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# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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SUBJECT: MISCELLANEOUS, Legislative Fiscal Impact Statements

BILL NUMBER: SB 2719

INTRODUCED BY: SLOM, CHUN OAKLAND, HARIMOTO, Inouye, Kim, Nishihara, Riviere, Shimabukuro, L. Thielen

EXECUTIVE SUMMARY: Requires every legislative measure with a fiscal impact to have a statement with a reliable estimate of its fiscal effect. It's a welcome step toward government transparency, and some tweaks may be needed to make sure it works as intended.

BRIEF SUMMARY: Adds a new section to HRS chapter 21F to require that every legislative measure that would affect the receipt, expenditure, or allocation of state or local funds, either directly or indirectly, shall have attached to it a fiscal impact statement with a reliable estimate of the fiscal impact of such measure. Fiscal impact statements would be prepared by the legislative analyst, who could then obtain information from any affected state agency.

A fiscal impact statement shall not be required for general appropriations bills, bills which appropriate a specific amount, or any measure affecting state funds for retirement purposes.

A fiscal impact statement is, however, required for any measure concerning any program wholly or partially funded by federal monies which involves an expenditure of state funds or any legislative appropriation of funds.

A bill could not be heard by a legislative committee if a fiscal impact statement was required but not present. If reported out with amendments or if amended on the floor, the amended bill would need a fiscal impact statement as well.

Agencies involved in the preparation of the required information for a fiscal impact statement shall keep in strict confidence the subject matter of the proposed measure and the information provided to the legislative analyst prior to the filing or pre-filing of such measure with the clerk's office of each respective house of the legislature. Violation of this provision is a misdemeanor punishable by a \$500 fine or six months' imprisonment.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: At present, the availability of estimated revenue impact information on bills wending their way through the legislature is spotty at best. Even when the Department of Taxation testifies on tax bills, some testifiers share revenue impact information with the legislature; others don't; others share information with the legislative committees and leave the public in the dark; and still others share information with the committees and the public only in response to questions asked at a hearing. Having the information would be a great step toward openness and transparency in important legislative decisions.

To make the measure robust, we would suggest that some technical issues be addressed.

First, many legislative drafters and some committees tend to write or advance bills with blanks to be filled in such as "\$ \_\_\_\_\_" or "\_\_\_\_%." We suggest that the bill specify some guidelines for the legislative analyst when this happens, or the legislative analyst could, quite justifiably, profess that estimation of fiscal impact is impossible or that the amount is indeterminate.

Second, the bill needs to clarify when during the process the statement will be available to the public. If this is not done, overzealous people within the government may try to argue that this information is part of a governmental deliberative process and, as such, needs to be kept from the public's prying eyes.

Digested 1/30/2016



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February 2, 2016

1:15 PM

Conference Room 414

**To: Senate Committee on Government Operations**

**Sen. Donna Mercado Kim Chair**

**Sen. Les Ihara, Jr., Vice Chair**

**From: Grassroot Institute of Hawaii**

**President Keli'i Akina, Ph.D.**

RE: SB 2719 -- RELATING TO LEGISLATIVE FISCAL IMPACT STATEMENTS

***Comments Only***

Dear Chair and Committee Members:

The Grassroot Institute of Hawaii would like to offer its comments on SB 2719, which would require a fiscal impact statement for any proposed legislation that calls for an appropriation or results in significant fiscal changes for the State and prohibits hearing on bills and resolutions without a fiscal impact statement prepared by the Office of the Legislative Analyst.

According to the National Conference of State Legislatures, more than 20 states require fiscal notes with every bill introduced to the legislature. Other states demand a statement of fiscal impact only when the bill is expected to have a direct impact on revenues or spending, while others only require them upon request. Still, some form of fiscal notes are used by more than half of all state legislatures as a way to give legislators a tool to evaluate pending legislation and increasing the transparency of the legislative process.

States that employ a fiscal notes process acknowledge the strain it places on legislative analysts, but say that it is offset by how useful the impact statement is to state budgeting and planning. As the Grassroot Institute reported in its analysis of the multi-year state budget (attached), there is a significant gap between current projected expenditures and historical trends. Requiring a fiscal impact statement on legislation that would call for an appropriation or have a significant fiscal impact would go a long way towards balancing the state budget.

