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To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Water, Land, and Agriculture

Date: February 1, 2016
Time: 2:45 P.M.
Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 2644, Relating to Water Conservation

The Department of Taxation (Department) appreciates the intent of S.B. 2644 and provides the following comments for your consideration.

S.B. 2644 provides a refundable income tax credit for fifty percent of the cost of a residential water conservation system, up to a maximum of $1,000, with an aggregate cap of $2 million per year. The bill is effective upon approval and applies to taxable years beginning after December 31, 2016.

The Department notes that it generally prefers non-refundable credits because refundable credits create the potential for wrongful claims and abuse. The Department also notes that aggregate caps are difficult for the Department to administer and often results in uncertainty for taxpayers. Accordingly, the Department requests that the credits be certified by another State agency is intending to impose an aggregate cap on the total amount of claims.

Furthermore, the Department notes that the definition of "residential water conservation system" in subsection (f)(1) is broad and is currently defined as any system to capture, infiltrate, *or* utilize rainfall from roofs or other hard surfaces on residential property. This may be interpreted to include any device to capture water even if the purpose is not to store and use the water, such as rain gutters without a storage tank. The definition may also be interpreted to include swimming pools that utilize rainfall. The Department suggests clarification of this definition.

Assuming the definition of a "residential water conservation system" is intended to include either a system that captures and reuses rainwater as described in subsection (f)(1) or grey water as described in (f)(2), the Department suggest replacing the word "and" in subsection (f)(1) on line 2, page 4, with an "or".

Finally, the Department notes that the bill will require a change in forms and programming and requests that the bill apply to taxable years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304 Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Credit for Residential Water Conservation System

BILL NUMBER: SB 2644

INTRODUCED BY: GABBARD, KIDANI, NISHIHARA, English, Espero, Galuteria, Inouye, Riviere, Ruderman

EXECUTIVE SUMMARY: Proposes an income tax credit for a residential water conservation system. The proposed credit would result in a subsidy of such devices as it would merely grant a tax credit for such purchase irrespective of a taxpayer's need for tax relief.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim a tax credit for a residential water conservation system where the cost is incurred and paid during a tax year. The amount of the credit shall be 50% of the cost of the system incurred and paid during the taxable year up to a maximum of $1,000.

Defines "residential water conservation system" as (1) the equipment and supplies used to construct a system for the capturing, infiltrating, or utilizing of rainfall from roofs, constructed catchment surfaces, or other hard surfaces on a residential property; and (2) the equipment and supplies used to construct a system for the collection and reuse of gray water, as defined in section 342D-1, on a residential property.

If a deduction is taken for the system under Internal Revenue Code section 179, no tax credit shall be allowed for that portion of the system costs for which the deduction was taken. The basis of the system for depreciation purposes will be reduced by the amount of credit allowable and claimed, and no deduction for state income tax purposes shall be allowed for the costs for which the credit is claimed.

Credits in excess of a taxpayer's income tax liability may be applied to subsequent income tax liability until exhausted. Requires all claims for the credit to be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may prepare the necessary forms to claim the credit and may require the taxpayer to furnish information to ascertain the validity of the claim for the credit. The director may adopt rules under chapter 91.

EFFECTIVE DATE: Upon approval, applies to taxable years beginning after 12/31/16.

STAFF COMMENTS: It appears that this measure is proposed to encourage taxpayers to purchase residential water conservation systems by allowing taxpayers to claim a 50% tax credit for the costs of a system, up to a maximum of $1,000 (presumably per year).

Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as kind about the expenditure of these funds when students are roasting in our schools, or when there isn't enough money for social service programs?

Utilizing tax credits other than to alleviate an excessive tax burden cannot be justified and is of a questionable benefit relative to the cost for all taxpayers. If lawmakers want to encourage the use of water conservation systems by reducing the cost of such systems, then a direct appropriation to subsidize that cost would be more accountable and transparent.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount compared to the loss in revenue from the credit. A direct appropriation, or even a program similar to the way we currently subsidize energy efficient appliances, may be a far less costly method to accomplish the same thing.

