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Governor



State of Hawaii
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SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
FRIDAY, FEBRUARY 22, 2008
1:00 p.m.
Room 308

HOUSE BILL 2357, H.D.1
RELATING TO AGRICULTURAL LANDS

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2357, H.D. 1. House Draft 1 replaces the contents of HB 2357 with the provisions of House Bill 2808 with amendments in whole or part to:

1. Part III, sections 6 and 7;
2. The maximum lot coverage percentage found on page 8, line 7;
3. The name of the tax credit for costs incurred on important agricultural land;
4. The Water Code amendments which have been deleted but leaves the amendments requiring additional information in the water use and development plans;
5. The provision relating to the land use permit for agricultural processing facilities;
6. The provisions relating to satisfying affordable housing requirements in the rural district and the automatic reclassification of agricultural land to rural districts have been deleted;
7. Add a declaration that satisfies the requirement for important agricultural land incentives;
8. Change the effective date to July 1, 2020 to allow further discussion.

The Hawaii Department of Agriculture is in support of the intent of this measure; however, we have concerns about the possible adverse budgetary impact that this bill may have on the Executive Supplemental Budget request. We are bringing together HFBF and LURF with DoTax to try to find ways to mitigate the concerns raised by DoTax.

In the meanwhile, we offer the following comments on Parts IV, V, and VI.

Part IV IAL Tax Credit

We note that this incentive as currently described has significant cost implications.

We offer the following recommendations:

- This should not be a refundable tax credit. Instead, any unused portion of the credit should be allowed to be carried forward in subsequent years until exhausted.
- There should be a recapture feature in the event that at the end of five years the individual or entity receiving the credit is no longer a qualified agricultural business.
- A sunset date for the credit should be established, we suggest a 10 year period from date of approval.
- In order to receive the tax credit for agricultural housing, we prefer that all of the housing units are occupied by farmers or employees for agricultural businesses and their immediate family members rather than a simple majority.

Part V Loan Guaranty

We defer to the department of budget and finance as to the language of Part VI, Section 13 and will work with budget and finance to determine an appropriate loan guaranty cap and reasonable reserve requirement for each loan.

We offer the following recommendation:

On page 23, delete lines 21-22; on page 24, delete lines 1-6.

~~(3) — After consultation with the director of finance, the State possesses sufficient funds to provide an appropriate reserve for the loan guaranty and which, in the director of finance's judgment, are in excess of the amounts necessary for meeting the immediate requirements of the State and will not impede or hamper the fulfillment of the financial obligations of the State.~~

Part VI

State Water Code and State Agricultural Water Use & Development Plan

Section 13 of this bill amends the scope of the Agricultural Water Use & Development Plan (Plan) which will increase the overall cost of the Plan. Currently, the Plan is in its third phase with at least two more phases already identified, depending on funding appropriations (no appropriations are identified in this bill). We offer the following comments on this portion of the bill: **1)** changes to §174C-31 (e)(1), HRS are unnecessary as the original language is broad enough to cover both types of systems and the current plan's intent is to comprehensively identify both types of systems; and **2)** the department and the Commission recognized early on that water planning could be seen from two different perspectives - land availability as the limiting factor assuming there would be unlimited water to serve these lands, or water availability as the limiting factor assuming that agricultural land growth would be limited by the available water resources. As the name of this plan is the "agricultural water use and development plan" and the legislative intent of this plan is to focus on existing irrigation systems, the

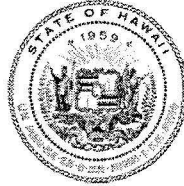
decision was made to focus on water as the controlling factor. Therefore, the department respectfully **recommends** that the proposed language for §174C-31 (e)(3), HRS, be amended to read "Identify current and potential sources of water used by the irrigation systems" and the proposed language for §174C-31 (e)(4), HRS, be amended to read "Project current and future water needs for lands currently and potentially served by the irrigation systems, using water as the limiting factor."

The language contained in the bill changes the focus of the Plan from being an independent irrigation system water study to a subservient plan to justify designation as important agricultural lands (IAL). In addition, it would overly broaden the scope to identify water sources or future needs for all agricultural lands in the state regardless of any affiliation with an existing irrigation system, changing the focus of the Plan from water as the controlling factor to land as the controlling factor. We believe this plan and the designation of IAL should complement each other by consciously preventing this plan's purpose to become a justification for designation as IAL. If lands are being considered for inclusion into IAL, this document can be reviewed to see if an existing irrigation system is available to serve the concerned lands.

Lastly, county water supplies provide a significant percentage of agricultural water and their water plans are required to include agricultural use as part of their planning process. Agricultural water planning for lands not served by an irrigation system should be included in county water plans.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
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HOUSE COMMITTEE ON FINANCE

TESTIMONY REGARDING HB 2357 HD 1 RELATING TO AGRICULTURAL LANDS

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

DATE: FEBRUARY 22, 2008

TIME: 1:00PM

ROOM: 308

This bill provides an income tax and general excise tax exemption for rental proceeds of certain leases of important agricultural lands. This bill also provides a tax credit for important agricultural land costs.

The House Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture eliminated the contents of the measure in its original form and inserted the contents of HB 2808. The Department's comments have been modified accordingly.

The Department of Taxation (Department) has concerns with this legislation.

I. INCOME TAX & GENERAL EXCISE TAX EXCLUSION.

This bill seeks to amend Chapter 235 and 237, relating to the income and general excise taxes respectively, to exclude from taxation income earned and proceeds received from certain important agricultural land leases with the following terms:

- 20 years; or
- Any other lease length term, mutually agreed upon by the parties if the lease rent is set by an independent appraisal using the lower of comparable value or agricultural capitalization methodologies.

