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STATE OF HAWAII
DEPARTMENT OF TAXATION

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

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 40, Relating to the General Fund

BEFORE THE:

Senate Committee on Ways and Means

DATE: Thursday, March 30, 2023

TIME: 10:05 a.m.

LOCATION: State Capitol, Room 211

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

The Department of Taxation ("Department") offers the following comments regarding H.B. 40 for your consideration.

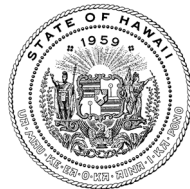
H.B. 40 implements Article VII, Section 6, of the Hawaii State Constitution, which applies whenever the general fund balance at the close of two successive fiscal years exceeds 5 percent of general fund revenues for each of the two fiscal years, by: (1) providing for an income tax credit of an unspecified amount, multiplied by the number of the taxpayer's qualified exemptions, for resident taxpayers; (2) depositing an unspecified amount into the emergency and budget reserve fund; and (3) depositing an unspecified amount into the post-employment benefits trust fund.

H.B. 40 will be effective as of July 1, 2023 and shall apply to taxable years beginning after December 31, 2022.

The Department is able to administer section 2 of the bill, which provides for the income tax credit, with its current effective date and taxable year.

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

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 40

March 30, 2023
10:05 a.m.
Room 211 and Videoconference

RELATING TO THE GENERAL FUND

The Department of Budget and Finance (B&F) supports the intent of this bill.

House Bill No. 40 makes an: a) undetermined tax credit to resident individual taxpayers of Hawai'i; b) undetermined transfer into the Emergency and Budget Reserve Fund; and c) undetermined deposit into the Other Post-Employment Benefits (OPEB) Trust Fund. The purpose of this measure is to comply with the constitutional mandate to provide a tax refund or credit, make a transfer into a reserve fund, or make a prepayment of either or both of: 1) debt service; or 2) pension or OPEB liabilities when certain conditions are met.

B&F supports any or a combination of the three options in this bill to comply with the constitutional mandate.

Thank you for the opportunity to provide testimony in support of this bill.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: HB 40

INTRODUCED BY: YAMASHITA

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, 2023; provided that section 2 shall apply to taxable years beginning after December 31, 2022.

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

Re: HB 40

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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.

Digested: 2/21/2023