually and submit to~~
9 ~~the governor and the legislature twenty days prior to the first~~
10 ~~day of each regular legislative session a summary, including any~~
11 ~~analysis and interpretation of the information submitted to it~~
12 ~~pursuant to this chapter, and any other activities taken by the~~
13 ~~commission, including civil penalties imposed and referrals of~~
14 ~~violations to the attorney general under section 486J-9. Any~~
15 ~~person may submit comments in writing regarding the accuracy or~~
16 ~~sufficiency of the information submitted."]~~

17 SECTION 9. Section 486J-5.3, Hawaii Revised Statutes, is
18 repealed.

19 ~~"[~~§486J-5.3~~] ~~Use and analysis of information by the~~~~
20 ~~department of business, economic development, and tourism. The~~
21 ~~department, with its own staff and other support staff with~~
22 ~~relevant expertise and experience, shall use the information~~

1 ~~obtained under this chapter to effectuate the purposes of~~
2 ~~chapters 125C, 196, and other relevant laws."]~~

3 SECTION 10. Section 486J-5.5, Hawaii Revised Statutes, is
4 repealed.

5 ~~"[~~§486J-5.5~~ **Petroleum industry monitoring, analysis, and**~~
6 ~~**reporting program.** The commission shall establish the petroleum~~
7 ~~industry monitoring, analysis, and reporting program that~~
8 ~~includes development and maintenance of an automated petroleum~~
9 ~~industry information reporting system that meets the~~
10 ~~requirements of government, industry, and the public while~~
11 ~~promoting sound policy making and consumer information and~~
12 ~~protection. The purpose of the petroleum industry monitoring,~~
13 ~~analysis, and reporting program is to conduct and facilitate the~~
14 ~~efficient analysis and reporting of all information and data~~
15 ~~provided by the petroleum industry pursuant to this chapter.~~
16 ~~The commission shall develop the petroleum industry monitoring,~~
17 ~~analysis, and reporting program in a manner that will result in~~
18 ~~greater market transparency and provide useful information to~~
19 ~~the general public and those agencies that are authorized to~~
20 ~~conduct oversight of the petroleum industry and ensure~~
21 ~~compliance with all relevant laws."]~~

1 SECTION 11. Section 486J-5.6, Hawaii Revised Statutes, is
2 repealed.

3 [~~["\$486J-5.6"] Petroleum industry monitoring, analysis, and~~
4 ~~reporting special fund.~~ (a) ~~There is established a petroleum~~
5 ~~industry monitoring, analysis, and reporting special fund to be~~
6 ~~administered by the commission.~~

7 (b) ~~The legislature may make appropriations from the~~
8 ~~general revenues of the State of Hawaii, not to exceed~~
9 ~~\$2,000,000 in any fiscal year, for the petroleum industry~~
10 ~~monitoring, analysis, and reporting special fund.~~

11 (c) ~~Moneys in the special fund shall be used to:~~

12 (1) ~~Administer the petroleum industry monitoring,~~
13 ~~analysis, and reporting program pursuant to this~~
14 ~~chapter; and~~

15 (2) ~~Establish full-time staff positions in the~~
16 ~~commission to implement and maintain the petroleum~~
17 ~~industry monitoring, analysis, and reporting program,~~
18 ~~including the automated petroleum industry information~~
19 ~~reporting system established by section 486J-5.5."]~~

20 SECTION 12. Section 486J-8, Hawaii Revised Statutes, is
21 repealed.

1 ~~["§486J-8 Sharing of information obtained by the~~
2 ~~commission. (a) Except as provided in subsections (b) and (c),~~
3 ~~the commission shall make any information obtained by the~~
4 ~~commission under this chapter, including confidential~~
5 ~~information, available only to the attorney general, the~~
6 ~~department of taxation, the consumer advocate, the department of~~
7 ~~business, economic development, and tourism, an appropriate~~
8 ~~legislative committee, and the authorized representative of~~
9 ~~each, who shall safeguard the confidentiality of all~~
10 ~~confidential information received.~~

11 ~~(b) The commission shall disclose to the public, using the~~
12 ~~best readily available technology, the information contained in~~
13 ~~the statements that are filed pursuant to section 486J-3, except~~
14 ~~to the extent that disclosure is prohibited under section 486J-~~
15 ~~6. The commission shall publicly report this information within~~
16 ~~fourteen days pursuant to the reporting dates established by the~~
17 ~~commission under section 486J-3.~~

