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To: The Honorable David Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, April 4, 2012

Time: 9:05 a.m.

Place: Room 211

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. 2326 H.D.1 Proposed S.D. 1 Relating to Taxation

The Department of Taxation supports H.B. 2326 H.D.1 Proposed S.D. 1.

Proposed S.D. 1 extends the reporting date of the 2010-2012 Tax Review Commission (Commission) to thirty days prior to the convening of the regular session of 2013 and requests additional funding for the Commission. The Department believes the work the Commission has initiated is important. By not allowing them to complete their work, it would materially reduce the value of resources that have already been committed to the project.

The Commission's delayed start was beyond its control due to the change in Administration and the time needed to solicit the community for new Commission members. The present Commission was to have been constituted in 2010, with its report delivered to the legislature prior to the start of this 2012 legislative session. However, as of July 1, 2010, only two members had been appointed and confirmed. Without enough members to constitute a quorum, the Commission could not even conduct its first meeting until July 15, 2011, approximately a year behind schedule, had members been timely appointed. Due to no fault of their own, the duly nominated and confirmed Commission needs additional time to carry out its duties.

The current Commission includes members with expertise in varying segments of the economy (finance, real estate, communication), as well as experienced tax practitioners. Since its first meeting, the Commission has focused on the key questions of whether Hawaii's current tax system is sufficiently structured to provide revenues to meet the State's near and long term needs, and how to best modify the tax structure to make up for any expected shortfalls.

The Commission's FY2011-2012 budget of \$200,000, has been allocated for the following expenditures to date:

1. \$150,000 was awarded to the Public Financial Management, Inc. (PFM) to examine whether the current tax system will provide enough revenue to meet future needs; and to explore the best ways to alter the tax structure if more revenue is needed.

PFM is a leading provider of independent financial and investment advice, with over 450 professionals in 33 offices nationwide. PFM has substantial expertise, developed over years of work with state and local governments, to adapt their tax structures to deal with budgetary problems.

Since being awarded the contract, PFM has spent many hours interviewing numerous stakeholders from relevant state agencies, as well as the Chair of the Ways and Means and Finance Committees, to gain their perspective and input. The Department has been impressed with their questions, depth of knowledge, and experience in state and local government finances.

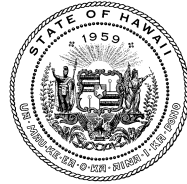
2. \$30,000 was awarded to Dr. William Fox of the University of Tennessee to update two studies, he had previously done:
 - a. "Implications of the Streamlined Sales Tax Agreement for General Excise Tax Revenues" (a report prepared for the Hawaii Office of the Auditor in 2006); and
 - b. "Hawaii's General Excise Tax: Should the Base Be Changed?" (a study prepared for the 2005 - 2007 Commission).
3. The remaining \$20,000 will cover administrative expenses, such as travel costs for the neighbor island member, recording the minutes of meetings, and drafting and printing the final report.

The Department believes that the research that the Commission has funded is of the highest quality, and that it is targeted at answering some of the most important tax questions we face today. Commission Members have undertaken their tasks with energy and dedication, and we believe the State is fortunate to have secured their services. Failing to extend the life of the Commission will be a loss for the State and our Department.

Thank you for the opportunity to provide comments.

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STATE OF HAWAII
TAX REVIEW COMMISSION
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Vice-Chair

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To: The Honorable David Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, April 4, 2012

Time: 9:15 a.m.

Place: Conference Room 211, State Capitol

From: Randall Y. Iwase, Chair
Tax Review Commission

Re: H.B. 2326 H.D. 1 Proposed S.D. 1 Relating to Tax Review Commission

The Tax Review Commission (TRC) strongly supports H.B. 2326 H.D. 1 Proposed S.D. 1.

The Proposed S.D. 1 extends the reporting date of the 2010-2012 TRC to thirty days prior to the convening of the regular session of 2013 and requests an additional fund for fiscal year 2011-2012.

Article VII, section 3, of the Hawaii State Constitution and section 232E-2, Hawaii Revised Statutes requires that the TRC be constituted in 2010. However, by July 1, 2010, only two members had been appointed and confirmed. The third member was confirmed on May 3, 2011. Due to lack of a quorum, the TRC could not convene a meeting. The rest of the members were appointed on May 6, 2011 and June 16, 2011. The TRC held its first meeting on July 15, 2011, a year later than the TRC would have met if a quorum had been appointed by July 1, 2010. Due to its late start, the TRC respectfully requests additional time to carry out its duties.

The budget for the 2005-2007 TRC was \$235,000 which allowed it to hire a temporary full time staff of three - a technical coordinator, a secretary, and a research analyst. Additionally, they were able to rely on some personnel from the Department of Taxation (Department) to provide some measure of support to assist the 2005-2007 TRC in pursuing its studies and evaluation of the State tax code. The 2010-2012 TRC's budget is \$200,000 for FY 2010-2011. We do not have funds and ability to hire a temporary full time staff. Moreover, budget cuts to the Department have made it difficult to provide needed staffing support in lieu of a full time staff to the Commission. We fully understand the State's current budget issues. We will do the very best that we can with what we have. However, the increased funding will provide the TRC with the additional resources it needs to conduct the kind of comprehensive evaluation and report which I think you want us to do and which is envisioned by our Constitution and State Statute.

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In as much as the House did not act to schedule a hearing on S.B. 2869, Proposed S.D. 1 of H.B. 2326 is necessary to keep alive a vehicle to extend the life of the Tax Review Commission.

Thank you for the opportunity to provide testimony in support of the Proposed S.D. 1 to H.B. 2326.

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SUBJECT: TAX REVIEW COMMISSION, Extend reporting date

BILL NUMBER: HB2326, Proposed SD-1

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 232E-3 to provide that the Tax Review Commission appointed on or before July 1, 2010 or the successor commission intended to function before the appointment of a new commission on July 1, 2015, shall submit the required evaluation and recommendations prior to the convening of the 2013 legislative session.

Appropriates general funds of \$_____ for fiscal 2012 to be used by the Commission to conduct an evaluation of the state's tax structure and recommend revenue and tax policy. This appropriation shall lapse on June 30, 2013.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The latest Tax Review Commission was to have been formed in 2010, conducted its meetings beginning July 1, 2010, and submitted a report to the legislature by December 2011. On July 1, 2010, only two members had been appointed and confirmed and due to the lack of a quorum and other members, was unable to complete its task.

While the Commission held its first meeting on July 15, 2011, due to its late start it appears that the Commission needs additional time and resources to complete its examination of the state's tax structure. And only recently has the Commission engaged consultants to not only review the state's tax system but its spending policies as well, something that is not prescribed by the constitutional provision.

However, the current Commission was appropriated \$200,000 and apparently this appears to be sufficient as a contract has been signed with sufficient additional funds to let out one more contract to study the state's general excise tax. That being the case, unless the legislature is presented with a concrete wish list to engage other consultants that will complete their studies on a timely basis, there is little justification for the request for additional funding. Inasmuch as it appears that the current contractor will barely meet the internal deadlines for the Commission's review, why do they need additional funding? Providing additional funding without a demonstrated need would be irresponsible on the part of the legislature.

It should be noted that while it is generally recognized that participation on the Commission does not mandate expertise in the area of taxation, one would assume that the Commission be informed and educated about the state's tax system which they are about to review. Unfortunately, this Commission delayed any kind of informational session until four months into its tenure. As a result, the study which has contracted appears to have little relevance to the constitutional mandate.

Digested 4/2/12