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To: The Honorable Donna Mercado Kim, Chair  
and Members of the Senate Committee on Government Operations

Date: Thursday, February 9, 2017

Time: 3:05 P.M.

Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 100, Relating to Taxation

The Department of Taxation (Department) has serious concerns regarding Section 2 of S.B. 100 and provides the following comments for your consideration.

Section 2 of this measure requires the Department to release confidential tax information upon request by the State Auditor. This bill also authorizes the State Auditor to release to the Legislature tax information in aggregated form that does not explicitly identify any specific taxpayer. S.B. 100 is effective upon approval.

While the Department appreciates the restriction on the Auditor's ability to report confidential tax information, contained in Section 2 of the bill's paragraph 231-\_\_(b)(2), the Department has the following concerns regarding access to confidential tax information.

First, the Department is seriously concerned about the erosion of taxpayer confidentiality this bill represents. It is important to remember that our State's tax system is based on voluntary compliance with the tax laws. A system based on voluntary compliance requires taxpayers to candidly report their income and to proactively pay the tax they owe. The primary incentive to encourage taxpayers to candidly report tax information is the guarantee of confidentiality of the information they report.

The Department is concerned such an erosion of taxpayer confidentiality could negatively impact the public's confidence in the confidentiality of its tax information, thereby reducing voluntary compliance and impede the Department's ability to effectively enforce and collect the State's taxes.

Second, confidential tax information should only be disclosed on a need-to-know basis. The State laws in this area are very strict and the Department takes confidentiality of tax information very seriously. Department personnel and other state personnel authorized to

receive confidential tax information are subject to strict criminal penalties for unauthorized disclosure, including the possibility of felony conviction and imprisonment.

Moreover, the Department does not believe that access to confidential tax information, as this measure seems to contemplate, is necessary to produce the reports required under sections 23-71 to 23-81 and sections 23-91 to 23-96, Hawaii Revised Statutes. In general, these reports focus on the cost of a tax expenditure, forecasting future costs of the expenditure, legislative intent or goals of such expenditure, whether the intent or goals of the expenditure were met, and whether the costs of such expenditure were born by low income individuals. Answers to these issues cannot be found by browsing through individual tax records.

Finally, the Department, upon request by the Auditor, is able and willing to provide relevant data in aggregated form for use in producing these reports. Data in this form may be republished by the Auditor without breaching confidentiality laws. For these reasons, the Department does not believe that Section 2 of S.B. 100 is appropriate or necessary.

Thank you for the opportunity to provide comments.

# TAX FOUNDATION OF HAWAII

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**SUBJECT:** ADMINISTRATION, Review of Tax Credits and Deductions

**BILL NUMBER:** SB 100

**INTRODUCED BY:** TOKUDA

**BRIEF SUMMARY:** Delays the reviews by the Auditor of tax exemptions, exclusions, credits, and deductions. Provides the Auditor with access to DOTAX records for the reviews and authorizes the Auditor to include data from the records in its reports to the legislature that do not explicitly identify any specific taxpayer. Adds the organic foods production income tax credit to the schedule of review. Amends the review criterion regarding the legislative purpose of an exemption, exclusion, credit, or deduction to provide more discretion to the Auditor.

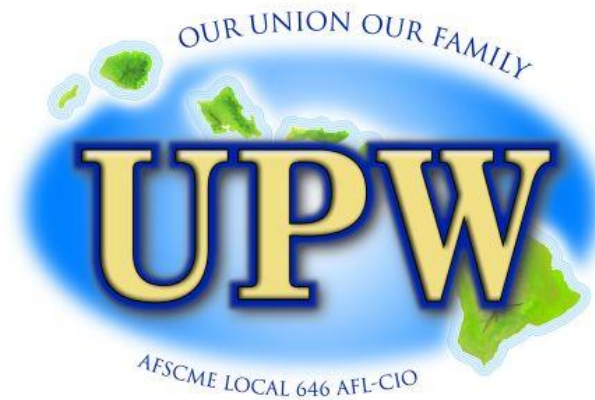
**EFFECTIVE DATE:** Upon approval provided section 20 shall take effect on July 1, 2018.

**STAFF COMMENTS:** Act 261, SLH 2016, requires the State Auditor to periodically review the myriad exemptions, deductions, and other tax benefits now provided under the excise tax chapters, HRS chapters 237, 238, and 239, as well as some miscellaneous provisions.

Act 245, SLH 2016, requires the State Auditor to periodically review the myriad exemptions, deductions, and other tax benefits now provided under the income and franchise tax chapters, HRS chapters 235 and 241, as well as some miscellaneous provisions.

This bill facilitates the processes required by the above Acts and includes within the review schedule the organic foods production income tax credit that was enacted as Act 258, SLH 2016.

Digested 2/7/2017



THE HAWAII STATE SENATE  
The Twenty-Ninth Legislature  
Regular Session of 2017

COMMITTEE ON GOVERNMENT OPERATIONS

The Honorable Senator Donna Mercado Kim, Chair  
The Honorable Senator Russell E. Ruderman, Vice Chair

DATE OF HEARING: Thursday, February 9, 2017  
TIME OF HEARING: 3:05 p.m.  
PLACE OF HEARING: State Capitol, Rm. 224  
415 South Beretania Street

**COMMENTS ON SB 100 RELATING TO TAXATION**

By DAYTON M. NAKANELUA,  
State Director of the United Public Workers,  
AFSCME Local 646, AFL-CIO ("UPW")

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO (UPW). The UPW is the exclusive bargaining representative for approximately 14,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

SB100 delays the implementation of Act 245, SLH 2016 since relevant tax impact data will not be readily available in 2018 and that the department of taxation is under taking a tax system modernization project that will be capable of collecting and reporting tax data on the tax expenditures from exemptions, exclusions, credits, and deductions, efficiently. An important provision in SB100 is the clarification of the criterion regarding the achievement of the legislative purpose of the exemption, exclusion, credit, or deduction. The bill also provides an appropriation for fiscal year 2018-2019 to do the audit.

We appreciate the effort of DOTAX to implement a more efficient and modern tax system currently. The reasons in SB100 for a proposed delay have some merit. The UPW does however, requests that Act 245 not be delayed entirely and that a baseline of current and available tax impact data be collected and reported on tax expenditures from exemptions, exclusions, credits and deductions. An

initial and preliminary collection of tax impact data will provide a glimpse of how the tax exemptions are performing and will guide further tax impact data collection. The UPW requests that the original dates for the project as described in Act 245 be maintained and the Auditor proceed with the initial collection effort.

Thank you for the opportunity to submit this testimony.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 8, 2017 8:49 AM  
**To:** GVO Testimony  
**Cc:** rkailianu57@gmail.com  
**Subject:** \*Submitted testimony for SB100 on Feb 9, 2017 15:05PM\*

**SB100**

Submitted on: 2/8/2017

Testimony for GVO on Feb 9, 2017 15:05PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

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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