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**LATE**

**SENATE COMMITTEE ON AGRICULTURE & HAWAIIAN AFFAIRS**

**TESTIMONY REGARDING SB 3156  
RELATING TO DROUGHT MITIGATION TAX CREDIT**

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: FEBRUARY 7, 2008**

**TIME: 2:45PM**

**ROOM: 224**

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This bill would reintroduce the drought mitigating water storage facilities tax credit that expired at the end of 2005. The bill would take effect upon approval and apply to taxable years beginning after December 31, 2009 until its repeal on December 31, 2015.

The Department of Taxation ("Department") has **strong concerns** with the way this bill is currently drafted.

**I. PREFERRED METHOD—SIMPLY AMEND REPEALED SECTION 235-110.92, HRS**

The Department questions the wisdom of creating a completely new credit for drought mitigating water storage facilities when language already exists, especially considering that the current draft of the SB 3156 is missing all of the standard tax language that avoids giving a taxpayer a double tax benefit.

The Department points out some of the differences between the previous credit and this bill, which include:

1. **Higher credit percentage.** The previous credit gave a 4% credit on qualifying costs, this bill gives a 50% credit on qualifying costs.
2. **Double tax benefits.** This bill does not require a taxpayer to choose between a depreciation deduction and the credit; this bill would allow the taxpayer to take both. Also the previous language required the taxpayer to subtract amounts received through a federal or state grant or subsidy from the qualifying costs; this bill does not.

3. **More taxpayers included.** This bill allows any individual taxpayer not claimed as a dependent to claim the credit. The previous language only allowed farmers and ranchers not claimed as a dependent to claim the credit.
4. **More costs qualify.** The previous language restricted the qualifying costs to those costs for new construction of a qualified water storage facility or the repair or reconstruction of an existing qualified water storage facility. This bill expands considerably the reach of this credit by including in the definition of a water storage facility the associated infrastructure, whatever that may encompass. The phrase "associated infrastructure," if it is to be retained, should be better defined to assist the Department in administering this refundable tax credit.
5. **Only applies to individuals.** The Department points out that this bill only applies to "individual" taxpayers. That mean no entities, such as corporations or partnerships, may claim the credit.

## **II. U REVENUE ESTIMATE.**

This bill will result in loss to the general fund in an indeterminate because the cap per taxpayer is currently unspecified.