The Department's comments and concerns apply equally to both the income tax exclusion under Chapter 235 and the general excise tax exemption under Chapter 237 because these proposed amendments are nearly identical—

DETERMINATION OF LEASE TERM—The Department is concerned regarding the means for determining a qualified lease based upon an amount determined by an appraisal method using the lower of comparable value or agricultural capitalization methodologies. The Department is not an expert in this form of arriving at value. Moreover, the Department is always skeptical about any method of arriving at a tax benefit based upon appraisals or fair market value because this value can vary widely from person-to-person. This could lead to collusion for lease rents based upon the most favorable opinion received by an appraiser. One solution would be to have the Department of Agriculture approve any such lease. The bill could be amended to read:

"(B) Any other lease term length mutually agreeable to lessor and lessee, if the amount of the lease rent is set by an independent appraisal using the lower of the comparable value or agricultural capitalization appraisal methodologies and the lease arrangement, including the amount of lease rent determined by an appraisal, is reviewed and approved by the department of agriculture."

The Department also points out that the distinction between twenty-year leases and leases for other terms appears to suggest that the 20-year leases do not have to be at acceptable market rates because these leases are not subject to appraisal. If the intent is to encourage leases to maintain important agricultural lands, is either term condition necessary?

LENGTH OF TAX BENEFIT—The Department has concerns over the current language of the length the tax benefit may be utilized. Currently, the measure allows for the taxpayer to be "eligible for the [exclusion/exemption (as the case may be)] initially for up to twenty years." However, the measure does not take into account the alternative measurement of a minimum lease term provided in the previous section, namely that the lease term may be for any term that has been agreed to at a rent determined by appraisal. The Department suggests that clarifying language be added that allows for an initial lease term to reflect the respective lease arrangement entered. Such language could read:

"The taxpayer shall be eligible for the exclusion/exemption initially for up to twenty years or for the agreed term, whichever the case may be, so long as the initial exclusion/exemption is not longer than the original required minimum lease term provided in subsection (a)(1); provided...."

The Department also points out that the twenty-year requirement operates as a sunset on a specific taxpayer. Exclusions and exemptions typically do not operate with expirations based upon the facts of specific taxpayers. If there is a sunset, it is typically for the entire section in the tax code and impacts all taxpayers equally. The twenty-year rule may be unnecessary. It may be simpler and clearer to allow the exclusion or exemption, no matter what the length, only to the extent a qualifying lease is operative and in effect on the land.

II. IMPORTANT AGRICULTURAL LAND CREDIT FOR COSTS

CERTIFICATION PROCESS AMENDMENTS—The Department agrees that certain determinations should be made by an entity with more expertise in agriculture than the Department possesses. The Department also agrees that the Department of Agriculture, or a similar entity, should have primary responsibility for assessing and reporting on the effectiveness of this credit. The Department appreciates the certification process amendments made by the prior committees.

TAXPAYER INFORMATION IS CONFIDENTIAL—It is important to keep in mind that taxpayer information is generally confidential and the Department cannot disclose that information to the Department of Agriculture (DOA); so the DOA must gather its own information. This can be accomplished by requiring that the taxpayer have its status pre-approved by the DOA, requiring that the taxpayer provide the DOA with information regarding the costs being claimed, and requiring the taxpayer to get a certificate from the DOA in order to properly claim the credit on its tax return. There is no confidentiality problem with the DOA providing information to the Department.

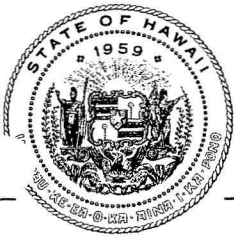
III. ADDITIONAL APPROPRIATIONS.

Many of the bills coming before the legislature regarding taxation incentives relating to important agricultural lands require the Department to consult or provide other support to agencies primarily responsible for assessing the effectiveness of the tax incentive. The Department requests that a reasonable appropriation, as provided under the current draft, be made to the Department so that it can devote the proper resources to this support without adversely affecting its other responsibilities and obligations.

IV. REVENUE ESTIMATE.

This legislation will result in the following revenue impact to the general fund, assuming the bill were effective for FY 2009:

Total Revenue Loss Projection	
Year	Total
FY2009	\$ 12.71 million
FY2010	\$ 17.72 million
FY2011	\$ 20.23 million
FY2012	\$ 22.77 million
FY2013	\$ 25.28 million
Annually thereafter	\$ 25.28 million



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ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
ABBEY SETH MAYER
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Friday, February 22, 2008
1:00 PM
State Capitol, Conference Room 308

in consideration of
HB 2357, HD 1
RELATING TO AGRICULTURAL LANDS.

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

The Office of Planning (OP) supports the intent of HB 2357, HD 1, but defers to the Departments of Taxation and Agriculture. OP urges the Committee to amend the bill by: (1) clarifying and refining specific measures; and (2) reintroducing a fiscally-responsible tax credit for county real property tax payments on important agricultural lands. The specific amendments are offered at the end of our testimony.

HB 2357, HD 1 provides a set of agricultural incentives that will help sustain agriculture in Hawaii by offsetting our higher production and distribution costs, and helping our products be more competitive in local and global markets. A strong agricultural industry contributes to a strong rural economy and promotes economic diversity and food and energy security for our island state.

Amendments to Address Specific Concerns

Section 6, Important agricultural land; residential housing. Section 6 of the bill would allow agricultural housing for farmers and agricultural employees on important agricultural land (IAL). Three elements are of concern: (1) clarifying that this is allowed on lands designated as IAL; (2) ensuring that the area used for housing is minimized and does not fragment IAL; and (3) ensuring that the housing is maintained as agricultural housing. The following amendments would address these concerns.

1. Page 7, lines 8-12, clarification of measure with respect to designated IAL.

The existing language is unclear: in particular, its reference to “qualifying under Section 205-44,” which is the section setting out standards and criteria for IAL. The following language would clarify the intent.

“§205- Important agricultural land; ~~residential~~ agricultural housing. A landowner [~~qualifying under section 205-44~~] may develop, construct, and maintain [~~residential~~] dwelling units for lease to farmers, agricultural employees, and their families on land designated as important agricultural land[;] pursuant to this part; provided that:”.

