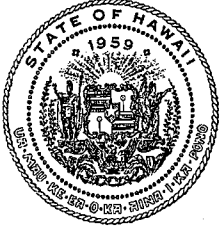


**HB2631**

**HD2 SD1**



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE  
GOVERNOR  
THEODORE E. LIU  
DIRECTOR  
PEARL IMADA IBOSHI  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355  
Fax: (808) 586-2377

Statement of  
**THEODORE E. LIU**  
Director

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS AND THE  
COMMITTEE ON WAYS AND MEANS**

March 31, 2010

9:30 a.m.

State Capitol, Conference Room 211

in consideration of  
**HB 2631, HD2, SD1**  
**RELATING TO ENERGY INDUSTRY REPORTING.**

Good morning Chairs Taniguchi and Mercado Kim, Vice Chairs Takamine and Tsutsui, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports, with amendments, HB 2631, HD2, SD1, Relating to Energy Industry Reporting, which repeals the Petroleum Industry Monitoring, Analysis, and Reporting Program, and its special fund; and requires refiners and distributors to report monthly to DBEDT on fuel data.

HB 2631, HD2, SD1 establishes the energy industry data collection program within DBEDT. Authority to collect this data is essential for the Energy Resources Coordinator (ERC) to effectuate statutory functions in Chapter 196 and Chapter 125C, including energy planning, policy development, and energy emergency preparedness and response planning.

DBEDT would like to recommend that the following minor changes be made to HB 2631, HD2, SD1. Provide a definition for "biofuels", as it is defined in Chapter 269-91; amend "commission" to "department"; include "wholesale distributors" in Chapter 486J-3-3 as another reporting entity, for consistency with the current PIMAR requirement; and retain Chapter 486J-9, relating to penalty for failure to report.

Please refer to the attached draft bill, which include our amendments mentioned above. Thank you for the opportunity to testify.

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# 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 (l) to read:

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:

1       "(n) The ~~commission~~ department shall have the power to  
2 determine the extent to which a manufacturer, wholesaler, or  
3 jobber is complying with any requirement imposed or rule adopted  
4 under this section, including the power to compel a  
5 manufacturer, wholesaler, or jobber to submit documents, data,  
6 and information necessary and appropriate for the commission to  
7 determine [~~such~~] compliance. [~~The commission department may~~  
8 ~~use data collected pursuant to chapter 486J in determining such~~  
9 ~~compliance.]"~~

10       SECTION 2. Section 486J-1, Hawaii Revised Statutes, is  
11 amended as follows:

12       1. By adding [~~two~~] three new definitions to read:

13        "Inventory" means the volume, in barrels, of reserve that  
14 is normally maintained by the reporting entity on a monthly  
15 basis.

16        "Storage capacity" means the maximum volume, in barrels, of  
17 used and useful facility capacity for storage.

18        "Biofuels" means liquid or gaseous fuels produced from  
19 organic sources such as biomass crops, agricultural residues and  
20 oil crops, such as palm oil, canola oil, soybean oil, waste

1 cooking oil, grease, and food wastes, animal residues and  
2 wastes, and sewage and landfill wastes."

3 2. By repealing the definitions of "competitively priced",  
4 "corporate overhead expenses", "dealer tank wagon price", "major  
5 fuel user", "major marketer", "major oil producer", "major oil  
6 storer", "major oil transporter", "nonrefiner wholesale price",  
7 "refiner wholesale price", and "wholesale liquid fuel prices".  
8 [~~"Competitively priced" means fuel-grade ethanol for which the~~  
9 ~~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 ~~"Major fuel user" means any person who uses fuel in the~~  
21 ~~manufacture of products or for the generation of power in~~

1 ~~amounts determined by the commission as having a major effect on~~  
2 ~~energy supplies.~~

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

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

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

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

15 ~~"Nonrefiner wholesale price" means the wholesale price at~~  
16 ~~which liquid fuel is sold by any distributor, not a refiner, to~~  
17 ~~any other distributor, not a refiner, for resale at any~~  
18 ~~subsequent wholesale or retail transaction.~~

