

DAVID Y. IGE
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To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran;
and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director
Department of Taxation

Date: February 3, 2021
Time: 10:00 A.M.
Place: Via Video Conference, State Capitol

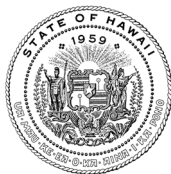
Re: S.B. 514, Relating to the General Fund

The Department of Taxation (Department) takes no position on S.B. 514 and offers the following comments. S.B. 514 implements Article VII, Section 6, of the Hawaii Constitution by providing for an income tax credit for resident taxpayers, depositing monies into the emergency and budget reserve fund, or by depositing funds into the post-employment benefits trust fund. The measure is effective on July 1, 2021.

The Department suggests clarifying the effective date of the tax credit by making it applicable to taxable years beginning after December 31, 2020.

Thank you for the opportunity to provide comments.

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

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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 SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 514

February 3, 2021
10:00 a.m.
Room 211

RELATING TO THE GENERAL FUND

The Department of Budget and Finance supports the intent of Senate Bill (S.B.) No. 514.

S.B. No. 514 makes an undetermined tax credit to resident individual taxpayers of Hawai'i, an undetermined deposit to the Emergency and Budget Reserve Fund (EBRF), or an undetermined deposit to the Other Post-Employment Benefits (OPEB) Trust Fund. This measure is being proposed as a means to comply with the constitutional mandate to provide a tax refund or credit, make a deposit 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.

As of June 30, 2020, the ending balance for the EBRF was \$58,880,670, which is down from the previous fiscal year's ending balance of \$378,237,160 on June 30, 2019. Accordingly, we recommend a deposit to the EBRF to increase our reserves during these uncertain economic times and better ensure the State's fiscal stability for the future.

Thank you for your consideration of our comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: SB 514

INTRODUCED BY: DELA CRUZ, KEITH-AGARAN, KIDANI, English, Fevella, Shimabukuro

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 Hawaii 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 2021.

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

EFFECTIVE DATE: 7/1/2021.

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.

Digested 1/30/2021