Nor is the only benefit to be found in spending analysis. Analyzing the fiscal impact of bills that could affect state revenues would also help the legislature better target its efforts to improve

the state's economy. (I.e. whether state revenue lost by a business-based tax credit would be offset by the revenue generated by jobs created.)

There is one issue in the current draft of the bill that has the potential to undo the intent behind this legislation. Because bills themselves are sometimes introduced without a defined dollar amount or percentage to be allocated (with the intent that the amount will be filled in by the committee), there must be a provision that would allow for a reasonable analysis of the fiscal impact of such bills, perhaps by requiring that the analyst seek clarification from the bill's sponsor or that said sponsor provide a possible range for the sake of determining fiscal impact.

Though this is not primarily an open government bill, it has potential to make the legislative process even more open and transparent and helping the public better understand the monetary considerations behind the bills. Thus, we recommend that the fiscal impact statement attached to the bill should be made available to the public at the time the hearing is scheduled so that those who wish to comment will have access to critical financial information that might affect their testimony.

Thank you for the opportunity to submit our comments.

Sincerely,  
Keli'i Akina, Ph.D.  
President, Grassroot Institute of Hawaii

# State of the State Budget 2016

*An Analysis of the Multi-Year State Budget*

**GRASSROOT  
INSTITUTE OF HAWAII**

*Prepared by the Research  
Staff of the Grassroot  
Institute of Hawaii*

*Keli'i Akina, Ph.D.  
President / CEO*

# Grassroot Institute of Hawaii

## Report on Multi-Year Budget

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### Introduction

We are told that it is overly simplistic to compare the challenge of budgeting a home or a business to that of running a government budget, but certain principles are eternal. Foremost among these is the need to deal transparently and honestly with the numbers involved—both in terms of expenditures and revenues. Without an accurate estimate of the state's expenditures and liabilities, the balanced budget is just an illusion. Rather than creating accountability to the state's taxpayers, it confuses the appearance of fiscal responsibility with the best practices that will ensure Hawaii's long-term financial health.

Governor Ige's Executive Supplemental Budget for fiscal year 2017 was transmitted to the legislature in December, giving the Grassroot Institute the opportunity to examine the state's multi-year financial plan in light of the revised revenue and spending projections. Unfortunately, what we found is that there is still a long way to go when it comes to creating true fiscal accountability in the Aloha state. Though the Governor has pledged to make the government more efficient, we lack the information to determine whether there is any weight behind the promises or whether we are looking at yet another series of overly optimistic projections that will only push the state's economic woes further down the road.

Adding to that concern is the continued inability of the state to confront the depth of the liabilities related to the Employee Retirement System and Employee Union Trust Fund. There are millions of dollars that remain unaccounted for, and even the rosier predictions of the state's economic future are stymied by the size of this particular budget sinkhole. While some might claim that considering worst-case scenarios on the ERS/EUTF liabilities paints too gloomy a picture, ignoring them so as to create a more optimistic financial plan is tantamount to lying to both the taxpayers and the employees themselves.

### Projected Revenues vs. Projected Expenditures

Where has the state's financial plan donned those rose-colored glasses? Predictably, an analysis of the numbers finds problems with the expenditure projections—both in terms of how they match up with historical spending and in what is missed.

Revenue projections in Hawaii are fairly straightforward, as they come from the Council of Revenues, an independent body that uses an established model (and expert opinion) to arrive at the state's projected revenues. It is worth noting that the Council of Revenues considers the growth rate of the state's General Excise Tax as its primary revenue assumption.

**Table 1: Impact of the Council on Revenues, Projections (in thousands)**

FY	2015	2017	2018	2019	2020	2021	2022
Tax Revenues: Council (9/3/15)	\$6,079,249	\$6,413,608	\$6,766,356	\$7,104,674	\$7,424,384	\$7,758,481	\$8,107,613
Revised Growth Rate	6.70%	5.50%	5.50%	5.00%	4.50%	4.50%	4.50%
Tax revenues: Council (1/7/16)	\$6,119,395	\$6,455,962	\$6,811,040	\$7,151,592	\$7,473,414	\$7,809,717	\$8,161,155
Additional Anticipated Tax Revenues	\$40,146	\$42,354	\$44,684	\$46,918	\$49,030	\$51,236	\$53,542

On January 7, 2016, the Council of Revenues increased its revenue projections for FY2016 from 6% to 6.7%, representing an additional \$83 million for the state’s coffers in FY 2017. However, the Council has also issued an implied warning in its predictions, forecasting slower (or even contracting) growth beginning as early as FY 2018. The stability of the state’s economy—especially the tourism industry—cannot be taken for granted in predicting the state’s financial future.