19 ~~"Refiner wholesale price" means the wholesale price at~~  
20 ~~which liquid fuel is sold by a refiner to any distributor, not a~~

1 ~~refiner, for resale at any subsequent wholesale or retail~~  
2 ~~transaction.~~

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

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

10 **"§486J-3 Statements.** ~~[-a)]~~ Each ~~[week]~~ month every  
11 refiner and distributor ~~[and major fuel user shall file with the~~  
12 ~~commission, on forms prescribed, prepared, and furnished by the~~  
13 ~~commission, a certified statement showing on a statewide~~  
14 ~~consolidated basis, and]~~ on [the] a reporting date established  
15 by the director, shall file on forms furnished by [and to] the  
16 department showing separately for each county and for the  
17 islands of Lanai and Molokai within which and whereon fuel is  
18 sold or used during the last preceding reporting [week,] month,  
19 the following:

20 ~~[-1) The total number of gallons or units of fuel, by type~~  
21 ~~or grade, refined, manufactured, or compounded by the~~



1 ~~distributor within the State and, if for ultimate sale~~  
2 ~~or consumption in another county or on another island,~~  
3 ~~the number of gallons or units of fuel, by type or~~  
4 ~~grade, sold, exchanged, or otherwise transferred or~~  
5 ~~used by the distributor in each county or island;~~

6 ~~(2) The total number of gallons or units of fuel, by type~~  
7 ~~or grade, imported or exported by the distributor; the~~  
8 ~~total volumes of fuel, by type or grade, sold,~~  
9 ~~exchanged, or otherwise transferred or used by the~~  
10 ~~distributor; and if for ultimate sale or consumption~~  
11 ~~in another county or on another island, the number of~~  
12 ~~gallons or units of fuel, by type or grade, sold,~~  
13 ~~exchanged, or otherwise transferred or used by the~~  
14 ~~distributor in each county or island;~~

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

18 ~~(4) The total number of gallons or units of fuel, by type~~  
19 ~~or grade, and their respective sales prices for all~~  
20 ~~fuel sold to federal, state, and county agencies,~~  
21 ~~ships stores, or base exchanges, commercial~~

1 ~~agricultural accounts, commercial nonagricultural~~  
2 ~~accounts, retail dealers, and other customers as~~  
3 ~~required by the commission;~~

4 ~~(5) Weekly weighted average acquisition cost per barrel~~  
5 ~~and volumes of foreign or domestic crude oil or other~~  
6 ~~liquid fuels, finished or unfinished, imported to~~  
7 ~~Hawaii, including information identifying the source~~  
8 ~~of the crude oil or other liquid fuels;~~

9 ~~(6) The effective date and time, and the amount of change~~  
10 ~~in cents per gallon, of any increase or decrease in~~  
11 ~~wholesale price occurring during the week and the~~  
12 ~~weekly weighted average wholesale prices and sales~~  
13 ~~volumes of finished unleaded regular and premium motor~~  
14 ~~gasoline, and of each other grade of gasoline sold, by~~  
15 ~~island, to retail outlets, by classes of retail trade,~~  
16 ~~and to wholesale distributors;~~

17 ~~(7) Weekly weighted average retail prices, and sales~~  
18 ~~volumes of finished unleaded regular and premium motor~~  
19 ~~gasoline, and of each other grade of gasoline sold, by~~  
20 ~~island, by retail distributor outlets of all classes~~  
21 ~~of retail trade and by any distributor to other end-~~

1           ~~users, provided that the commission may purchase~~  
2           ~~retail price data from data service companies that the~~  
3           ~~commission may use to substitute some or all data to~~  
4           ~~meet the reporting requirement for retail price data~~  
5           ~~under this paragraph;~~

