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To: The Honorable Nadine K. Nakamura, Chair;
The Honorable Troy N. Hashimoto, Vice Chair;
and Members of the House Committee on Housing

From: Isaac W. Choy, Director
Department of Taxation

Date: March 23, 2021
Time: 10:30 A.M.
Place: Via Videoconference, Hawaii State Capitol

Re: S.B. 302, S.D. 2, Relating to Tax Credits

The Department of Taxation (Department) offers the following comments regarding S.B. 302, S.D. 2, for your consideration.

S.B. 302, S.D. 2, amends section 235-55.7, Hawaii Revised Statutes (HRS), which governs the income tax credit for low-income household renters (renters credit). The measure changes the renters credit from $50 per qualified exemption to an unspecified amount dependent on the taxpayer's filing status and Hawaii adjusted gross income (AGI). S.B. 302, S.D. 2, also increases the renters credit for inflation in the taxable year beginning after December 31, 2022 and every three years thereafter. It achieves this inflation increase by multiplying the existing dollar amount by the percentage, if any, by which the Consumer Price Index (CPI) for June 2020 exceeds the CPI for June 2021. This multiplied sum will be rounded to the nearest whole dollar and added to the existing dollar amount in the table. CPI is defined as "the urban Hawaii consumer price index for all urban consumers published by the United States Department of Labor or a successor index." S.D. 2 has a defective effective date of July 1, 2050, but otherwise applies to taxable years after December 31, 2020.

The Department notes that P.L. 117-2, commonly known as the American Rescue Plan Act of 2021 (ARPA), provides State Coronavirus Fiscal Recovery Funds with certain limitations. Specifically, Section 9901 of the ARPA prohibits these funds from being used to, "either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase." The "covered period" is defined as beginning on March 3, 2021 and ending on the last day of the state's fiscal year in which the State's stimulus funds are completely expended.

If the State fails to comply with this restriction on use of funds, it is required to repay an amount equal to the lesser of: (1) the amount of the applicable reduction to net tax revenue attributable to such violation; and (2) the amount of funds received by such state under Section 9901 of the ARPA.

The Department cautions that the enactment of any tax measure resulting in a revenue loss during the covered period may result in the State having to repay an amount equal to the projected revenue loss from the State Coronavirus Fiscal Recovery Funds that Hawaii receives.

Finally, assuming that a functional effective date is inserted, the Department is able to administer this measure for taxable years beginning after December 31, 2020.

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

DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON HOUSING
ON
SENATE BILL NO. 302, S.D. 2

March 23, 2021
10:30 a.m.
Via Videoconference

RELATING TO TAX CREDITS

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 302, S.D. 2.

S.B. No. 302, S.D. 2, amends the income tax credit for low-income household renters (renter's credit) by changing the credit amount from $50 per qualified exemption to being dependent on the taxpayer's filing status and adjusted gross income per newly established tax brackets; and provides that the credit amount may increase for inflation every three years based on the United States' Consumer Price Index.

B&F is concerned that the proposed amendments to the renter's credit would decrease revenues to the State general fund and impact the State's share of direct federal aid from the American Rescue Plan Act of 2021 (ARPA). Provisions of the ARPA specifically state:

> *"A state or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such state or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that*

reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase."

B&F notes that any reduction in State tax revenues could result in reduced ARPA funding. Hawai'i's estimated allocation of ARPA funds is in excess of $1.6 billion and is critical to mitigating the negative financial impacts the COVID-19 pandemic has had on the State budget.

B&F defers to the Department of Taxation regarding the implementation of this bill.

Thank you for your consideration of our comments.

Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawaiʻi Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: House Committee on Housing

Re: **SB302, SD2 - Relating to tax credits**
Hawaiʻi State Capitol, via videoconference, room 423
March 23, 2021, 1030 AM

Dear Chair Nakamura, Vice Chair Hashimoto, and committee members,

On behalf of Hawaiʻi Children's Action Network Speaks!, I write in SUPPORT of SB302 SD2, which would increase the credit amount and income eligibility cap for the for low-income household renters' tax credit as well as provide for inflation increases in the future.