Governor Ige’s stated desire to improve government efficiency becomes evident in the expenditures projections for FY 2017 and beyond. The supplemental financial plan projects that expenditures will decline by 1% in 2018 and grow by an average of 2% per year from FY 2019 on. While the national inflation rate has fallen below the Federal Reserve’s goal of 2% in recent years, there have been indications that the rate may rise above that mark, raising the question of what factors went into the 2% growth estimation.

The issue of transparent budget planning becomes critical at this point. The Governor’s supplemental plan does not reveal how he arrived at these expenditure projections. The calculations behind the decline and modest growth expectations are not available for critique, nor is there an explanation as to why the projections do not match historical figures for spending growth. It would be nice to think that this reflects a sudden burst of restraint on the part of the state, but (again) there is no indication that this is the case.

Historically, general fund expenditures have grown by an average of 4.9% per year—more than twice what is envisioned in the supplemental financial plan. If the strongest indication of future behavior can be found by looking at the past, we are looking at the continuation of a trend that has been extremely damaging to our state’s economy. Applying the historical growth rate to the current financial plan beginning in FY 2018 finds that the plan has underestimated long-term expenditures by as much as \$1.2 billion. This is compounded by the fact that revenue growth and expenditure growth are not moving at the same rate. In fact, the long term trend shows expenditures growing at a quicker rate than revenues, creating an inherent instability in the state’s long-term financial outlook.

**Table 2: Multi-Year Financial Plan – Expenditure Growth Forecasting Errors (in Millions)**

	FY 2012	FY 2013	FY 2014	FY 2015
Biennium Budget - FY 09-11	\$5,741.2	\$5,875.3	\$5,964.2	\$6,065.0
Supplemental Budget - FY 09-11	\$5,379.3	\$5,495.0	\$5,605.9	\$5,702.3
Supplemental Budget - FY 11-13	x	x	\$5,890.7	\$6,077.7
<b>Average Long-Term Expenditure Projections:</b>	<b>\$5,560.3</b>	<b>\$5,685.2</b>	<b>\$5,820.3</b>	<b>\$5,948.3</b>
<b>Actual Expenditures:</b>	<b>\$5,641.2</b>	<b>\$5,842.3</b>	<b>\$6,275.4</b>	<b>\$6,440.0</b>
<b>Absolute Forecasting Error</b>	\$80.9	\$157.2	\$455.1	\$491.7
<b>Relative Forecasting Error</b>	1%	3%	8%	8%

This is where the use of the General Excise Tax (GET) comes into play. In the past few years, we have seen an increased tendency on the part of the legislature to treat the GET as an inexhaustible well that can be used to solve the state’s fiscal woes. When it became clear that the cost of rail was going to outstrip its original projections, the immediate response was to raise and/or extend the rail surcharge. At least one proposal suggested making the surcharge permanent. Although a public outcry resulted in a more modest extension, the issue is far from dead. And the precedent has been set—the legislature is prepared to bump up taxes wherever possible in order to meet its spending commitments. The possibility of cutting spending is rarely discussed or seriously considered. When the projected expenditures continue to exceed projected revenues, Hawaii taxpayers should worry.



Table 3: Analysis of actual revenue and expenditure growth (FY 2004-2017)