6           ~~(8) The effective date and time, and the amount of change~~  
7           ~~in cents per gallon, of any increase or decrease in~~  
8           ~~wholesale price occurring during the week and the~~  
9           ~~weekly weighted average wholesale prices, and sales~~  
10           ~~volumes of No. 2 diesel fuel and No. 2 fuel oil, by~~  
11           ~~island, to retail distributor outlets, by classes of~~  
12           ~~retail trade, and to all other wholesale~~  
13           ~~distributors. Weighted average wholesale prices and~~  
14           ~~sales volumes shall be reported by type of wholesale~~  
15           ~~liquid fuel price;~~

16           ~~(9) Weekly weighted average retail prices, and sales~~  
17           ~~volumes of No. 2 diesel fuel and No. 2 fuel oil sold,~~  
18           ~~by island, by retail distributor outlets of all~~  
19           ~~classes of retail trade and by any distributor to~~  
20           ~~other end users. The commission may purchase retail~~  
21           ~~price data from data service companies that the~~

1 ~~commission may use to substitute some or all data to~~  
2 ~~meet the reporting requirement for retail price data~~  
3 ~~under this paragraph;~~

4 ~~(10) Weekly weighted average prices, and sales volumes for~~  
5 ~~retail sales and wholesale sales, by island, of No. 1~~  
6 ~~distillate, kerosene, finished aviation gasoline,~~  
7 ~~kerosene type jet fuel, No. 4 fuel oil, residual fuel~~  
8 ~~oil, and consumer grade propane;~~

9 ~~(11) For each distributor that is a refiner, the gross~~  
10 ~~margins or spreads between a refiner's average~~  
11 ~~weighted acquisition price for each gallon of crude~~  
12 ~~oil and blendstock refined within the State and the~~  
13 ~~average weighted prices for each gallon or unit of~~  
14 ~~fuel sold, by county or island, to another~~  
15 ~~distributor, a retail dealer, end user, and consumer;~~

16 ~~(12) For each distributor that is not a refiner, the gross~~  
17 ~~margins or spreads between the distributor's average~~  
18 ~~weighted price for each gallon or unit of fuel~~  
19 ~~acquired by the distributor and the average weighted~~  
20 ~~prices for each gallon or unit of fuel sold, by county~~

1 ~~or island, to another distributor, a retail dealer,~~  
2 ~~end user, or consumer; and~~

3 ~~(13) Revenues, expenses, profits and losses, and any other~~  
4 ~~financial or operating information as may be required~~  
5 ~~by the commission.~~

6 ~~The commission shall prescribe applicable standards and~~  
7 ~~practices for reporting to facilitate uniformity, consistency,~~  
8 ~~and comparability of the data to be submitted.]~~

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

18 (2) The total volume of fuel refined, manufactured, or  
19 compounded by refineries, in barrels, by company, and  
20 by specific crude oil and by liquid fuel type,  
21 aviation fuel, diesel fuel, biofuels, and other types

1 of fuel as required by the department, including No. 2  
2 diesel fuel, No. 1 distillate, No. 2 fuel oil, No. 4  
3 fuel oil, kerosene, finished aviation gasoline,  
4 kerosene-type jet fuel, residual fuel oil, consumer  
5 grade propane, gasoline (regular, midgrade, and  
6 premium);

7 (3) The total volume of fuel distributed, in barrels, by  
8 company, by island, and by liquid fuel type, aviation  
9 fuel, diesel fuel, biofuels, and other types of fuel  
10 as required by the department, and by:

11 (A) Classes of retail trade; and

12 (B) Federal, state, county agencies, ships stores, or  
13 base exchanges, commercial agriculture accounts,  
14 commercial non-agriculture accounts, retail  
15 dealers, and other customers as required by the  
16 department; and

17 (C) Wholesale distributor.

18 (4) The total volume of inventory and storage capacity, in  
19 barrels, by reporting entity, by method of  
20 transportation of receipts and distribution, by  
21 specific crude oil, and by liquid fuel type, aviation

1           fuel, diesel fuel, biofuels, and other types of fuel  
2           as required by the department.

