

STAND. COM. REP. NO.

260

Honolulu, Hawaii

FEB 13 2019

RE: S.B. No. 495  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 495 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to create a nexus standard for taxing out-of-state businesses on their business income in Hawaii.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO. Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

Your Committee finds that Hawaii's resident population and strong tourist presence make the State a profitable market for companies outside the State. Your Committee further finds that the establishment of an economic nexus standard for out-of-state businesses on their business income in Hawaii will allow the State to gain tax revenue from businesses that have no physical presence in Hawaii but nonetheless conduct transactions with persons in Hawaii. Your Committee additionally finds that some provisions of this measure conflict with existing standards within the general excise tax law and applicable federal laws.



Accordingly, upon the recommendation of the Department of Taxation, your Committee has amended this measure by:

- (1) Removing language that allowed solicitation of business transactions to establish an economic nexus in the State;
- (2) Clarifying that a person is systematically and regularly engaging in business in Hawaii if the person engages in the requisite number of transactions or if the sum of the person's income from business conducted in Hawaii rises to a certain amount; and
- (3) Establishing that a person is systematically and regularly engaging in business in Hawaii if the person's sales factor in Hawaii rises to a certain amount.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 495, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 495, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



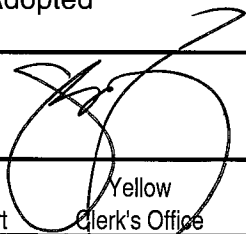
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KARL RHOADS, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <b>SB 495</b>	Committee Referral: <b>JDC, WAM</b>	Date: <b>2/7/19</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye /	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original             Yellow             Pink             Goldenrod File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy				

\*Only one measure per Record of Votes