During this harsh economic recession, Hawaiʻi has faced some of the highest unemployment rates in the nation, leaving so many of our state's working families struggling to make ends meet. Even before the pandemic, a full-time worker in Hawaiʻi needed to earn $38.76 per hour to rent a 2-bedroom apartment – that's the highest "housing wage" in the nation. Yet, the average hourly wage for a renter here is just $17.17, leaving an unbelievably wide gap of $21.59.[1]

The low-income household renters' credit was created in 1977 to provide tax relief to low- and moderate-income renter households in our state. In 1981, the credit amount was set at $50 per exemption. In 1989, the income eligibility cut off was set at $30,000, which was just above the median household income at the time. Neither of those levels have budged in more than three decades.[2]

This bill rightly updates the renters' credit to recover ground lost to decades of inflation by increasing the income eligibility limit and allowing for an increase to the maximum value of the credit. It also recognizes the circumstances of head of household (single parent) and married tax filers by providing for higher credit values and eligibility limits for them. This is especially helpful to families with children.

For example, **a single mom with two children who earns $35,000 per year is not eligible for the current renters' credit, due to her income being above the outdated $30,000 eligibility limit. If this bill were to become law with the credit amounts restored to those found in the original SB 302, then she would be able to claim $150 per exemption – or $450 for her family**. For struggling families, that could make a big difference.

Mahalo the opportunity to provide testimony in support of this bill. Please pass SB302 SD2.

Thank you,

Nicole Woo
Director, Research and Economic Policy

[1] https://reports.nlihc.org/oor/hawaii
[2] https://files.hawaii.gov/tax/stats/stats/credits/2018credit.pdf

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COMMITTEE ON HOUSING
TUESDAY, 3/23/21, 10:30 AM, Room No. 423

SB302 SD2 RELATING TO TAX CREDITS
TESTIMONY
Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Nakamura, Vice-Chair Hashimoto, and Committee Members:

The League of Women Voters of Hawaii strongly supports, with one concern, SB302 SD2, which increases the decades-old income threshold and credit amounts for low-income renters to receive a tax credit, adds consideration of household composition to the income threshold, phases out the tax credit for increasing incomes and triennially increases the income threshold and credit amounts by the increase in the cost of living in Hawaii.

The National Low-Income Housing coalition calculated in 2019 that to afford a one-bedroom apartment in Hawaii, a household needed to earn $28.04 an hour. Low-income renters need all the help they can get to avoid falling into homelessness, as so many have even just in the past year.

Families with stable housing experience many advantages - their children are healthier and more likely to succeed in school, for example. There is far less burden on the state when people are stably housed than when they become homeless.

We are concerned however that SD2 removed the SD1 specified credit amounts for each exemption. In a rush to consider many bills with budget implications in Conference, we fear that Hawaii's low-income taxpayers may be left with minimal and inadequate increases to the tax credit. We respectfully request that your committee restore the amounts specified in SD1.

Please pass SB302 SD2, with the requested restoration to SD1, which will restore some of the value the low-income renters tax credit had in the 80's which has been lost to inflation, as the bill's introduction makes clear.

Thank you for the opportunity to submit testimony.

HAWAI'I
AMERICANS FOR DEMOCRATIC ACTION

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John Bickel, President	Melodie Aduja	John Miller	Bill South	P.O. Box 23404
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Doug Pyle, Secretary	Jan Lubin	Lyn Pyle		

March 20, 2021

TO: Chair Nakamura and members of Housing Committee

RE: SB 302 SD2 Relating to Tax Credits

Support for hearing on March 23

Americans for Democratic Action is an organization founded in the 1950s by leading supporters of the New Deal and led by Patsy Mink in the 1970s. We are devoted to the promotion of progressive public policies.

We support SB 302 SD2 as it would increase low-income tax credits and index future credits to inflation. As the bill notes in its introduction, the level of credits has not been adjusted since 1981 despite a burgeoning of housing costs and concomitant houselessness. Tying the credit amount to the Consumer Price Index makes sense.

Thank you for your favorable consideration.

Sincerely,

John Bickel, President

SUBJECT: INCOME, Increase low-income household renters credit and index it

BILL NUMBER: SB 302, SD2

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Increases the amount of the tax credit for individuals and households and the adjusted gross income eligibility cap for the income tax credit for low-income household renters using tax brackets for individuals and different categories of households and providing for increases every three years based on the consumer price index.

