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126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Repeal disposition to state educational facilities improvement special fund

BILL NUMBER: SB 458, SD-1

INTRODUCED BY: Senate Committee on Education

BRIEF SUMMARY: Amends HRS section 237-31 to repeal the transfer of general excise tax revenues to the state educational facilities improvement special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature for fiscal years ending prior to July 1, 2014. Also provides that lease payments required by financing agreements paid from the special fund shall only be made on those entered into prior to July 1, 2013.

Repeals HRS section 36-32 to repeal the state educational facilities improvement special fund on July 1, 2023. Any remaining unencumbered balance in the fund shall lapse to the general obligation bond fund on July 1, 2023.

EFFECTIVE DATE: Upon approval as noted

STAFF COMMENTS: This measure proposes to repeal the transfer of general excise tax revenues to the state educational facilities improvement special fund and repeals the fund itself on July 1, 2023.

The earmarking provisions of this law were established nearly 25 years ago when the state general fund was flush with cash surpluses. While the rationale was to secure dedicated funding for educational facilities, the real intent for this provision was to hide those surplus funds from public scrutiny, creating the illusion that there was no surplus as well as circumventing the constitutional ceiling on general fund expenditures as \$90 million in general excise tax revenues were deposited directly into this special fund and did not pass through the general fund.

The 1989 Tax Review Commission noted that use of this type of special fund financing is a “departure from Hawaii’s sound fiscal policies and should be avoided.” It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Seconding the Commission’s harsh criticism was the State Auditor’s report issued in February of 1991 that recognized that the “tax is levied on the general public rather than specific beneficiaries of the program,” and thus the fund did not reflect a “direct link between user benefits and user charges.” The Auditor recommended that this particular fund be repealed and that educational facilities should be

funded through the normal capital improvements appropriations process - which this measure proposes to achieve.

Thus, this measure begins to phase out and ultimately repeals the educational facilities special fund and provisions which had earmarked general excise tax revenues and subsequently general obligation bond proceeds for the school facilities maintenance program. The bill specifies that moneys in this special fund may only be used for projects authorized by legislation before the end of the fiscal year 2014 and can only be used for leasing financing agreements entered into before the end of the current fiscal year. The special fund is then repealed on July 1 of the year 2023. This should return accountability to the legislature for the financing of school repairs and maintenance.

Digested 2/20/13