18 ~~(c) Nothing in this section shall be construed to prohibit~~
19 ~~the implementation of the petroleum industry monitoring,~~
20 ~~analysis, and reporting program under section 486J-5.5 or the~~
21 ~~public disclosure of the analysis of information and reports~~
22 ~~described in section 486J-5."]~~

1 SECTION 13. Section 486J-9, Hawaii Revised Statutes, is
2 repealed.

3 [~~§486J-9 Failure to timely provide information; failure~~
4 ~~to make and file statements; false statements; penalties;~~
5 ~~referral to the attorney general.~~ (a) ~~The commission shall~~
6 ~~notify those persons who have failed to timely provide the~~
7 ~~information specified in section 486J-3, 486J-4, or 486J-4.5 or~~
8 ~~requested by the commission under section 486J-3, 486J-4, or~~
9 ~~486J-4.5. If, within five business days after being notified of~~
10 ~~the failure to provide the specified or requested information,~~
11 ~~the person fails to supply the specified or requested~~
12 ~~information, the person shall be subject to a civil penalty of~~
13 ~~not less than \$50,000 per day nor more than \$100,000 per day for~~
14 ~~each day the submission of information is refused or delayed.~~

15 (b) ~~Any person, or any employee of any person, who~~
16 ~~wilfully makes any false statement, representation, or~~
17 ~~certification in any record, report, plan, or other document~~
18 ~~filed with the commission shall be subject to a civil penalty~~
19 ~~not to exceed \$500,000 and shall be deemed to have committed an~~
20 ~~unfair or deceptive act or practice in the conduct of a trade or~~
21 ~~commerce and subject to the penalties specified in chapters 480~~
22 ~~and 486B.~~

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1 ~~(c) The commission shall refer any matter under subsection~~
2 ~~(a) or (b) to the attorney general, who may exercise any~~
3 ~~appropriate legal or equitable remedies that may be available to~~
4 ~~the State.~~

5 ~~(d) For the purposes of this section, "person" means, in~~
6 ~~addition to the definition contained in section 486J-1, any~~
7 ~~responsible corporate officer."]~~

8 SECTION 14. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 15. This Act shall take effect upon its approval.

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Report Title:

Petroleum Industry; Information

Description:

Repeals the petroleum industry information reporting requirements, the petroleum industry monitoring, analysis, and reporting program, and the PIMAR special fund. (HB2631 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON FINANCE
FEBRUARY 18, 2010**

MEASURE: H.B. No. 2631 HD1

TITLE: Relating to Petroleum Industry Reporting

Chair Oshiro and Members of the Committee:

DESCRIPTION:

This bill repeals Sections 486J-3, 486J-4, 486J-4.5, and 486J-5, 486J-5.3, 486J-5.5, 486J-5.6, 486J-8 and 486J-9, and amends 486H-13, 486J-1, 486J-6, and 486J-7, Hawaii Revised Statutes, ("HRS"), to relieve industry and government of significant costs borne from the Petroleum Industry Monitoring, Analysis and Reporting (PIMAR) requirements by suspending the 1) weekly and monthly reporting of oil and gasoline prices by the oil industry to the Public Utilities Commission (Commission); and 2) the publication of the oil industry reports for each island by the Commission.

POSITION:

The Commission appreciates the intent of this bill as suspension of certain PIMAR requirements will allow the Commission to focus on higher priority regulatory matters, and would defer to the Legislature's determination that the PIMAR program is no longer a high priority government function during these trying economic times.

COMMENTS:

- Since September 2007, the Commission has been implementing the PIMAR program as required under Chapter 486J, HRS, and involves highly intensive collection of data from the petroleum industry that include company-specific detailed information regarding petroleum product imports, exports, inventories, production, retail and wholesale transactions, and gross margins, on a weekly, monthly, semi-annual and annual basis. The program has proven to be a very time-consuming effort for both the Commission and the petroleum industry reporting entities.

- The PIMAR program has not revealed evidence of any economic misbehavior in the petroleum market. The Commission's petroleum industry experts and consultants, ICF International, has concluded that the petroleum market in Hawaii is reasonably competitive and that market prices of petroleum products in Hawaii are less volatile and consistently higher than average US prices, but these prices do tend to follow world markets.
- The Commission is appreciative of the Legislature's intent as shown in this bill to enable the Commission to place more focus on higher priority regulatory matters, such as feed-in tariff implementation, integrated resource planning (IRP) revisions, decoupling and other matters arising from the Hawaii Clean Energy Initiative (HCEI) that will allow the State to generate more renewable energy, reduce our energy needs, and reduce our dependence on imported fossil fuels.

Thank you for the opportunity to testify.