



**LATE**

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Headquarters  
and Refining

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91-480 Malakole St.  
Kapolei, HI 96707

DATE: Thursday, February 9, 2017  
TIME: 3:05pm  
PLACE: Conference Room 224  
State Capitol  
415 South Beretania Street

Senate Bill 100, Relating to the Taxation

Good afternoon Chair Kim, Vice-Chair Ruderman and Members of the committee,

Island Energy Services, LLC (IES) purchased the assets of the formerly owned and operated Chevron on November 1, 2016, and continues to operate as a key supplier of petroleum products to the Hawaii market and economy. As a refiner and key supplier, IES would like to comment on SB 100 and raise two concerns.

On page 3, lines 20-21 through page 4, line 2 of SB 100, the State Auditor is provided the unprecedented authority to access confidential tax information. This authority causes grave concern when dealing with confidential taxpayer information. We believe this overbroad authority should be struck from the bill. This provision could cause the release of confidential information and possible damage to the taxpayer and cause market disruptions if certain confidential information is made known to industry competitors.

Second, on page 4, lines 10-15 of SB 100, the State Auditor is provided the authority to report aggregated tax information. This provision causes concern to IES, as it will cause concern to other industries with few taxpayers. IES is one of two refineries in Hawaii. The Department of Taxation (DoTax) and Department of Business, Economic Development & Tourism (DBEDT) both follow the policy and principle that aggregated information will not be disclosed if it would identify the taxpayer or its confidential financial information, and have not reported aggregated information concerning the refineries as it is illogical to aggregate two



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taxpayers. IES asks that the State Auditor be directed to follow this policy and principle of the DoTax and DBEDT and not report aggregate information that DoTax or DBEDT does not report.

Mahalo for the opportunity to offer our comments on this matter.

Mahalo,

Al Chee  
Vice President  
Island Energy  
Retail Marketing & Community Relations



**LATE**

SENATE COMMITTEE ON GOVERNMENT OPERATIONS  
The Honorable Senator Donna Mercado Kim, Chair  
The Honorable Senator Russell E. Ruderman, Vice Chair

**S.B. No. 100, Relating to Taxation**

Hearing: Thursday, February 9, 2017, 3:05 p.m.

The Office of the Auditor **strongly supports S.B. No. 100**, Relating to Taxation, but **requests an amendment to one section of the proposed measure**. The purpose of the measure is to amend provisions requiring the auditor to review certain tax exemptions, exclusions, credits, and deductions established under Acts 245 and 261, Session Laws of Hawai'i 2016 (codified as sections 23-71 through 23-81 and 23-91 through 23-96).

Specifically, Acts 245 and 261 require the auditor to determine the amount of tax expenditures for the previous three fiscal years, estimate the amount of expenditures for the current and next two fiscal years, determine whether the incentive is necessary to promote or preserve tax equity or efficiency, and recommend whether the incentive should be retained, amended, or repealed. Acts 245 and 261 also require the auditor to determine whether the incentive has achieved or continues to achieve the purpose for which it was enacted by the legislature. The auditor's review of the tax incentives starts in 2018, according to the schedules set by Acts 245 and 261.

S.B. No. 100 would amend sections 23-71 through 23-81, HRS, and sections 23-91 through 23-96, HRS, by, among other things: (1) delaying the auditor's review of the tax incentives; (2) providing the auditor with access to department of taxation records that are necessary to conduct the reviews; and (3) clarifying the criterion that the auditor is to apply to assess whether the tax incentive has achieved its legislative purpose.

We strongly support these provisions of the bill. As Section 1 of the bill notes, delaying the review is necessary because certain tax incentive data current is not readily available. Without information from the department of taxation about the amounts of certain tax incentives, we are unable to provide a meaningful review of those incentives. The bill reflects that the department of taxation is undertaking a tax system modernization project that likely will make data relating to the incentives more readily available. While we agree it is prudent to delay the review until after the tax system modernization project has developed more fully, we note that, until the department of taxation collects at least three years of tax incentive-related data, we likely will be unable to provide much of the requested review, including assessing whether the incentive should be retained, amended, or repealed.

In addition, to perform the required review of the tax incentives, we must have access to tax records and other information necessary to perform the reviews. The department of taxation,

however, has advised us that certain tax incentive-related information that likely is necessary for our review is confidential, and therefore, we may not be provided access to that information for our review of those incentives. Section 2 of the bill creates a new section in chapter 231 that provides us access to the department of taxation's records necessary to perform our review and assessment of the tax incentives.

Although the bill will provide us access to taxpayer information that may currently be confidential, we are concerned about the apparent restriction regarding our ability to report tax incentive-related data in Section 2, page 4, lines 13-15. The bill allows the auditor to report tax incentive data in our report to the legislature only in an aggregated form. We foresee instances in which it may be beneficial to report information that is not simply in aggregate form. For instance, if a tax incentive is primarily benefiting one taxpayer, it may be important for the legislature to know such information as it considers any recommendation or legislative action relating to the incentive. We therefore request the bill be amended to clearly reflect that we may report information that we deem necessary and relevant for purposes of our review.

As the bill notes, we have found that the legislative history for some incentives is not helpful in identifying the legislature's purpose for the incentive. Amendments noted in Section 3 (page 4, lines 9-13) allow us reasonable discretion to identify the purpose of the tax incentive in order to determine whether the incentive is meeting its purpose. We strongly support this amendment to ensure we can conduct the reviews required by Acts 245 and 261.

Lastly, we also strongly support Section 20 of the bill, which appropriates an undetermined amount of funds for our review of the tax incentives. The Joint Legislative Audit and Review Committee (JLARC), which is the State of Washington's functional equivalent of our office, has been conducting a similar review of its state's tax incentives. That office has four full-time analysts dedicated to tax incentive reviews as well as one-half of both the director and deputy director's time. We currently have 2 senior analysts and 11 analysts, all of whom are assigned to audit projects. Given the number of audits and the additional audits, reports, and studies that the legislature likely will request us to perform, we have concerns about our ability to commit sufficient resources to perform the review of the tax incentives. We request that \$300,000 in additional appropriation to allow us to hire a senior analyst and two analysts to work on the tax incentives as well as to retain an economist or other consultant to, for example, assess the economic impact of the incentive to the state.

Thank you for considering our testimony related to S.B. No. 100.