2. Page 8, lines 5-9, area used for agricultural housing. OP appreciates the subject matter Committees’ deletion of the 20 percent limit on land area for these dwellings. This was far too high. OP supports retaining as much IAL for agricultural use, and strictly limiting the amount of IAL that will be removed from production for housing. As there will be considerable variation in how IAL leases and parcels will be configured, this poses difficulty in setting the policy standard for this element. At a minimum, we would recommend amendments that might:

- a. Limit the total land area per dwelling to the minimum lot size allowed under the Department of Health's (DOH) individual wastewater system rules, with a maximum cap on the total land area for a tax map key parcel; and
 - b. Requiring the housing to be clustered on a contiguous land area, sited away from the most productive agricultural land, and infrastructure and site improvements limited to those appropriate for agricultural needs.
3. Page 8, line 18, Lease provisions. We recommend insertion of a new provision ensuring that agricultural housing will be maintained for agricultural purposes. The following or similar language would address this:

“(7) The renewal and termination of dwelling unit leases shall be contingent upon active agricultural operations or agricultural employment on the land controlled by the farmer or agribusiness.”

Section 8, Important agricultural land qualified agricultural cost tax credit,

Paragraph (D), agricultural housing. Rather than set out a separate set of standards for agricultural housing under the tax law, it would be more appropriate to strike the language here and link the qualified agricultural cost to the agricultural housing defined in Section 6 of the bill. The following language would address this concern.

1. Page 15, line 18 through page 16, line 11. Replace this language with the following:

“(D) Agricultural housing as defined in section 205- of section 6 of this Act.”

Thank you for the opportunity to testify.

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2357, H.D. 1

February 22, 2008

RELATING TO IMPORTANT AGRICULTURAL LANDS.

House Bill No. 2357, H.D. 1, proposes, among other things, to amend Chapter 155, Hawaii Revised Statutes, by adding a new section that would authorize the chairperson of the board of agriculture to guarantee loans relating to agricultural projects located on important agricultural lands.

The Department opposes the wording contained in the proposed section below and recommends language in Part VI, Section 12 be amended as follows:

“§155-____...(3) The department of agriculture possesses sufficient funds to provide an appropriate reserve for the loan guaranty and which, in the chairperson of the board of agriculture’s judgment, are in excess of the amounts necessary for meeting the immediate requirements of the department of agriculture and will not impede or hamper the fulfillment of the financial obligations of the department of agriculture.”

In addition, we recommend that the Department of Agriculture (AGR) establish a maximum loan guaranty cap as the amount guaranteed will count against the State’s debt limit.

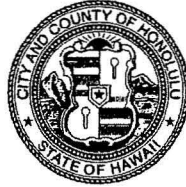
Furthermore, the AGR should also determine a reasonable reserve requirement for each loan guaranteed under this section. As the bill authorizes the AGR to guarantee loans, it is prudent for the AGR to both establish a reasonable reserve requirement and manage

such reserve in order to ensure the making of the loan guarantees will not impact the AGR's ability to meet its financial obligations.

DEPARTMENT OF PLANNING AND PERMITTING
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MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUÉ
DEPUTY DIRECTOR

February 22, 2008

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

**Subject: House Bill 2357 HD1
Relating to Agricultural Lands**

The Department of Planning and Permitting **opposes** certain elements of House Bill 2357 HD1, which would provide incentives to establish and sustain agricultural operations on Important Agricultural Lands (IAL).

We are deeply supportive of designating and protecting IAL lands. We appreciate the financial incentives offered by this measure. However, we cannot support the land use provisions of House Bill 2357, HD1 with respect to farm dwellings and expedited processing, and the exemption from the county surcharge on state tax.

With respect to farm dwellings, we recognize the importance of providing for them in the state agricultural district. However, Section 6 of the measure imposes more caveats on farm dwellings. It creates a distinction between farmers' dwellings and employee dwellings. We fail to see why this is critical; the only purpose for this distinction appears to be to allow a farmer's immediate family to live separately from the farmer, while an employee's family cannot. We question whether this is a compelling state interest under Chapter 205, which governs the land use commission and the statewide districting of lands. We believe this is far too detailed for statewide application, and should be better addressed by county zoning and other regulatory codes.

Section 6 of the House Bill 2357 HD1 would also regulate the amount of land area which is occupied by dwellings and all appurtenances, although the exact limit is yet to be determined. However, rather than fix a standard across all farm lands, it may be more prudent to determine the allowable amount based on the merits of the request and the characteristics of the land on which the dwellings are to be located. For example, on Oahu, an agricultural lot may only have 2 farm dwellings as of right; any more will require either subdivision action or cluster approval. Also, for your information, each farm dwelling, including all accessory uses is limited to 5,000 square feet of land.

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
House of Representatives
Re: House Bill 2357 HD1
February 22, 2008
Page 2

We also note that under a proposed new sub-section 205-(5), residential subdivisions would not be allowed on IAL. Please be aware that under the city's zoning code, the only type of dwellings allowed under agricultural zoning are farm dwellings, which must be tied to agricultural income from the same lot; therefore, we do not process a subdivision request for strictly residential use.

Part VII of the bill would mandate priority processing for any permits under Titles 13 and 19, HRS, with respect to agricultural processing facilities. From a land use perspective, this would affect state land use boundary amendments, state special permits, special management area use permits, and shoreline setback variances. It may also affect "201H" affordable housing requests that have a relationship with agriculture, but we assume it does not affect Chapter 343 environmental documents.

We reiterate our support for the protection of IAL and the need for new incentives to keep these lands in active agricultural use. However, agricultural processing facilities, and many other uses are noble public initiatives, but cannot all be assigned permit priority. When one project is given priority, it means placing that application ahead of all others, which means the other projects will have to wait longer in line.

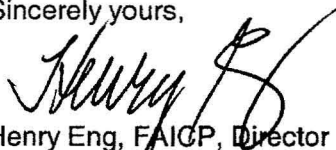
Your Committee must be cautious not to short circuit time-tested procedures in a rush to support the latest cause *du jour*. It seems that more and more causes are emerging with each seeking to expedite processing in the name of promoting or protecting a particular need or interest. We ask that if the legislature is adamant on establishing permit priorities, it does so within the full context of considering all types of projects, a formidable task. If the legislature is so inclined, we are ready to participate in such a discussion.