3           ~~[(b) Each major marketer shall submit to the commission,~~  
4           ~~at a time and in a form as the commission shall prescribe,~~  
5           ~~information, including petroleum and petroleum product receipts,~~  
6           ~~exchanges, inventories, and distributions.~~

7           ~~(c) 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          ~~(d) Information in the statements filed pursuant to this~~  
11          ~~section shall be collected and maintained for the purpose of~~  
12          ~~facilitating the analysis required by this chapter; provided~~  
13          ~~that the commission shall make the information available to the~~  
14          ~~public, to the extent permitted under sections and 486J-6 and~~  
15          ~~486J-8."~~

16          SECTION 4. Section 486J-6, Hawaii Revised Statutes, is  
17          amended to read as follows:

18          "**§486J-6 Confidential information.** (a) Confidential  
19          commercial information provided to the [commission] department  
20          [~~at any time~~] pursuant to this chapter that is exempt from  
21          public disclosure under section 92F-13 shall be held in

1 confidence by the [commission] department or aggregated to the  
2 extent necessary in the [commission's] department's discretion  
3 to ensure confidentiality as required by chapter 92F.

4 (b) No data or information submitted to the [commission]  
5 department [at any time] shall be deemed confidential if it is  
6 shown that the person submitting the information or data has  
7 made it public.

8 (c) Unless otherwise provided by law, with respect to data  
9 that the commission or department [obtains] obtained or [is] was  
10 provided pursuant to section 486J-3, 486J-4, 486J-4.5, or 486J-  
11 5 [7] prior to their repeal, neither the commission or department  
12 nor any employee of the commission or department may do any of  
13 the following:

- 14 (1) Use the information furnished or obtained for any  
15 purpose other than the purposes for which it is  
16 supplied;
- 17 (2) Make any publication whereby the data furnished by any  
18 person can be identified; or
- 19 (3) Permit any person other than the commission, the  
20 department of taxation, the attorney general, the  
21 consumer advocate, the department of business,



1 economic development, and tourism, and the authorized  
2 representatives and employees of each to examine the  
3 individual reports or statements provided."

4 SECTION 5. Section 486J-7, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§486J-7 Confidential information obtained by another**  
7 **state agency.** Any confidential information pertinent to the  
8 responsibilities of the commission or the [director] department  
9 specified in this chapter that is obtained by another state  
10 agency, including the department of taxation, the attorney  
11 general, and the consumer advocate, shall be available only to  
12 the attorney general, the attorney general's authorized  
13 representatives, the department of business, economic  
14 development, and tourism, and the commission and shall be  
15 treated in a confidential manner."

16 SECTION 6. Section 486J-4, Hawaii Revised Statutes, is  
17 repealed.

18 [~~§486J-4 Informational reports.~~ (a) ~~Each major oil~~  
19 ~~producer, refiner, marketer, oil transporter, and oil storer~~  
20 ~~shall submit to the commission, in a form as the commission~~  
21 ~~shall prescribe, information that includes the following:~~

1       ~~(1) Major oil transporters shall report on petroleum by~~  
2           ~~reporting the capacities of each major transportation~~  
3           ~~system, the amount transported by each system, and~~  
4           ~~inventories thereof. The provision of the information~~  
5           ~~shall not be construed to increase and decrease any~~  
6           ~~authority the commission may otherwise have;~~

7       ~~(2) Major oil storers shall report on storage capacity,~~  
8           ~~inventories, receipts and distributions, and methods~~  
9           ~~of transportation of receipts and distributions;~~

10       ~~(3) Refiners shall report on facility capacity and~~  
11           ~~utilization and method of transportation of refinery~~  
12           ~~receipts and distributions; and~~

13       ~~(4) Major oil marketers shall report on facility capacity~~  
14           ~~and methods of transportation of receipts and~~  
15           ~~distributions.~~

