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**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 795, H.D. 1, Relating to the General Fund

BEFORE THE:

Senate Committee on Ways and Means

DATE: Tuesday, March 18, 2025

TIME: 10:00 a.m.

LOCATION: State Capitol, Room 211

Chair Dela Cruz, Vice-Chair Moriwaki, and Members of the Committee:

The Department of Taxation (DOTAX) offers the following comments regarding H.B. 795, H.D. 1, for your consideration.

H.B. 795, H.D. 1, addresses the disposition of excess general fund revenues as required under article VII, section 6, of the Hawai'i State Constitution.

Section 2 of H.B. 795, H.D. 1, proposes a tax credit to each resident individual taxpayer who files an individual income tax return for taxable year 2025 and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer. The credit amount is set at an unspecified amount to be multiplied by the number of qualified exemptions to which the taxpayer is entitled.

Credits would be limited to residents, as defined under section 235-1, Hawaii Revised Statutes (HRS). Credits would not be available to persons convicted of a felony or misdemeanor and physically confined in a prison for the full 2025 taxable year. Credits may also not be claimed for a person eligible to be claimed as a dependent but committed to a youth correctional facility for the full 2025 taxable year.

Sections 3 and 4 of the measure propose unspecified appropriations to the post-employment benefits trust fund established under section 87A-42, HRS, and the emergency and budget reserve fund established under section 328L-3, HRS.

The bill has a defective effective date of July 1, 3000, with section 2 of the bill applying to taxable years beginning after December 31, 2024.

DOTAX can administer the income tax credit for the taxable year beginning after December 31, 2024.

Thank you for the opportunity to provide comments on this measure.

TAX FOUNDATION OF HAWAII

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SUBJECT: NET INCOME, Tax Credit, Disposition of Excess Revenues

BILL NUMBER: HB 795 HD 1

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: Provides a tax credit to taxpayers and makes deposits to the emergency and budget reserve fund and other post-employment benefits trust fund pursuant to article VII, section 6, of the Hawai'i State Constitution. Appropriates funds.

SYNOPSIS: Adds an uncodified section providing for a general income tax credit in an unspecified amount for each taxpayer filing an individual return in 2023.

Makes appropriations of unspecified amounts to the emergency and budget reserve fund, and the other post-employment benefits trust fund.

EFFECTIVE DATE: July 1, 3000; provided that section 2 shall apply to taxable years beginning after December 31, 2024.

STAFF COMMENTS: Article VII, section 6 of the Hawaii Constitution requires that whenever the state general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years, the legislature shall either: (1) provide a tax credit or refund to the taxpayers of the State; (2) deposit the money into a rainy day fund; or (3) appropriate general funds for either (A) debt service or (B) OPEB.

It's hard to get excited about this provision, however, because the Constitution does not say anything about how much of the excess revenues are to be disposed of in these ways.

The last time we had a constitutional convention, in 1978, delegates thought that government shouldn't be keeping the people's money if it didn't have to. "Your Committee believes that it is proper for the State's taxpayers to benefit from any surplus in the State's general fund balance," they said in Committee of the Whole Report No. 14.

So, they put before the voters, and the voters approved, what became Article VII, section 6 of our Constitution. It says that if our general fund balance is more than 5% of general fund revenues for two fiscal years in a row, then the legislature is supposed to enact a tax credit or refund to give some of that money back to us taxpayers.

This credit came to be called the general income tax credit. In most of the years of its life, however, it provided for a credit of either \$1 or nothing.

In 2010, the legislature proposed, and voters approved, a constitutional amendment that allowed lawmakers to forgo providing a tax credit if they instead shoved some money into our rainy-day fund. Thus 2009 was the last year of the general income tax credit. In 2016, voters approved a

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further constitutional amendment that would allow the money to go to debt service or OPEB. But still there is nothing mandating any particular amount.

The bill includes unspecified credit amounts and otherwise contains blanks for important information. The bill cannot be scored for revenue gain/loss in its current form, and cannot be vetted properly unless numbers are inserted.

Digested: 3/13/2025