Lastly, we are concerned about the potential loss of income to the county transit project by the proposed GET exemption under Section 3 of the bill. While we do not object to excluding agricultural lease income from GET, we request that this income not be excluded from the surcharge tax.

To sum, if House Bill 2512 HD1 will be forwarded, please drop Sections 6, 14 and 15 from the bill, and modify Section 3.

Thank you for the opportunity to testify.

Sincerely yours,



Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
hb2357hd1-k.doc

L E G I S L A T I V E

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SUBJECT: INCOME, GENERAL EXCISE, Exclusion for rental income; tax credit on important agricultural lands

BILL NUMBER: HB 2357, HD-1

INTRODUCED BY: House Committees on Water, Land, Ocean Resources and Hawaiian Affairs and Agriculture

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to exclude from state income taxation the gross income, adjusted gross income, taxable income, the rental income, including lease rents, derived from agricultural leases on lands identified and designated as important agricultural lands received by a taxpayer. The exclusion shall not exceed \$ _____. Requires each taxpayer who claims the exclusion to annually provide information to the department of agriculture to enable an aggregated quantitative and qualitative assessment of the impact of the exclusion.

Amends HRS section 237-24.75 to exempt from the general excise tax, rental income, including lease rents, derived from agricultural leases on lands identified and designated as important agricultural lands. The exemption shall not exceed \$ _____.

Specifies that the minimum term of the lease term for the income tax exclusion or the general excise tax exemption shall be 20 years or any other lease term mutually agreeable to the lessor and lessee as further delineated in the measure.

Appropriates an unspecified amount of general funds for fiscal 2009 to permit the department of agriculture to collect and analyze data to make an aggregated quantitative and qualitative assessment of the impact of the exclusion of rental income from important agricultural lands from the income and general excise tax. Directs the department of agriculture to submit a report annually to the legislature on the quantitative and qualitative assessment of the impact of the exclusion of rental income from important agricultural lands from the income and general excise tax beginning with the 2010 regular session.

Adds a new section to HRS chapter 235 to allow taxpayers to claim a refundable important agricultural lands qualified agricultural cost tax credit of the qualified agricultural costs incurred by an agricultural business during the taxable year provided that the credit amount shall be reduced by the amount of funds received by an agricultural business from the irrigation repair and maintenance special fund. The credit shall be 50% of the qualified agricultural costs made up to a maximum of \$ _____; 20% in the following year up to a maximum of \$ _____; 10% in the next three years up to a maximum of \$ _____ for each year. No other income tax credit may be claimed for agricultural costs for which a credit is claimed under this section.

Requires the department of agriculture, in consultation with the department of taxation, to evaluate the effectiveness of the tax credit. Further requires the department of agriculture, in consultation with the department of taxation, to determine the types of information that must be submitted annually to enable a

HB 2357, HD-1 - Continued

quantitative and qualitative assessment of the credit to be determined. Requires the taxpayer, by the end of the taxable year following the close of the taxable year in which the qualified costs were expended, to submit a written statement to and certified by the department of agriculture to be eligible to receive the credit. Stipulates that this statement shall be a public document.

Appropriates an unspecified amount of general funds for fiscal 2009 to the department of taxation for the costs to administer the important agricultural land qualified agricultural tax credit. Appropriates an unspecified amount of general funds for fiscal 2009 to the department of agriculture for the costs to administer the important agricultural land qualified agricultural cost tax credit and one full-time equivalent planner position for the department.

Makes further nontax appropriations and amendments to establish incentives and protections relating to important agricultural lands.

EFFECTIVE DATE: Tax years beginning after December 31, 2019

STAFF COMMENTS: This measure proposes an incentive to encourage landowners to have their lands designated as important agricultural lands through the use of an income tax exclusion and a general excise tax exemption on rental income derived from such lands. It also proposes additional tax relief to landowners by proposing a tax credit for qualified agricultural costs incurred on important agricultural lands.

While it appears that this measure is proposed as an incentive to encourage the agricultural use of lands which qualify as important agricultural lands, it should be remembered that the tax system is not an efficient method to accomplish such goals. In addition, since the proposed measure would grant preferential treatment to a select group of taxpayers at the expense of other taxpayers who are ineligible for the exemption, its enactment cannot be justified. This proposal makes the assumption that just because the lease rent from lands that are farmed as important agricultural lands would be exempt from taxation, the landowners will not convert those lands to some other use.

If, in fact, there is a much higher use for those lands where the return on investment will be greater than the rent realized from leasing it out for agricultural use, the land owner will, in fact, convert the lands short of any obstacle placed in the way such as permitting and zoning hurdles. What the exemption does do is reward those landowners whose land has no other better use than farming. It is not the cost of the tax, both net and gross income, that determines whether or not a landowner keeps such a scarce commodity in a particular use. Indeed, if land use and zoning rules do not permit any other use, the landowner may have no other choice but to lease it for as agriculture and enjoy the exemptions as well. For the lessee who would be the farmer, the tax is not the key factor in determining whether or not to engage in farming as much as it is the amount of the rent to be paid. The supply and demand of lands for farming will determine the market as far as the rate charged for that rental.

If these tax exemptions and credits are adopted, why shouldn't small businesses also ask for a similar exemption on their lease rent as many do not own their own place of business. As with homeowners faced with rising valuations of their homes, everyone doesn't want to pay more or even their fair share. Granting classes of taxpayers exemptions without regard to their need for tax relief is poor tax policy, erodes the tax base and shifts the burden to other taxpayers, unless . . . lawmakers are willing to give up spending as much as they have been accustomed to doing with hard earned tax dollars.

HB 2357, HD-1 - Continued

Rather than merely handing out a tax preference where there is no indicator of financial or economic need for that tax break, state government should explore ways to support farmers in not only making important agricultural lands available for rent at reasonable costs but also insure that the crops produced command a reasonable rate of return with such skills as marketing, packaging and distribution. Granting a tax break on the rent received from important agricultural lands does not insure that farmers will be successful and be able to continue farming those important agricultural lands.