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

19       SECTION 7. Section 486J-4.5, Hawaii Revised Statutes, is  
20       repealed.

1           ~~["§486J-4.5 Informational cost reports. (a) Each~~  
2 ~~refiner, on a semi-annual basis, at reporting dates as the~~  
3 ~~commission may establish, shall file with the commission, on~~  
4 ~~forms prescribed, prepared, and furnished by the commission, a~~  
5 ~~certified statement of operating and overhead costs for the~~  
6 ~~refiner's Hawaii operations that shall include but not be~~  
7 ~~limited to the following:~~

- 8           ~~(1) Crude oil costs and sources;~~  
9           ~~(2) Other feedstock costs and sources;~~  
10          ~~(3) Refinery operating expenses;~~  
11          ~~(4) Marketing operating expenses by petroleum product;~~  
12          ~~(5) Distribution expenses by petroleum product; and~~  
13          ~~(6) Corporate overhead expenses.~~

14          ~~(b) In addition to the reporting required under subsection~~  
15 ~~(a), each distributor shall file with the commission all~~  
16 ~~Securities and Exchange Commission Forms 10-K, 10-Q, annual~~  
17 ~~reports, quarterly reports, and earnings supplements published~~  
18 ~~by the distributor.~~

19          ~~(c) Each distributor, except a distributor who is so~~  
20 ~~defined solely by criteria in paragraph (4) of that definition~~  
21 ~~in section 486J-1, who sells liquid fuel only at retail and is~~

1 ~~not a refiner, shall file with the commission, on a semi-annual~~  
2 ~~basis at reporting dates as the commission may establish, on~~  
3 ~~forms prescribed, prepared, and furnished by the commission, a~~  
4 ~~certified statement of operating and overhead costs that shall~~  
5 ~~include the following:~~

- 6 ~~(1) Gasoline purchases and exchanges and sources;~~
- 7 ~~(2) Diesel purchases and exchanges and sources;~~
- 8 ~~(3) Marketing expenses; and~~
- 9 ~~(4) Distribution expenses." ]~~

10 SECTION 8. Section 486J-5, Hawaii Revised Statutes, is  
11 repealed.

12 ~~["§486J-5 Analysis of information; summary reports. (a)~~  
13 ~~The commission, with the commission's own staff and other~~  
14 ~~support staff with expertise and experience in, or with, the~~  
15 ~~petroleum industry, shall gather, analyze, and interpret the~~  
16 ~~information submitted to it pursuant to sections 486J-3, 486J-4,~~  
17 ~~and 486J-4.5 and other information relating to the supply,~~  
18 ~~prices, margins, and profits of petroleum products, with~~  
19 ~~particular emphasis on motor vehicle fuels, including but not~~  
20 ~~limited to all of the following:~~

- 1       ~~(1) The nature, cause, and extent of any petroleum or~~  
2           ~~petroleum product situation or condition affecting~~  
3           ~~supply, price, margins, or profits;~~
- 4       ~~(2) The prices, with particular emphasis on wholesale and~~  
5           ~~retail motor vehicle fuel prices, and any significant~~  
6           ~~changes in prices charged by the petroleum industry~~  
7           ~~for petroleum or petroleum products sold in Hawaii and~~  
8           ~~the reasons for the changes;~~
- 9       ~~(3) The income, expenses, margins, and profits in Hawaii,~~  
10           ~~both before and after taxes, of each distributor and~~  
11           ~~the income, expenses, margins, and profits, both~~  
12           ~~before and after taxes, of major oil companies in~~  
13           ~~other regions of the United States and other~~  
14           ~~countries; and~~
- 15       ~~(4) The emerging trends relating to supply, demand, price,~~  
16           ~~margins, and profits.~~
- 17       ~~(b) The commission shall analyze the effects of state and~~  
18       ~~federal policies, rules, and regulations upon the supply and~~  
19       ~~pricing of petroleum products.~~
- 20       ~~(c) The commission shall publish annually and submit to~~  
21       ~~the governor and the legislature twenty days prior to the first~~

