STAND. COM. REP. NO. 2815

Honolulu, Hawaii

MAR 19 2010

RE: H.B. No. 2962
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Economic Development and Technology, to which was referred H.B. No. 2962, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose of this measure is, from July 1, 2010, through July 1, 2013, to disallow tax liabilities from being reduced by credits under the technology infrastructure renovation tax credit and high technology business investment tax credit.

Testimony in support of this measure was submitted by the Hawaii Council of Mayors and the Hawaii County Council. Testimony in opposition was submitted by the Hawaii Venture Capital Association; Hawaii Science and Technology Council; NovaSol; SDC Hawaii, LLC; Ho'okele Health Technologies; Puko'a Scientific; Island Film Group; PacificCap Group LLC; and two individuals. Comments on this measure were submitted by a member of the Hawaii County Council and the Department of Taxation.

Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee has heard numerous concerns regarding this measure, and the impacts - both short-and long-term - it will have on the State's ability to attract much-needed investment for Hawaii's technology industry. The Department of Taxation estimated that this measure would result in revenue gains of

$93,300,000 in fiscal year 2011, $47,500,000 in 2012, and $27,500,000 in 2013, followed by revenue losses of $84,200,000 in both fiscal year 2014 and 2015. When questioned by your Committee, the Department indicated that the methodology used to calculate the revenue impacts is based on historical data of the actual credits claimed, which consists of credit claims for year one, the tails of the credit (credit claims for years two through five), carry-over credits, and estimated new investments of $50,000,000 in fiscal years 2010 and 2011.

Your Committee has replaced the language in this measure with language from S.B. No. 2405, S.D. 2, which was previously heard and approved by this Committee. As amended, this measure adopts changes to Hawaii's tax law that will allow Hawaii to participate in the national Streamlined Sales and Use Tax Agreement, which simplifies state tax systems and removes burdens to interstate commerce.

Your Committee finds that participation in the national Streamlined Sales and Use Tax Agreement (Agreement) requires that Hawaii change its tax law and adopt a single rate of general excise tax, Hawaii's substitute for a sales tax, to be in conformity with the Agreement. Once a sufficient number of states agree to a uniform framework, this national demonstration project of the feasibility of collecting state use taxes on out-of-state purchases will give states the ability to level the playing field for in-state retailers who are at a competitive disadvantage because they collect the sales taxes due on local purchases. Modern technology and e-commerce giants Amazon.com, Borders, Sears, Costco and a wide range of national businesses have demonstrated the ease of calculating taxes due at the point of sale, thereby serving as the most practical reason for the United States Congress to overturn the 1992 Quill vs. North Dakota decision (requiring out-of-state retailers to collect taxes owned to another state at the point of sale was held to be an "undue burden" on commerce).

Your Committee further finds that there are compelling reasons for requiring remote sellers to collect use taxes due on out-of-state purchases that state tax departments have traditionally been unable to enforce against individual taxpayers. In a National Conference of State Legislatures (NCSL) state-by-state listing that highlighted anticipated fiscal year 2010 budget gaps and uncollected 2008 sales/use tax revenue, the aggregate 2010 budget gaps estimated for all states was roughly $84,340.2

billion dollars, with 2008 uncollected sales/use taxes amounting to $27,836.7 billion dollars in lost revenue - or approximately thirty-three per cent of the total budget gap (State Budget Update: June 2008, State Budget Update: November 2008 and February 2009 Update on State Budget Gaps: FY 2009 & FY 2010). As states reel from the impact of budget cuts, employee layoffs and furloughs, disruption of critical health care and social services, even large states like Texas, Massachusetts, Florida, Illinois, Virginia, Missouri, and California introduced streamlined sales and use tax conforming legislation in 2009. Collecting state use taxes that were previously uncollectable is an obvious alternative to be pursued before tax increases are adopted.

From the NCSL listing, Hawaii's budget gap was projected at $1.057 billion for fiscal year 2010, and uncollected 2008 use taxes projected at $245.5 million. Although Hawaii cannot obtain the full amount of its uncollected use taxes until Congress acts to authorize states to pursue the streamlined solution, adoption of this year's legislation will give the State an opportunity to capture voluntary collections on behalf of participating streamlined states. Twenty-three states that have adopted conforming legislation since 2005 have received over $515 million in voluntarily-collected use taxes through spring 2010 from 1,200 retailers.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2962, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2962, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Technology,

Carol Fukunaga

CAROL FUKUNAGA, Chair

The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:*	Committee Referral:	Date:
HB 2962 HD1	EDT, WAM	3-16-2010

☐ The committee is reconsidering its previous decision on this measure.

If so, then the previous decision was to: ____________

The Recommendation is:

☐ Pass, unamended 2312 ☑ Pass, with amendments 2311 ☐ Hold 2310 ☐ Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
HEE, Clayton				✓
IGE, David Y.	✓			
SLOM, Sam				✓
TOTAL	3	—	—	2

Recommendation: ☑ Adopted ☐ Not Adopted

Chair's or Designee's Signature: Rosalyn H Baker

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*Only one measure per Record of Votes