This measure proposes an income tax credit to assist agricultural businesses that own, hold, or use a majority of their lands as important agricultural lands. While the proposed measure would grant a tax credit of 50% of the qualified agricultural costs incurred by an agricultural business for the first year, 20% in the second year and 10% for the next three years, this would result in a partial subsidy of those costs by the state as it would pay for those improvements indirectly and through the back door called tax credits. While the proposed measure would grant tax credits regardless of a taxpayer's need for tax relief, the adoption of this measure would result in other taxpayers who do not qualify for the credit paying for those improvements that are owned by one taxpayer.

If the intent of lawmakers is to pay for such improvements out of the public treasury, than an appropriation of public funds is more appropriate. A specific appropriation would have to compete with all other demands on the public treasury and would have to undergo the scrutiny of lawmakers as they set priorities for the state's limited resources.

Note well that in order to qualify for the credit, at least 50% of the land the agricultural business owns, leases, or uses is declared important agricultural land pursuant to HRS chapter 205, part III. It has been nearly 30 years since the 1978 constitutional convention inserted the provision that important agricultural lands be preserved for agricultural use. Although HRS chapter 205 was recently established and no findings or declarations have been made, there is no doubt that the problems that plagued the designation of important agricultural lands for the last 30 years will continue to plague the implementation of chapter 205. Further, lawmakers should question the implementation of this proposal. Will the credit apply if the parcels of lands are not contiguous or for that matter the qualifying improvements are made to that portion of the agricultural businesses' lands that are not declared important agricultural lands? Since a qualifying expenditure for the credit includes costs for agricultural processing facilities that process crops or livestock, will a processing or packaging plant located in an industrial area qualify for the credit? If indeed, declarations are made under HRS chapter 205 and claims are made for the credit, this proposal could prove to be a costly incentive. On the other hand, if the track record of declaring important agricultural lands is any indicator, this credit may never be used. In any case, a sunset date should be set so lawmakers can evaluate the success or failure of this credit.

The long and short of it is that the people of the state of Hawaii will be subsidizing all qualified costs of these businesses for years to come. Though it looks like a five-year credit, the credit is claimed over a period of five years after the costs are incurred up to 100% of those costs in year one. But do not overlook the fact that 100% of the costs incurred in year two will also qualify for the 100% return of the money expended albeit over the next five-year period. What other business in Hawaii can have their operating and capital costs paid for by the taxpayers except for perhaps high technology businesses? Meanwhile, the poor taxpayer continues to slave under the tax burden that is funding some private enterprise all in the name of designating important agricultural lands.

It should be noted that this tax proposal appears to be an incentive, if not a subsidy, to encourage

HB 2357, HD-1 - Continued

agricultural activity in the state. If the ultimate goal is to perpetuate agricultural activity then the problem needs to be approached from the opposite end, that is, what can state government do to support and encourage agricultural activity so that farmers can earn a profitable living farming the land? To date, all state government has done is to stand in the way of successful farming enterprises by burdening farmers with regulation upon regulation. The state has to be a part of the solution and not a part of the problem. Enacting tax incentives, as this measure proposes, does not address the problems faced by farmers today and in the future.

From a planning point of view, because the designation of important agricultural lands is being left up to the landowner who happens to be engaged in agricultural activity basically on a commercial scale, it precludes taking a holistic approach to the future of Hawaii. Instead of being able to step back and deciding what the current and future needs of the people of Hawaii are and will be, there will be a willy-nilly approach to land use planning. Instead of policymakers setting directions for the future, they are throwing out carrots of tax incentives so they can abdicate their responsibility for setting land use planning priorities. Even the Final Report on Incentives for Important Agricultural Land would have preferred that important agricultural lands be designated but acknowledges that no policymaking body has had the will, if not the courage, to undertake the task in the nearly 30 years since that amendment was added to the constitution. Thus, this proposal is not only fiscally irresponsible but it is a demonstration of how elected officials shrink from their responsibility to make a decision.

Digsted 2/21/08



Maui County Farm Bureau

*An Affiliate of the American Farm Bureau Federation and Hawaii Farm Bureau Federation
Serving Maui's Farmers and Ranchers*

TESTIMONY

HB2357: RELATING TO AGRICULTURAL LANDS

HEARING BEFORE FINANCE COMMITTEE

Chair Oshiro and Committee Members:

My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau, a non-profit general agriculture organization and an affiliate of the Hawaii Farm Bureau Federation.

Maui County Farm Bureau, on behalf of its member farmers, ranchers and agricultural organizations **strongly SUPPORTS** HB2357 HD1, providing incentives to begin the IAL process.

Important Agricultural Lands is a Agricultural Viability initiative. While there are examples of agricultural successes across the state we have more examples of agriculture struggling or failing. During the past year we have seen dairies close so now we only have dairies on the Big Island after next month. Egg farms now can be counted on one hand. I think both of these industries are agricultural commodities critical to self sufficiency, yet we are loosing them. What will be next? When will the people of Hawaii get excited that we may be loosing agriculture and do something about it?

This Initiative is the chance. It provides the incentives needed to have farmers and landowners commit to long term agricultural operations.

One of the incentives is working with the Counties for a package. On Maui I saw a project we were very excited about fall to the wayside because of delayed permitting. An expansion that originally was expected to cost \$600,000 and provide an opportunity for two of the siblings to return from college to work on the farm was lost. These farm youngsters were taking college classes to prepare them in business and marketing to take over this operation. Yet, delayed permitting made this vision just a dream. The \$600,000 price tag mushroomed to \$1.2 million ...beyond the reach of the farmers. We must not let these opportunities continue to pass us.

We respectfully request that this **Bill be passed with focus placed on enacting incentives this year** so landowners will designate their lands as Important Agricultural Lands as soon as possible. Time is of the urgency. We cannot lose any more farmers or ranchers.

HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819

FEBRUARY 22, 2008

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

Agenda #4

TESTIMONY

**HB 2357, HD 1
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chair Oshiro and Members of the Committees:

My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation **strongly supports HB 2357, HD 1, providing mechanisms to begin the IAL process.** Since enactment of the Constitutional Mandate, HFBF has consistently worked for passage of IAL legislation. Working with the landowners, we finally see that this vision can become a reality. But we need the support of the Legislature, the Administration and County Governments.

The incentives within this package were developed over time with many discussions. They cover a wide range of incentives covering the critical areas for long term agricultural expansion in Hawaii. We understand as these incentives are passed, a similar package must be passed by the Counties. We respectfully request that the Legislature lead the path. Please do not put us in a position of the State waiting for the Counties and the Counties waiting for the State to enact incentives first. The lead by the State will send a loud message to the Counties that the IAL process can happen if everyone cooperates in the process.

The price tag for this measure is often called to question. HFBF believes agriculture is key to increasing Hawaii's self sufficiency as well as an important component to fighting invasive species ... a key topic in discussion. So, the question should be, what is the price for self sufficiency?

We respectfully request your strong support in passing this Bill and getting the IAL process started. We must not forget, IAL only happens because there are farmers and ranchers. IAL is not a land use initiative. It is an agricultural viability initiative. Thank you.



**The Chamber of
Commerce of Hawaii**

Since 1850

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE
FRIDAY, FEBRUARY 22, 2008 AT 1:00 P.M.
ROOM 308, STATE CAPITOL

RE: H.B. 2357 HD1 Relating to Agricultural Lands

Chair Oshiro, Vice Chair Lee, and Members of the Committees:

My name is Christine H. Camp, Chair of The Chamber of Commerce of Hawaii, Land Use and Transportation Committee. The Chamber of Commerce of Hawaii supports the intent of H.B. No. 2357 with specific amendments.

The Chamber is the largest business organization in Hawaii, representing 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

H.B. No. 2357 HD 1 purposes to provide incentives and protections to establish and sustain viable agricultural operations on important agricultural lands. The bill incorporates many of the incentives listed in the original IAL Incentive bill, HB 2808.

We strongly supported the original comprehensive IAL Incentive Bill (HB 2808) in its entirety. We believe that meaningful incentives are needed to promote and the growth of agribusinesses in the State. It is through this growth that we will be able to preserve and protect viable agricultural operations in Hawaii.

The H.D. 1 deleted the real property tax credit and the Water Code amendments concerning the public trust doctrine. It also deleted the provisions relating to satisfying affordable housing requirements in the rural districts and the automatic reclassification of agricultural land to rural districts and instead addressed these incentives in House Bill No. 2807, H.D. 1.

Finally, the proposed H.D. 1 provides a finding that this measure, as amended, is a major step in the actual designation of "important agricultural land" as contemplated by article XI, section 3, of the state constitution that was ratified almost thirty years ago. The legislature believes that, with the H.D. 1, landowners will have sufficient incentives to voluntarily petition for designation of their lands.

Act 183, SLH 2005 established a process to identify important agricultural lands (IAL). The IAL designation was established during the 1978 Constitutional Convention. 27 years passed before Act 183 was passed. Act 183 was based on the promoting agricultural viability and simply identification of agricultural lands believed to be important. Act 183 provides for incentives to be enacted that would assist in making agribusinesses viable and thus, allow for designation of IAL based on "growing" agribusiness.

Over the past two sessions, legislation has been introduced to create incentives to promote agricultural viability in Hawaii. In addition, attempts were also made to have the Counties enact incentives to promote agricultural viability in their respective counties. Neither of these efforts have resulted in meaning incentives being put in place to

Page 2

The Chamber of Commerce of Hawaii Testimony on HB 2357 HD1
February 22, 2008

stimulate interest in designating lands IAL.

As presently drafted, the bill lacks any landowner incentives. The deletions of the provisions in the original bill, HB 2808 removed all of the landowner based incentives. Passage of this bill without reinstating the deleted provisions or passage of HB 2807 should not constitute fulfilling the spirit and intent of Act 183 when it was drafted.

Thank you for this opportunity to express our views.



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February 22, 2008

The Honorable Marcus R. Oshiro, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: H.B. 2357, HD1 Relating to Agricultural Lands
Hearing Date: Friday, February 22, 2008 @ 1:00 p.m., Room 308

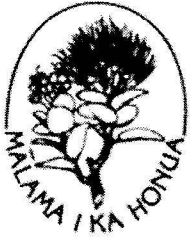
Dear Chair Oshiro and Members of the House Committee on Finance:

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **supports the intent of H.B. 2357, HD1**

H.B. 2357, HD1 provides mechanisms for incentives for the preservation of important agricultural lands (IAL). The preservation of IALs and long-term agricultural productivity in Hawaii is best assured through meaningful incentives for the designation of IALs.

HAR supports Part 2 of the bill which provides rental income incentives for the lease of land for agribusiness purposes; Part 3 which provides housing opportunities for farmers and their employees; Part 4 which provides tax incentives for costs incurred in the operation of agricultural business; Part 5 which provides low cost financing; Part 6 which identifies the viability of water for agricultural purposes; and Part 7 which provides a process for an expedited permitting process.

Mahalo for the opportunity to testify.



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON FINANCE

February 22nd, 2008, 1:00 P.M.

(Testimony is 1 page long)

TESTIMONY OFFERING COMMENTS ON HB 2357 HD1

Chair Oshiro and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, has concerns with one of the parts of HB 2357 HD1. While we fully support efforts to increase the attractiveness and viability of farming in Hawai'i, we must balance those interests against other critical environmental and societal goals while minimizing the opportunity for commercial interests to exploit resources at the public's and future generations' expense. The most troubling aspect of this measure is the invitation to allow housing on an unspecified percentage of "important" agricultural lands. We have no comments on the other parts of HB 2357 HD1.

The Sierra Club is concerned about the amendment that would allow more development on lands that are identified as the best ("important") agricultural lands—particularly occupying up to 20% of the important agricultural land (IAL) as specified in the original draft of HB 2808.