1 ~~day of each regular legislative session a summary, including any~~  
2 ~~analysis and interpretation of the information submitted to it~~  
3 ~~pursuant to this chapter, and any other activities taken by the~~  
4 ~~commission, including civil penalties imposed and referrals of~~  
5 ~~violations to the attorney general under section 486J-9. Any~~  
6 ~~person may submit comments in writing regarding the accuracy or~~  
7 ~~sufficiency of the information submitted."~~

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

10 ~~"[§486J-5.3] Use and analysis of information by the~~  
11 ~~department of business, economic development, and tourism. The~~  
12 ~~department, with its own staff and other support staff with~~  
13 ~~relevant expertise and experience, shall use the information~~  
14 ~~obtained under this chapter to effectuate the purposes of~~  
15 ~~chapters 125C, 196, and other relevant laws."~~

16 SECTION 10. Section 486J-5.5, Hawaii Revised Statutes, is  
17 ~~[repealed]~~ amended to read as follows.

18 "[§486J-5.5] ~~Energy data collection [Petroleum industry~~  
19 ~~monitoring, analysis, and reporting]~~ program. The ~~[commission]~~  
20 ~~department~~ shall establish the ~~energy data collection~~  
21 ~~[monitoring, analysis, and reporting]~~ program that includes

1 development and maintenance of an [automated] energy database  
2 [information reporting] system that meets the requirements of  
3 government, [and] industry, and the public while promoting sound  
4 policy making, energy planning, energy assurance planning, and  
5 energy security. [and consumer information and protection. The  
6 purpose of the petroleum industry monitoring, analysis, and  
7 reporting program is to conduct and facilitate the efficient  
8 analysis and reporting of all information and data provided by  
9 the petroleum industry pursuant to this chapter. The commission  
10 shall develop the petroleum industry monitoring, analysis, and  
11 reporting program in a manner that will result in greater market  
12 transparency and provide useful information to the general  
13 public and those agencies that are authorized to conduct  
14 oversight of the petroleum industry and ensure compliance with  
15 all relevant laws.]"

16 SECTION 11. Section 486J-5.6, Hawaii Revised Statutes, is  
17 repealed.

18 ["~~§486J-5.6~~ Petroleum industry monitoring, analysis, and  
19 reporting special fund. (a) There is established a petroleum  
20 industry monitoring, analysis, and reporting special fund to be  
21 administered by the commission.

1       ~~(b) The legislature may make appropriations from the~~  
2 ~~general revenues of the State of Hawaii, not to exceed~~  
3 ~~\$2,000,000 in any fiscal year, for the petroleum industry~~  
4 ~~monitoring, analysis, and reporting special fund.~~

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

6       ~~(1) Administer the petroleum industry monitoring,~~  
7       ~~analysis, and reporting program pursuant to this~~  
8       ~~chapter; and~~

9       ~~(2) Establish \_\_\_\_\_ full time staff positions in the~~  
10       ~~commission to implement and maintain the petroleum~~  
11       ~~industry monitoring, analysis, and reporting program,~~  
12       ~~including the automated petroleum industry information~~  
13       ~~reporting system established by section 486J-5.5." ]~~

14       SECTION 12. Section 486J-8, Hawaii Revised Statutes, is  
15       repealed.

16       ~~["§486J-8 Sharing of information obtained by the~~  
17 ~~commission. (a) Except as provided in subsections (b) and (c),~~  
18 ~~the commission shall make any information obtained by the~~  
19 ~~commission under this chapter, including confidential~~  
20 ~~information, available only to the attorney general, the~~  
21 ~~department of taxation, the consumer advocate, the department of~~



1 ~~business, economic development, and tourism, an appropriate~~  
2 ~~legislative committee, and the authorized representative of~~  
3 ~~each, who shall safeguard the confidentiality of all~~  
4 ~~confidential information received.~~

