

STAND. COM. REP. NO. 1769-08

Honolulu, Hawaii

A-204, 2008

RE: S.B. No. 958
S.D. 1
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Agriculture, to which was referred S.B. No. 958, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GENETICALLY MODIFIED ORGANISMS,"

begs leave to report as follows:

The purpose of this bill is to establish a moratorium on the genetic modification of taro.

Numerous persons testified on this bill before your Committee during an all-day hearing on March 19, 2008. Supporters of this bill favored the moratorium primarily to protect taro, which is important in the native Hawaiian culture, from non-traditional methods of breeding or to express general opposition to the genetic modification of any food because of public health concerns. Opponents of the moratorium generally indicated that biotechnology is necessary to increase crop yields, improve pest and disease resistance, and advance scientific research. Opponents also testified that the genetic modification, planting, and growing of plant organisms may be accomplished in a safe manner.

After consideration of the testimony and the issues, your Committee has amended this bill by:

- (1) Imposing a five-year moratorium on:

SB958 HD2 HSCR LRB 08-3046.doc



- (A) Genetically modifying any Hawaiian taro within the State and adding a definition of "Hawaiian taro" identifying the various varieties; and
 - (B) Testing, planting, or growing any Hawaiian taro within the State that has been genetically modified outside the State.
- (2) Prohibiting any state statute, rule, permit condition, or executive or administrative directive or order from banning or restricting the:
- (A) Genetic modification within the State of any non-Hawaiian taro or other non-taro plant organism if performed in accordance with a valid federal permit; or
 - (B) Testing, planting, or growing within the State of any genetically modified non-Hawaiian taro or other non-taro plant organism in a discriminatory manner.

Your Committee does not intend that these provisions prohibit the State from encouraging the genetic modification of any non-Hawaiian taro or other non-taro plant organism or the testing, planting, or growing of any genetically modified non-Hawaiian taro or other non-taro plant organism.

- (3) Prohibiting any county ordinance, charter provision, rule, permit condition, or executive or administrative directive or order from banning or otherwise regulating the:
- (A) Genetic modification of any plant organism; or
 - (B) Planting, growing, testing, advertisement, labeling, packaging, handling, transportation, distribution, use, notification of use, certification, or registration of any genetically modified plant organism. An exception to this provision is established for a county zoning ordinance or land use permit condition that regulates agricultural uses or activities and does not treat the planting or growing of any genetically modified plant organism in a discriminatory manner. For example, a county



zoning ordinance would be discriminatory and invalid if it prohibits the growing of genetically modified corn on agriculture-zoned land without similarly prohibiting the growing of non-genetically modified corn. In contrast, a county zoning ordinance would be valid if it rezones an agriculture parcel to residential, resulting in the prohibition on growing both genetically modified and non-genetically modified corn on that newly residential-zoned parcel;

- (4) Adding enforcement provisions;
- (5) Expanding the purpose section by adding justification for the above-described amendments while retaining, with some relevant changes, the language in the H.D. 1 version explaining the importance of taro to the native Hawaiian culture; and
- (6) Changing the effective date to July 1, 2008.

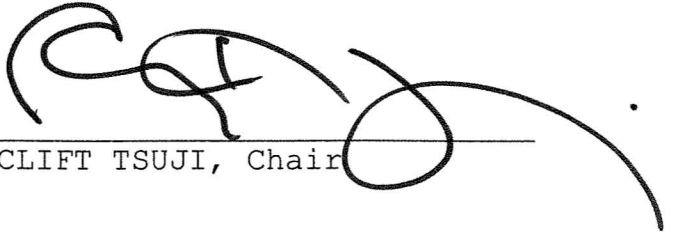
Your Committee also has declared that the moratorium provisions concerning Hawaiian taro are not severable from the other provisions protecting other genetically modified plant organisms. If any of the latter provisions is repealed or judicially invalidated, then your Committee intends that the moratorium provisions automatically terminate. The rationale for this non-severability provision is set forth in the purpose section of this bill.

Your Committee recognizes that a subsequent Act may repeal or amend the non-severability provisions. Your Committee, however, expresses the hope that future legislatures will refrain from doing so out of respect for the compromise reached under this bill.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 958, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 958, S.D. 1, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Agriculture,



CLIFT TSUJI, Chair