First, the counties historically have been lax in defending the land use law and preventing rural sprawl on agricultural lands. Due to weak enforcement of agricultural land protection, farmland has been subject to the type of real estate speculation that drives up the price of land further out of reach for local residents and local farmers. It has made it difficult to effectively plan Hawaii's future and ensure orderly development. Further, residential developments on ag-zoned lands do not allow for adequate public input on the impact on our community. Although this measure contains controls on what type of housing may be built, it still may open the door to further abuse unless additional protection is put into place. This committee has considered measures in the past that would effectively close some of the loopholes exploited by developers to create "ag housing." Those measures should be reexamined this session.

Second, while we understand that housing for farm workers is important to support farm activities, why does the residential housing need to be built on lands designated as "important?" Such housing should be put on adjacent rural lands or, if absolutely necessary, on agricultural lands that are not designated as "important."

Finally, allowing a percentage of the important agricultural lands to be covered with development is antithetical to the constitutional charge to protect agricultural lands.

Thank you for the opportunity to testify.

**HB 2357 HD1
RELATING TO AGRICULTURAL LANDS**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 22, 2008

Chair Oshiro and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural companies Hawaiian Commercial & Sugar Company and Kauai Coffee Company, Inc. on HB 2357 HD1 "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS." We support this bill.

After over twenty five years of debate, negotiation, and compromise, the IAL Law was finally passed in the 2005 Legislative Session. After years of pursuing a land-use approach to this constitutional mandate, the IAL law that was successfully passed was one premised on the principle that the best way to preserve agricultural lands is to preserve agricultural businesses and agricultural viability. As such, Act 183 (2005) not only provides the standards, criteria, and processes to identify and designate important agricultural lands (IAL) to fulfill the intent and purpose of Article XI, Section 3 of the Hawaii State Constitution, it also provides for the passage of a package of incentives designated to support and encourage sustained, viable agricultural activity on IAL—prior to the designation of IAL. Once the package of incentives is passed, IAL may be designated in one of two ways --- by voluntary petition by the farmer/landowner to the State Land Use Commission (LUC); or subsequently by the Counties filing a petition to

designate lands as IAL pursuant to a County identification and mapping process. In either case, the LUC must find that the lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law prior to designation.

Rental Income On Agricultural Leases

This bill provides both an exclusion from gross income and an exemption from general excise taxes for rental income derived from agricultural leases on lands identified and designated as IAL. In addition to encouraging land owners to lease their IAL lands to active farming operations, these provisions should also result in a reduction in the amount of the rent charged to the farmer for the IAL parcel. We believe that this provision should assist in sustaining active agricultural operations on IAL designated lands.

Housing

Housing accommodations for farmers and their employees is an important component in the success of many agricultural operations. This provision will allow residential dwellings for farmers, their employees and their families on IAL subject to a list of conditions and criteria. With Hawaii's high housing costs and tight labor market, the ability for the farmer to have housing accommodations on IAL in the immediate vicinity of their crops is anticipated to be of significant benefit to IAL farming operations.

Infrastructure Tax Credit

Major infrastructure requirements such as irrigation systems, roads and utilities, and agricultural processing facilities play a critical role in the survival of many agricultural businesses, and the infrastructure tax credit portion of this bill will provide important financial support for IAL related farming operations. In addition to assisting

these agricultural operations in the repair and maintenance of their existing infrastructure, this tax credit will also serve as a stimulus to encourage these entities to expand their operations or to enhance their operating efficiencies through the installation of new agricultural infrastructure, equipment, and other related improvements to service their farming operations. Importantly, this bill also includes provisions to require the quantitative and qualitative assessment of this tax credit, so that the Legislature, and others, can have access to information on the effectiveness of this incentive program.

Loan Guaranty

The loan guarantee portion of this bill will authorize low cost loans for farmers to establish or expand their IAL related agricultural operations or to develop necessary IAL related infrastructure. These provisions will assist in providing farmers with a means of obtaining necessary financing to initiate, maintain, or to expand their agricultural businesses. We believe that this loan guarantee may especially be useful to the smaller farming operations that may experience difficulty in obtaining financing in the open financial market.

Water

One of the most important factors in determining the long term viability of an agricultural operation on IAL is the availability of water for irrigation purposes. Water is the basic natural resource that may directly determine the success or failure of agricultural operations on IAL. We believe that the establishment of a water policy that provides crops and livestock on IAL with a dependable source of affordable water will provide an opportunity for sustaining agricultural operations on IAL.

Expedited Permits

This bill will also establish and implement a procedure for the priority processing of permit applications and renewals for agricultural processing facilities that process crops or livestock from an IAL related agricultural business. It is anticipated that this bill will result in a total net time savings for an IAL related agricultural processing facility to obtain their necessary permits, which should result in an overall cost savings for the facility. We believe that this incentive may encourage agricultural processing facilities to process crops or livestock from IAL related agricultural businesses, thus increasing the availability of these services to IAL related agricultural businesses.

Based on the aforementioned, we respectfully request your favorable consideration on this bill.

Thank you for the opportunity to testify.

Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice-chair
Committee on Finance
Corrin Cunningham – (808) 688-0824
Friday, February 22, 2008

Support of HB 2357 H.D. 1, Relating to Agricultural Lands

As a young professional starting a career in natural resource conservation for my native Hawai'i, I support HB 2357 H.D. 1, Relating to Agricultural Lands. The House Bill, which addresses Article XI, Section 3 (1978) and Act 183 (2005) of the Hawai'i State Constitution, attempts to offer much needed incentives and protection for viable agribusinesses on important agricultural land. I strongly encourage the Committee to amend the Bill to include a figure of less than 20% for the maximum lot coverage percentage for a residential unit (page 8, line 7), as recommended by the Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture.

