STAND. COM. REP. NO. 3029

Honolulu, Hawaii

MAR 22 2006

RE:

H.B. No. 439

H.D. 1 S.D. 1

Honorable Robert Bunda President of the Senate Twenty-Third State Legislature Regular Session of 2006 State of Hawaii

Sir:

Your Committees on Transportation and Government Operations and Judiciary and Hawaiian Affairs, to which was referred H.B. No. 439, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE OFFICE OF THE OMBUDSMAN,"

beg leave to report as follows:

The purpose of this measure is to permit the Office of the Ombudsman to obtain state tax returns and tax return information necessary to perform the official duties of the office of the ombudsman, including the investigation of the administrative acts of agencies.

Your Committees received testimony in support of this measure from the Office of the Ombudsman. Testimony in opposition was received from the Department of Taxation. Comments were received from the Tax Foundation of Hawaii.

Under current law, the Ombudsman is authorized to investigate administrative acts of agencies. In so doing, the Ombudsman may make inquiries and obtain relevant information as the Ombudsman deems fit. A recent opinion by the state attorney general concluded, however, that a narrow interpretation of state law prohibited the Ombudsman from obtaining state tax returns and return information in connection with the official duties of the Office of the Ombudsman.

Your Committees find that allowing the Office of the Ombudsman to obtain state tax return information about taxpayers who file state tax returns would assist the Ombudsman in fulfilling the Ombudsman's duty to investigate complaints received concerning the administrative acts of agencies.

The intent of your Committees is that this measure applies solely to the investigation of taxpayer inquiry to the Ombudsman about the processing of the taxpayer's tax return by the Department of Taxation. This measure is inapplicable to obtaining personal information on the taxpayer.

Your Committees have amended this measure by changing the effective date to July 1, 2006.

As affirmed by the records of votes of the members of your Committees on Transportation and Government Operations and Judiciary and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 439, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 439, 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 Committees on Transportation and Government Operations and Judiciary and Hawaiian Affairs,

COLLEEN HANABU\$A, Chair

LORRAINE R INCLIVE Chair

The Senate Twenty-Third Legislature State of Hawaii

Record of Votes of the Committee on Transportation and Government Operations (Bills and Resolutions)

Measure:* HB 439 HD	Committee Referral: Date: 3/17/06								
The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to:									
The Recommendation is to:									
Pass, unamended Pass, with amendments Hold Recommit (2312) (2311) (2310) (2313)									
Members		Ayes	Ayes(WR)	Nays	Excused				
INOUYE, Lorraine R. (C)									
ESPERO, Will (VC)									
BAKER, Rosalyn H.				·					
HEE, Clayton									
KANNO, Brian									
MENOR, Ron					/				
WHALEN, Paul					/				
	101 () () () () () () () () () (
TOTAL		4			3				
Recommendation: Adopted Not Adopted									
Chair's or Designee's Signature:									
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy									

^{*}Do not list more than one measure per Record of Votes.

The Senate Twenty-Third Legislature State of Hawaii

Record of Votes of the Committee on Judiciary and Hawaiian Affairs (Bills and Resolutions)

Measure:*	Committee Heferral:			Date:					
HB 439 HD1	TGO/JHW	, WAM		3-21-06					
The committee is reconsidering its previous decision on this measure.									
If so, then the previous decision was to:									
The Recommendation is to:									
Pass, unamended (2312)	Pass, with amendments Hold Recommit (2311) (2310) (2313)								
Members		Ayes	Ayes(WR)	Nays	Excused				
HANABUSA, Colleen (C)		/							
HEE, Clayton (VC)									
CHUN OAKLAND, Suzanne		/							
ENGLISH, J. Kalani									
IHARA, Jr., Les		/							
WHALEN, Paul		UK							
									
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TOTAL		5	1	0	0				
Recommendation:									
Adopted Not Adopted									
Chair's or Designee's Signature:									
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy									

^{*}Do <u>not</u> list more than one measure per Record of Votes.