Digested 1/29/2016

The Nature Conservancy
Protecting nature. Preserving life.

The Nature Conservancy, Hawai'i Program
923 Nu'uanu Avenue
Honolulu, HI 96817

Tel (808) 537-4508
Fax (808) 545-2019
nature.org/hawaii

Testimony of The Nature Conservancy of Hawai'i Supporting S.B. 2644 Relating to Water Conservation Senate Committee on Water, Land, and Agriculture Monday, February 1, 2016, 2:45PM, Room 224

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. We manage 40,000 acres in 14 preserves and work in 19 coastal communities to help protect the near-shore reefs and waters of the main Hawaiian Islands. We forge partnerships with government, private parties and communities to protect Hawai'i's important watershed forests and coral reefs.

The Nature Conservancy supports S.B. 2644 to create a refundable residential water conservation tax credit.

Easily available fresh water is not a limitless resource here in the middle of the Pacific. Several locations in the state have experienced prolonged drought and—though we had some reprieve in 2015—we again appear to be entering a drought cycle. The University of Hawai'i's Rainfall Atlas catalogues fewer trade wind days and declining rainfall over the past century. Temperature records were broken across the state over the last two summers and increased heat brings greater evaporation of surface water and soil moisture. Native 'ōhi'a and koa forests that are proving to be better at capturing and retaining rain water and moisture are being impaired by non-native plants like strawberry guava, ginger and albizia.

In response to these conditions, we must plan and implement mitigative and adaptive measures to ensure the resilience of our natural and human systems. A tax credit to homeowners who install water conservation systems that capture and reuse water or that promote infiltration rather than runoff is a good incentive.

Wai Maoli
HAWAIʻI FRESH WATER INITIATIVE
827 Fort Street Mall | Honolulu, HI 96813 | (808) 537-6333
hawaiicommunityfoundation.org

Testimony of the
Hawaiʻi Fresh Water Initiative
on
S.B. 2644
Relating to Water Conservation
Senate Committee on Water, Land, and Agriculture
Monday, February 1, 2016
Conference Room 224

The Hawaii Fresh Water Initiative strongly supports S.B. 2644, a residential water conservation system tax credit.

The Hawaii Fresh Water Initiative was launched in 2013 to bring many diverse parties together to develop a forward-thinking and consensus-based strategy to increase water security for Hawaii. Included in the goals of the Initiative are:

- Conservation, to improve the efficiency of daily water use;
- Recharge, to increase the ability to capture rain water in key aquifer areas; and
- Reuse, to increase the amount of wastewater and stormwater being reused and reduce the amount of wastewater and stormwater being discharged into the ocean.

Several states facing water supply issues have successfully promoted the adoption of water saving devices, including rainwater harvesting systems to replace potable water use for yards and landscaping, greywater recycling systems, and water circulation pumps.

S.B. 2644 establishes a tax credit equal to fifty-percent of the cost of installation of a water saving device in a residence, up to a maximum of $1,000, with a maximum amount claimed by all taxpayers of $2 million.

The tax credit established by S.B. 2644 is one component of a multi-component strategy to improve Hawaii's water security.

For these reasons, we strongly support S.B. 2644 and urge its passage.

Testimony of
JOHN-CARL WATSON

Before the Senate Committees on
WATER, LAND, AND AGRICULTURE

Monday, February 01, 2016
2:45 PM
State Capitol, Conference Room 224

In consideration of
SENATE BILL 2644
RELATING TO WATER CONSERVATION

Senate Bill 2644 creates a refundable residential water conservation system cost tax credit for newly constructed systems. **I support this bill. The creation of a tax refund system will benefit the people of Hawaii and help those who wish to capture and reuse rainwater or grey-water to do so. Being that water is our most valuable resource here in the Islands, we need to do everything possible to maximize its conservation and create opportunities for the community to use sources other than groundwater.**