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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 826, S.D. 1, H.D. 1, Relating to the Low-Income Housing Tax Credit.

BEFORE THE:

House Committee on Finance

DATE: Thursday, March 27, 2025

TIME: 3:30 p.m.

LOCATION: State Capitol, Room 308

Chair Yamashita, Vice-Chair Takenouchi, and Members of the Committee:

The Department of Taxation (DOTAX) offers the following comments regarding S.B. 826, S.D. 1, H.D. 1, for your consideration.

S.B. 826, S.D. 1, H.D. 1, amends the low-income housing tax credit under section 235-110.8, Hawaii Revised Statutes (HRS), by adding a proviso that "this section shall not apply to chapter 302A, part VI, subpart C." Chapter 302A, part VI, subpart C establishes the School Facilities Authority (SFA) and School Facilities Authorities Board, details the powers of the SFA and Board, and addresses the use and acquisition of public land and school facilities special fund.

The measure has a defective effective date of July 1, 3000.

DOTAX notes that this bill may cause ambiguity as to whether it merely clarifies that the SFA may not claim the low-income housing tax credit or whether it also precludes other taxpayers, including taxpayers who enter into partnerships with the SFA, from claiming the credit.

If the bill intends to disqualify all projects developed by or in partnership with the SFA, DOTAX recommends amending the proviso to state:

provided that this section shall not apply to projects developed pursuant to chapter 302A, part VI, subpart C.

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

TAX FOUNDATION OF HAWAII

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SUBJECT: NET INCOME, Excludes School Facilities Authority from Eligibility for the Low Income Housing Tax Credit

BILL NUMBER: SB 826 SD 1 HD 1

INTRODUCED BY: House Committee on Housing

EXECUTIVE SUMMARY: Specifies that the School Facilities Authority is not eligible as a housing developer for the purposes of the Low-Income Housing Tax Credit.

SYNOPSIS: Amends section 235-110.8(b), HRS, by adding the language, “provided that this section shall not apply to chapter 302A, part VI, subpart C.”

EFFECTIVE DATE: July 1, 3000; applies to taxable years beginning after December 31, 2024.

STAFF COMMENTS: We do not understand the bill as written. Chapter 302A, part VI, subchapter C, HRS, governs the School Facilities Authority under the Department of Education. In its testimony, the Department of Taxation interpreted the bill as clarifying that the School Facilities Authority is not eligible as a housing developer for purposes of the credit. The House Committee on Housing in its report interpreted it the same way.

The low income housing tax credit program subsidizes the acquisition, construction, and rehabilitation of affordable rental housing for low and moderate income tenants. The federal government issues tax credits to state governments and the State housing agencies that award the credits to private developers of affordable rental housing projects through a competitive process. The Hawaii tax credit program largely mirrors the federal program, and the Hawaii Housing Finance and Development Corporation (HHFDC) abides by federal regulations that govern the award of tax credits to private developers.

We think the bill should be clarified. There are many simpler ways to word the proviso to achieve the intended result if it is necessary.

However, we question the need for the bill. Several government agencies such as HHFDC and the Hawaii Public Housing Authority have been and continue to be involved in the development of low-income housing. There does not seem to be a conceptual incongruity in having the SFA develop housing for Department of Education employees on or close to a school campus, for example. It would be helpful if the bill proponents show some examples of perceived abuses under the current law.

Digested: 3/25/2025