The protection of our important agricultural land and the promotion of local agriculture are imperative to Hawai'i's economy. In 2000, the agriculture industry contributed \$2 million in sales to our economy, and supplied 5% of the state's employment opportunities. Hawai'i boasted 1.32 million acres of cropland in 2002, but only 1.3 million acres by 2006.¹ Acreage in viable local agriculture has decreased dramatically over the last decade, down to the close of our last O'ahu dairy in January 2008 – we cannot afford to lose any more productive farmland. With the continued loss of local agricultural production, Hawai'i's is becoming evermore dependent on products shipped in from off-island. In fact, we import 90% of our food.² And in the day of declining traditional fossil fuel options, our dependency on foreign goods puts Hawai'i in a precarious position.

Preserving important agricultural lands means preserving Hawai'i's environment. Producers leasing State agricultural land are required to obtain conservation plans to address erosion concerns, water management and pest control. In addition, all agricultural producers are obligated to follow strict guidelines set by the State and counties meant to maintain Hawai'i's water quality. This conservation-minded approach to land stewardship promotes healthy water bodies and aquifers by allowing groundwater recharge. The loss of groundwater recharge accompanying the loss of agricultural land will adversely impact stream and wetland health, increase the surface runoff that contributes to downstream flooding, and further degrade the aquifers we need for

¹ National Agriculture Statistical Services. (2006). Agriculture's Contribution to Hawaii's Economy, 2000. In *Statistics of Hawaii Agriculture 2006*. Honolulu, HI. US Department of Agriculture. Retrieved from http://www.nass.usda.gov/hi/stats/t_of_c.htm.

² Sullivan, C. (Feb 13, 2008). An Edible Legacy: Saving Hawai'i's Farmlands. *Honolulu Weekly*, pp. 6-7.

drinking water.³ Furthermore, the loss of groundwater recharge caused by additional impervious surfaces created with rural or urban development needs to be mitigated through expensive additions to the wastewater infrastructure.⁴

With that said, HB 2357 H.D. 1 as it stands does not encompass the State's full power to preserve our important agricultural lands. I agree that the State is obligated to provide means to support established agribusinesses, as well as incentives for new producers to enter the agriculture industry. Accessibility to water and expedition of permits, both addressed in the House Bill, are good ways to address some of the frustrating hurdles farmer's face in everyday operation. However, should the final Bill not mandate residential unit coverage of less than 20% on important agricultural lands, the State will be allowing these valuable incentives to go to "gentleman farmers" that are not contributing to our local agricultural economy. These gentleman farms drive up land values, making surrounds areas nearly unaffordable, and generally the operators do not care for the land as well as it would be cared for under a traditional agriculture operation. And still, lands zoned for agriculture in all counties are being developed into multimillion dollar estates based on a loophole that permit farm dwellings.⁵ In addition to setting a lower limit on residential unit areas, the State should set minimum income or production level requirements for operations on agricultural land as a way to ensure that the land is being used for its intended purposes.

By providing incentives for local agribusinesses on important agricultural land, the State is making modest steps toward increasing Hawai'i's self-sufficiency and economic security. However, the State must also take measures to save the integrity of these important agricultural lands by setting standards that discourage misuse. Doing this will offer local agribusinesses the assurance needed to promote the ingenious thinking that finds those special niches for Hawai'i's agricultural products and ag-tourism opportunities worldwide. In a way, setting higher standards for operations on agricultural land allows producers to take full advantage of the incentives offered in HB 2357 H.D. 1.

Thank you for this opportunity to testify.

³ Harbor, J. M. (1994). A Practical Method for Estimating the Impact of Land-Use Change on Surface Runoff, Groundwater Recharge and Wetland Hydrology. *Journal of the American Planning Association*, 60, 95-109.

⁴ New Jersey Division of Watershed Management. (April 2004). Groundwater Recharge. In *New Jersey Stormwater Best Management Practices Manual*. Retrieved from http://www.njstormwater.org/tier_A/bmp_manual.htm.

⁵ Gomes, A. (June 12, 2005). Farming Finds No Home on Agricultural Land. *The Honolulu Advertiser*. <http://the.honoluluadvertiser.com/article/2005/Jun/12/bz/bz01p.html>.



Food Company Hawaii

1116 Whitmore Avenue Wahiawa, Hawaii 96786

February 1, 2008

Honorable Marcus Oshiro, Chair, Committee on Finance
Hawai'i State Capitol, Conference Room 308
415 South Beretania Street
Honolulu, HI 96813

**RE: HB 2357, HD1 RELATING TO IMPORTANT AGRICULTURAL LANDS –
SUPPORT INTENT WITH COMMENT, Committee on Finance, February 22,
2008, 1 PM Room 308**

Aloha Chair Oshiro and Members of the Committee:

I am Dan Nellis, Operations Director of Dole Food Company Hawaii ("Dole"). We appreciate the opportunity to express our views on HB 2357, HD1, relating to land use. We supported this bill in its original form, but we now have serious concerns with recent changes made in the HD1. This change not only strays away from the original intent of Act 183, it is unsound policy to designate land use in perpetuity.

As taken directly from Act 183 (2005), the intent "is not only to set policies for important agricultural lands and to identify important agricultural lands but also to **provide for the development of incentives for agricultural viability in Hawaii, particularly for agricultural enterprises that farm important agricultural lands and for landowners of important agricultural lands.** These incentives would be designed to promote the retention of important agricultural lands for viable agricultural use over the long term."

Dole supports the establishment of meaningful incentives for all impacted landowners who voluntarily designate their valuable agricultural lands as a condition to implementing the Important Agricultural Lands (IAL) Act. Any comprehensive package of incentives must include meaningful and adequate options for all landowners in different situations, not just independent farmers and small landowners.

Therefore, it is imperative that we work toward providing a comprehensive set of incentives to entice large and small operations and large and small landowners to voluntarily designate their properties as IALs. We respectfully ask the Committee to allow more time to discuss our concerns and to work toward meaningful changes that help both agricultural enterprises that farm important agricultural lands and for landowners of important agricultural lands.

As always, we are grateful for the opportunity to share our views with you.

Sincerely,
Dan Nellis, Operations Manager, Dole Food Company Hawaii