FY	Actual Expenditures	Actual Revenues	Actual Revenues over Expenditures	Annual Expenditure Growth	Annual Revenue Growth	Expenditure Growth (Compounded Annual Growth Rate)	Revenue Growth (Compounded Annual Growth Rate)	Source
2004	\$3,826,338	\$3,860,456	\$34,118					
2005	\$4,157,011	\$4,391,004	\$233,993	9%	14%	8.6%	13.7%	CAFR
2006	\$4,599,976	\$4,905,322	\$305,346	11%	12%	9.6%	12.7%	CAFR
2007	\$5,051,054	\$5,104,058	\$53,004	10%	4%	9.7%	9.8%	CAFR
2008	\$5,437,614	\$5,204,747	-\$232,867	8%	2%	9.2%	7.8%	CAFR
2009	\$5,345,362	\$4,824,278	-\$521,084	-2%	-7%	6.9%	4.6%	CAFR
2010	\$4,878,654	\$4,811,699	-\$66,955	-9%	0%	4.1%	3.7%	CAFR
2011	\$4,939,928	\$5,026,908	\$86,980	1%	4%	3.7%	3.8%	CAFR
2012	\$5,468,324	\$5,641,054	\$172,730	11%	12%	4.6%	4.9%	CAFR
2013	\$5,618,100	\$6,189,291	\$571,191	3%	10%	4.4%	5.4%	CAFR
2014	\$6,275,400	\$6,096,200	-\$179,200	12%	-2%	5.1%	4.7%	CAFR
2015	\$6,189,200	\$6,541,900	\$352,700	-1%	7%	4.5%	4.9%	FY17 Supplemental Executive Budget
2016	\$6,584,744	\$6,723,500	\$138,756	6%	3%	4.6%	4.7%	FY17 Supplemental Executive Budget
2017	\$7,131,848	\$7,086,100	-\$45,748	8%	5%	4.9%	4.8%	FY17 Supplemental Executive Budget

Of course, taxpayers should already be worried about several large expenses that are not even contemplated in the multi-year plan. Take, for example, the recent court decision finding that the legislature has insufficiently funded the Department of Hawaiian Home Lands administrative and operating budget. The DHHL currently receives \$9.6 million in general funds, but has requested \$28 million. That's \$19.2 million that needs to come from the general fund to meet the court's determination. And that may just be pennies compared to the obligations created by the ERS and EUTF.

### Unfunded Liabilities and Beyond

Expiring collective bargaining agreements in FY 2016 could also mean an unaccounted-for expense for the state. The Senate Minority Office estimates that expenses related to the expiring agreements could cost the state as much as \$85 million annually, based on the agreements' own payroll growth assumption of 3.5%.

Then there is the matter of the unfunded liabilities for the ERS and EUTF. The state's share of that is estimated to be approximately \$14.9 billion, and the Governor and legislature have both pledged to reduce that number. Beginning in FY 2019, the state will be required by law to pay the full Annual Required Contribution for both the ERS and the EUTF—approximately \$1.2 billion annually. The Governor has even taken the bold step of proposing to expedite the schedule and begin paying the ARC in FY 2017; he has also included a request for an additional \$163.9 million for prefunding the EUTF.

Taking steps to reduce the state's unfunded liabilities is an important and a positive step. However, it is also important that the financial plan accurately reflect the possibility that actuarial valuation of the EUTF may change in light of a volatile health care market and the need to renegotiate state employee health insurance contracts as the collective bargaining contracts expire. Because the price of health insurance premiums has been rising, the assumption of an annual increase of 9% and 6.4% in health costs and premium increases may no longer be accurate. This is an area where a small difference can translate to tens of millions of dollars. One analysis estimates that as little as a 1% increase in health costs and premiums can translate to a 21% increase in the state's ARC, which would be \$121 million.

## **Conclusion**

What is needed to restore public trust in the government? The answer is surprisingly simple: transparency. This is even more important when public funds are at stake. The state's multi-year financial plan looks rosy enough on paper, but what is behind the numbers? Why has the state seemingly failed to take certain expenses and contingencies into account? Why ignore past spending growth as an indication of future expenditures? While we would like to believe that it represents a move towards fiscal responsibility and efficiently-run government, without the numbers to back it up, we are forced to wonder whether we are viewing an overly-optimistic calculation or the start of a broken promise.

Regardless of which is the case, Hawaii's taxpayers are the ones who will ultimately have to open their wallets if the state continues to overspend. They deserve to know what they're paying for.

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Senate Government Operations Committee  
Chair Donna Mercado Kim, Vice Chair Les Ihara, Jr.

Tuesday, 02/02/2016 at 1:15 PM in Room 414  
SB 2719 – Relating to Legislative Fiscal Impact Statements

TESTIMONY  
Carmille Lim, Executive Director, Common Cause Hawaii

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Dear Chair Mercado Kim, Vice Chair Ihara, and members of the Senate Government Operations Committee:

Common Cause Hawaii believes our state's budgeting process needs to be more deliberate and transparent.