SYNOPSIS: Amends section 235-55.7, HRS, to amend the credit brackets as follows (MFS = married filing separately, HOH = head of household, MFJ = married filing jointly):

Adjusted gross income (single or MFS)	Credit per exemption
Under $20,000	$___
$20,000 under $30,000	$___
$30,000 under $40,000	$___
$40,000 and up	$___
Adjusted gross income (HOH)	Credit per exemption
Under $30,000	$___
$30,000 under $45,000	$___
$45,000 under $60,000	$___
$60,000 and over	$___
Adjusted gross income (MFJ or surviving spouse)	Credit per exemption
Under $40,000	$___
$40,000 under $60,000	$___

$60,000 under $80,000	$___
$80,000 and over	$___

For the taxable year beginning after December 31, 2022, and in every third taxable year thereafter, each dollar amount contained in the table in subsection (c) shall be increased by an amount equal to that dollar amount, multiplied by the percentage, if any, by which the consumer price index for June of the preceding calendar year exceeds the consumer price index for June of 2021, rounded to the nearest whole dollar amount.

Defines "adjusted gross income": "Adjusted gross income" has the same meaning as defined and determined under the Internal Revenue Code in accordance with section 235-1.

Defines "consumer price index" as the urban Hawaii consumer price index for all urban consumers published by the United States Department of Labor or a successor index.

EFFECTIVE DATE: 7/1/2050.

STAFF COMMENTS: The 1970 legislature adopted a system of tax credits for household renters which was intended to partially offset the higher tax burden on renters resulting from the lack of tax relief like the home exemption for homeowners and the 4% general excise tax levied on rental income. The current renter credit was established by the 1977 legislature at $20 per exemption for those taxpayers with adjusted gross incomes of less than $20,000 who paid more than $1,000 in rent during the tax year. Act 230, SLH 1981, increased the credit amount to $50. Act 239, SLH 1989, increased the adjusted gross income (AGI) limit to $30,000 to claim the credit. The proposed measure may increase the amount of the credit from $50, depending upon income, and it would increase the AGI limit to $60,000. It does not increase the rent qualification amount – the taxpayer still will need to pay $1,000 in rent during a taxable year to qualify for the credit.

There are some issues to consider with refundable credits targeted at low-income and homeless people generally.

First, a tax return is one of the most complicated documents for government agencies to process. The administrative costs associated with each one can quickly make heads spin. Furthermore, as the U.S. Treasury has experienced with the Earned Income Tax Credit, the combination of complexity and a refundable credit result in a certain percentage of improper payouts, some due to mistake or misunderstanding, and some due to bad actors.

Second, the low-income household renters' credit does nothing for most of the homeless; the credit requires payment of more than $1000 in rent. And even for those in the target population who do qualify for this credit, the relief that the credit provides comes in a tax refund which is paid, at the earliest, in the early part of the year after the tax return filer needs the relief. A person who qualifies for the credit in 2020, for example, won't get a check until early 2021.

Third, as a policy matter, lawmakers might prefer that the recipient of the refund not use the money obtained on certain things, illegal drugs for example. But the tax system contains no way of restricting the uses of a refund check; other departments do have systems in place to give some assurance that the payment will go toward legitimate living expenses such as groceries (EBT, for example).

The better solution is to get such people out of the tax system entirely. They receive peace of mind because they don't have to worry about tax returns, and the department doesn't have to worry about processing those returns. If additional relief to such people is considered desirable, it can be delivered through the agencies that are better equipped to do so.

As a technical matter, we note that the definition of "adjusted gross income" in the bill reads:

> "Adjusted gross income" has the same meaning as defined and determined under the Internal Revenue Code in accordance with section 235-1.

While we agree that the language in current law is not appropriate because section 235-1 contains no definition of adjusted gross income, the proposed definition is confusing because it sounds like federal adjusted gross income but it probably is intended to refer to adjusted gross income for Hawaii purposes. We do not think the definition is necessary and recommend that it be deleted.

Finally, the American Rescue Plan Act of 2021, signed into law by President Biden on March 11, 2021, contains provisions disqualifying or restricting federal aid that otherwise could be available to the State if new or extended tax incentives are enacted after March 3, 2021. Section 9901 of the Act enacts a new section 602(c)(2)(A) in Title VI of the Social Security Act which states:

> A State or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.

Section 602(g)(1) defines the "covered period" as beginning on March 3, 2021 and ending on the last day of the State's fiscal year in which all federal aid dollars are either spent, returned, or recovered against the State by the Treasury.

Because this federal provision generally prohibits new or enhanced state tax credits, this bill may run afoul of ARPA's prohibition.

Digested 3/20/2021