

STAND. COM. REP. NO. 2789

Honolulu, Hawaii

FEB 29 2008

RE: S.B. No. 2646  
S.D. 2

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Madam:

Your Committees on Economic Development and Taxation and Ways and Means, to which was referred S.B. No. 2646, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS,"

beg leave to report as follows:

The purpose of this measure is to provide tax incentives and establish rules that protect and sustain viable agricultural operations on important agricultural lands.

Specifically, this measure provides for certain exclusions from gross income for agricultural leases and real property tax credits on important agricultural lands.

Testimony in support of this measure was submitted by Alexander & Baldwin, Inc., Hawaii Association of REALTORS, Hawaii Crop Improvement Association, Hawaii Cattlemen's Council, Inc., Hawaii Farm Bureau Federation, Maui County Farm Bureau, The Chamber of Commerce of Hawaii, Land Use Research Foundation of Hawaii, and two individual citizens. Testimony in opposition of this measure was submitted by the Department of Taxation, Department of Budget and Finance, Department of Planning and Permitting of the City and County of Honolulu, Hawaii's Thousand Friends, and Sierra Club Hawai'i Chapter. Comments on this measure were submitted by the Department of Agriculture.

Your Committees find that it is a long recognized policy of the State to promote agricultural operations and to conserve productive agricultural lands. Although discussion of an

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incentives package to preserve important agricultural lands has been under discussion for several years, this year's measure represents a very broad-based approach with tax credits for rental income from agricultural leases, for payment of real property taxes, and for qualified agricultural business expenditures. Other features of this measure include provisions for residential housing on important agricultural lands, loan guaranty programs to be administered by the Department of Agriculture, and expedited permit processing for agricultural operations.

Given the multiple features of S.B. No. 2646 S.D. 2, and the need to quantify the costs of the various programs and tax credits being proposed, your Committees believe that State agencies, including the Department of Agriculture, Department of Taxation, Department of Land and Natural Resources, and Department of Business and Economic Development and Tourism must provide your Committees with specific information on the scope, estimated costs, and potential users of the credits and programs being proposed.

Your Committees received a fiscal impact statement from the Department of Taxation that this measure, as introduced, would result in the following revenue losses to the State:

Fiscal year 2009	\$22,300,000;
Fiscal year 2010	\$25,100,000;
Fiscal year 2011	\$26,500,000;
Fiscal year 2012	\$27,900,000;
Fiscal year 2013	\$29,300,000;
Annually thereafter	\$29,300,000.

The Department of Taxation's methodology on the estimated revenue losses is as follows:

Based upon 2002 Census of Agriculture data adjusted for inflation, the Department of Taxation estimates there to be approximately \$13,900,000 of qualifying farm expenses in 2008. The Department further estimates that annual real property tax collections from qualifying taxpayers to be approximately \$15,100,000. All estimations make the assumption that approximately one-sixth, or seventeen per cent, of all farmlands in Hawaii are important agricultural lands. That approximation is based upon an estimate provided by the Department of Agriculture in 2007. Although the maximum allowable credit for agricultural expenses was not specified, the Department assumes that there is



no limit. According to Census of Agriculture data from 2002, approximately \$19,700,000 was received from grazing fees and for the rental of agricultural land and buildings.

There is no data on "rental income," but the Department assumes cash out for these farmers implies rental income for another Hawaii farmer. The Department again assumes approximately one-sixth, or seventeen per cent, of the total farmland would qualify as important agricultural lands and that ninety per cent of the important agricultural lands would result in taxable income. The Department applied those amounts to an average tax rate of six per cent.

Your Committees have reviewed the fiscal impact statement and methodology submitted by the Department of Taxation. However, based upon the information received, your Committees are unable to determine how the Department arrived at its projected revenue losses to the State. Your Committees are requesting that the Department clarify its projected revenue losses and methodologies in order for your Committees to gain a better sense of the overall fiscal impact of the tax credits to the State.

Your Committees further requests that the proponents of this measure prioritize and evaluate the timing of the various programs and tax credits being proposed so that an accurate estimate of the costs for a meaningful incentive package can be determined.

Accordingly, your Committees have amended this measure by:

- (1) Removing the specific percentage for the real property tax credit on lands designated as important agricultural lands;
- (2) Deleting the reference that the distribution and share of the credit shall be determined by rule, rather than requiring the distribution and share of the credit to be determined in conformance with the Internal Revenue Code;
- (3) Adding that recapture rules apply to any lands that lose their designation as important agricultural lands after a credit was properly claimed by the taxpayer;



- (4) Adding that lease arrangements, including lease rents determined by appraisal, are to be reviewed and approved by the Department of Agriculture;
- (5) Adding that rental income from agricultural leases on important agricultural lands shall be excluded from gross income for the length of the agreement;
- (6) Changing the effective date of this Act to facilitate further discussion on this measure;
- (7) Adding a ten year drop dead provision to this measure;
- (8) Adding a repeal and reenactment savings clause; and
- (9) Making technical, nonsubstantive amendments for the purpose of clarity.

As affirmed by the records of votes of the members of your Committees on Economic Development and Taxation and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2646, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2646, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committees on Economic  
Development and Taxation and  
Ways and Means,

  
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ROSALYN H. BAKER, Chair


  
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CAROL FUKUNAGA, Chair





The Senate  
 Twenty-Fourth Legislature  
 State of Hawaii

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <i>SB2044, SD1</i>	Committee Referral: <i>AWH/WTL EDT/WAM</i>	Date: <i>2/26/08</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
TSUTSUI, Shan S. (VC)				/
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
FUKUNAGA, Carol	/			
HOOSER, Gary L.				/
INOUYE, Lorraine R.	/			
KIM, Donna Mercado	/			
MENOR, Ron	/			
TOKUDA, Jill N.	/			
HEMMINGS, Fred	/			
WHALEN, Paul	/			
<b>TOTAL</b>	<b>10</b>	<b>6</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office            Drafting Agency        Committee File Copy				

\*Only one measure per Record of Votes