To that extent, **we support the intent of SB 2719** which would require the Office of the Legislative Analyst to produce a fiscal impact statement for any proposed legislation that calls for an appropriation.

However, we are concerned about logistical aspects of the bill:

- A) Could fiscal impact statements be prepared on the timeline in the bill, given the speedy nature of the legislative session?
- B) Would the Office of the Legislative Analyst be adequately staffed to handle the volume of bills that has a cost or revenue impact?

We urge the Committee to ensure that an adequate appropriation is made to support the Office of the Legislative Analyst in producing fiscal impact statements.

Thank you for the opportunity to offer testimony **supporting the intent of SB 2719**.

**Nancy Bernal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 01, 2016 8:15 AM  
**To:** GVO Testimony  
**Cc:**  
**Subject:** Submitted testimony for SB2719 on Feb 2, 2016 13:15PM

**SB2719**

Submitted on: 2/1/2016

Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cynthia Frith	Individual	Support	No

Comments: This bill is long overdue. How many times has a legislative body initiated and passed meaningful law, only to have it languish because adequate funds have not been allocated? The next step is to ferret out law that is no longer necessary/wasting taxpayers money! Raising taxes to raise money for new laws is totally unacceptable.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**Nancy Bernal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 01, 2016 6:17 AM  
**To:** GVO Testimony  
**Cc:**  
**Subject:** Submitted testimony for SB2719 on Feb 2, 2016 13:15PM

**SB2719**

Submitted on: 2/1/2016  
Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
robert k burns	Individual	Comments Only	No

Comments: This rail has been a well disguised boondoggle from the beginning. The secrecy and ineptness you have shown is disgusting. The guardians (you) have proven by your actions that your party takes priority over the people. I believe that you are not up for the project. This was one-sidedly promoted to the voters and the statement of Mayor Caldwell of "on budget/on time" is as false as a direct lie. The Council goes along to get along by passing and approving the wild spending only you control. Auwe, you should ALL be ashamed of yourself and remember when this rail fails, anti will and has already, you need to take blame for your behavior. If this was a company heads would roll, management changes would be made and shame would be the headline of this corruption. However no sane company would do this rail and that is telling in itself. I'm pissed of and ashamed to be under this herd of fools who have been governing us for too many decades. Pissed off Hawaiian

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**Nancy Bernal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 01, 2016 12:37 AM  
**To:** GVO Testimony  
**Cc:**  
**Subject:** Submitted testimony for SB2719 on Feb 2, 2016 13:15PM

**SB2719**

Submitted on: 2/1/2016

Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marian Grey	Individual	Support	No

Comments: How can you not support Senate Bill 2719? It is so refreshing to make all who propose any legislation study the fiscal impact before it proceeds. This is long overdue, and as a taxpayer, I hope you will pass this bill!

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**Nancy Bernal**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, January 31, 2016 10:45 PM  
**To:** GVO Testimony  
**Cc:**  
**Subject:** Submitted testimony for SB2719 on Feb 2, 2016 13:15PM

**SB2719**

Submitted on: 1/31/2016  
Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kathryn Higa	Individual	Support	No

Comments: Greater transparency fosters greater citizen engagement and helps to restore public faith in government. At a time when news headlines point to hundreds of millions in wasted taxpayer dollars for healthcare, rail and IT projects, greater diligence in analyzing and reporting fiscal impacts can help lawmakers to regain much-needed credibility and public support.

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**SB2719**

Submitted on: 1/31/2016

Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Palcic	Individual	Support	No

Comments: Aloha. This measure is long overdue for enactment into law. Having a sense of the fiscal impact of a measure will certainly give legislators a better chance to stack it in priority with other measures seeking an allocation of scarce resources. Most importantly, this bill will help quickly to weed out good sounding ideas that will overtax our budget or provide benefits far below expected costs. Streamlining as this does will give taxpayers a bigger bang for their buck and will allow legislators to focus on the best affordable proposals for funding.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 01, 2016 2:09 PM  
**To:** GVO Testimony  
**Cc:**  
**Subject:** Submitted testimony for SB2719 on Feb 2, 2016 13:15PM

**SB2719**

Submitted on: 2/1/2016

Testimony for GVO on Feb 2, 2016 13:15PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Natalie	Individual	Support	No

Comments: We need more control over our state finances, and this bill will help. Please do not post my email address online.

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