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

12 ~~(c) Nothing in this section shall be construed to prohibit~~  
13 ~~the implementation of the petroleum industry monitoring,~~  
14 ~~analysis, and reporting program under section 486J-5.5 or the~~  
15 ~~public disclosure of the analysis of information and reports~~  
16 ~~described in section 486J-5." ]~~

17 SECTION 13. Section 486J-9, Hawaii Revised Statutes, is  
18 ~~[repealed]~~ amended to read as follows.

19 ~~"§486J-9 Failure to timely provide information; failure to~~  
20 ~~make and file statements; false statements; penalties; referral~~  
21 ~~to the attorney general. (a) The [commission] department shall~~

1 notify those persons who have failed to timely provide the  
2 information specified in section 486J-3, 486J-4, or 486J-4.5 or  
3 requested by the [~~commission~~] department under section 486J-3,  
4 486J-4, or 486J-4.5. If, within five business days after being  
5 notified of the failure to provide the specified or requested  
6 information, the person fails to supply the specified or  
7 requested information, the person shall be subject to a civil  
8 penalty of not less than \$50,000 per day nor more than \$100,000  
9 per day for each day the submission of information is refused or  
10 delayed.

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

19 (c) The [~~commission~~] department shall refer any matter  
20 under subsection (a) or (b) to the attorney general, who may

1 exercise any appropriate legal or equitable remedies that may be  
2 available to the State.

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

6 SECTION 14. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 15. This Act shall take effect on July 1, 2010.

**Report Title:**

Petroleum Industry; Information

**Description:**

Repeals the Petroleum Industry Monitoring, Analysis, and Reporting Program, and its special fund; requires refiners and distributors to report monthly to the Department of Business, Economic Development, and Tourism, on fuel imported, exported, transferred, used, refined, manufactured, compounded, and distributed. Effective July 1, 2020. (HB2631 HD2)

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

WRITTEN ONLY

**TESTIMONY OF CARLITO P. CALIBOSO  
CHAIRMAN, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
SENATE COMMITTEES ON THE JUDICIARY AND GOVERNMENT OPERATIONS  
AND WAYS AND MEANS  
MARCH 31, 2010**

**MEASURE: H.B. No. 2631 HD2 SD1**

**TITLE: Relating to Petroleum Industry Reporting**

Chairs Taniguchi and Kim and Members of the Committees:

**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"), and will thereafter require that refiners and distributors report less information monthly (rather than weekly) to the Department of Business Economic Development and Tourism ("DBEDT") on fuel and biofuel imported, exported, sold, transferred, used, refined, manufactured, compounded, and distributed.

**POSITION:**

The Commission appreciates the intent of this bill as repeal or transfer of certain PIMAR requirements will allow the Commission to focus on higher priority regulatory matters, and would defer to the Legislature and DBEDT regarding the extent to which the collection of petroleum data by DBEDT is necessary and desirable.

**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.



**Western States Petroleum Association**

Senate Committee on Judiciary & Government Operations  
And  
Senate Committee on Ways and Means

DATE: Wednesday, March 31, 2010  
TIME: 9:30 a.m.  
PLACE: Conference Room 211  
RE: HB 2631 HD2 SD1 Relating to Energy Industry Reporting

**Re: HB 2631 HD2 SD1 Relating to Energy Industry Reporting**

I am testifying on behalf of the Western States Petroleum Association (known as WSPA) with comments on HB 2631 HD2 SD1 relating to energy industry reporting. WSPA is a non-profit trade association representing a broad spectrum of petroleum industry companies in Hawaii and five other western states.

HB 2631 HD2 SD1 would shift some of the Public Utilities Commission's responsibilities for energy industry data collection to the Department of Business, Economic Development and Tourism ("DBEDT").

We oppose this measure. DBEDT has indicated to us that it would not agree to confidentiality pertaining to the requested information. The requested information is confidential, proprietary and highly competitively sensitive. We respectfully ask that you defer this measure.

Thank you for giving WSPA the opportunity to testify today.