

TESTIMONY
HB 2518 HD1

Emailed to: testimony@Capitol.hawaii.gov

Mar. 9, 2008

Denise Antolini 59-463 Alapi`o Road Pūpūkea, O`ahu 96712

(808) 638-5594

Senate Water and Land Committee
Hearing March 12, 2008
2:45 p.m. Conf. Room 414

Dear Chair Hee, Vice Chair Kokubun, and Members of the Committee:

I write in **strong support of HB2518 HD1**, providing tax credits for land conservation.

The State of Hawaii needs -- **NOW, this session** -- a broader range of land conservation tools to protect the "crown jewels" of our coastal, agricultural, and rural landscape.

For proposed public-private acquisitions, such as the **Galbraith** agricultural lands in Central O`ahu, the **Turtle Bay** property on the North Shore, and the **many other high priority needs around the state**, this new tool of tax credits for willing landowners is critical to add to the toolbox.

The cost to the state is "pennies on the dollar" compared to the benefits, particularly now when the real estate market has slowed down considerably. With appropriate safeguards to ensure proper valuation, this tool can result in considerable long-term savings to taxpayers through avoided costs of development.

Twelve other states in the country have this kind of tax credit for conservation program -- Hawaii should proudly become the 13th state to join this effort that brilliantly leverages state and private resources for permanent land conservation.

Mahalo for your support.

Sincerely,

Denise Antolini

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Land conservation incentives tax credit

BILL NUMBER: HB 2518, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow an eligible taxpayer who is the owner of land to claim a land conservation incentives tax credit if the taxpayer: (1) donates the land in perpetuity or completes a bargain sale in perpetuity to the state or public or private conservation agency that fulfills a conservation or preservation purpose; provided that any donation or sale that represents a less-than-fee interest qualifies as a charitable contribution deduction under IRC section 170(h); or (2) voluntarily invests in the management of land to protect or enhance a conservation or preservation purpose under a land protection, conservation, or management agreement. Donations of land for open space to fulfill density requirements to obtain subdivision or building permits do not qualify for the credit.

The amount of the tax credit shall be 50% of the fair market value of the land that the eligible taxpayer donates in perpetuity on or after January 1, 2008 for a conservation or preservation purpose to the state or public or private conservation agency; or 50% of the amount invested in the management of land. Limits the credit to \$2.5 million per donation regardless of the value or interest in the land. The credit may be claimed only once per tax year. Delineates procedures for the claiming of the credit by a pass-through entity.

Credits in excess of a taxpayer's income tax liability may be applied to subsequent income tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof to claim the credit.

Defines "bargain sale," "conservation or preservation purpose," "cultural property," "eligible taxpayer," "interest in land or real property," "land" and "public or private conservation agency" for purposes of the measure.

EFFECTIVE DATE: January 1, 2020; applicable to tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes an incentive in the form of an income tax credit to encourage a landowner to donate, complete a bargain sale to the state or a conservation agency, or voluntarily invest in the management of land to protect or enhance a conservation or preservation purpose.

While the credit may be intended as an incentive, it lacks accountability. In considering this measure, lawmakers should ask themselves just how much will this program cost the state treasury? If this program required an appropriation, how much would lawmakers be willing to appropriate for this program? The financial impact of the proposed credit is no different from the expenditure of public

dollars albeit out the back door and hidden from public scrutiny.

Tax credits generally are designed to mitigate the tax burden of those individuals or businesses that do not have the ability to pay their share of the tax burden. These credits are justified on the basis that low-income taxpayers should be relieved of the burden imposed by taxes which are not based on the income of the taxpayer, such as the general excise tax. The proposed credit contained in this measure bears no relationship to the tax burden of the landowner. Thus, the credit amounts to nothing more than a subsidy by state government. Such subsidies are more accountable if funded with a direct appropriation of state funds.

Digested 3/10/08

THE
TRUST
for
PUBLIC
LAND



THE TRUST FOR PUBLIC LAND'S TESTIMONY IN SUPPORT
HB 2518

Senate Committee on Water and Land
Wednesday, March 12, 2008, 2:45 p.m., Room 414
testimony@capitol.hawaii.gov

Dear Chairperson Hee and Vice Chair Kokubun:

Hawaii Office
212 Merchant St.
Suite 320
Honolulu, HI
96813
T 808-524-8560
F 808-524-8565
www.tpl.org

The Trust for Public Land (TPL) supports HB 2518 Relating to Land Conservation.

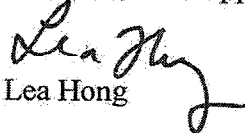
As development and urban sprawl increase, concern about the future of land use and its relation to Hawai'i's natural resources, economy and heritage have come to the forefront of community concern. Some of these concerns are protected and embodied in recent laws providing funding for the acquisition of private lands for public conservation purposes. The recent State Legacy Lands Act is but one example.

Funding from programs such as the Legacy Lands Conservation Program yield great benefits to the people of Hawai'i, but further incentives are necessary to provide alternatives to the tremendous financial pressures to convert needed agricultural or conservation land to other uses that generate greater revenue. It is also impossible for the government to acquire and take care of all of these lands.

H.B. 2518 provides a voluntary incentive for private landowners to protect our precious lands and offers an alternative to acquisition and government management. It advances conservation by creating a competitive class of land use in an economy where conversion by private landowners to other uses are an attractive or economic necessity.

We urge you to support HB 2518.

Mahalo for this opportunity to testify,


Lea Hong





MAUI LAND & PINEAPPLE COMPANY, INC.

March 10, 2008

The Honorable Senator Clayton Hee, Chair
The Honorable Senator Russell S. Kokubun, Vice Chair
Committee on Water and Land
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street, Room 414
Honolulu, Hawaii 96813

Subject: H.B. 2518, HD1 – Relating to Land Conservation

Dear Honorable Chair Hee, Honorable Vice Chair Kokubun and Committee Members:

Maui Land & Pineapple Company, Inc. (“ML&P”) strongly supports H.B. 2518, HD1 Relating to Land Conservation.

More than half of ML&P’s land on West Maui is zoned conservation by the State of Hawaii. These lands are part of the West Maui Mountains Watershed Partnership and consist of important watershed lands which provide about 70% of the potable water source for the entire population of the island of Maui. Undeveloped private lands often provide significant benefits and services to the general public such as watersheds, erosion control, carbon sequestration, green space, recreational opportunities, and cultural preservation. However, landowners do not presently receive any remuneration for the ecosystem services their lands provide. While the public depends upon the provision of these services, society often treats them as essentially free.

For many private landowners, there is significant pressure to convert forests, ranch and agricultural lands, open spaces, and lands with historical or cultural features to uses that generate greater income to the landowner. However, such conversions often result in lost opportunity for future generations to enjoy precious land areas in the way that their parents and grandparents enjoyed them. To be attractive to landowners, conservation must be competitive with other existing or potential uses of the land – a goal that H.B. 2518, HD1 helps advance.

Like the Legacy Lands Act approved by the Legislature in 2005, H.B. 2518, HD1 can help provide opportunities and additional choices for land conservation in Hawaii. A mix of existing government and private funding for conservation land purchases, as well as tax incentives like those in H.B. 2518, HD1 can enable landowners a variety of options to suit their needs as well as help government to achieve a public benefit.

The Honorable Senator Clayton Hee, Chair
The Honorable Senator Russell S. Kokubun, Vice Chair
March 10, 2008
Page - 2 -

The tax incentives proposed in H.B. 2518, HD1 will be another tool like the Legacy Lands Act for government and private partners to achieve the important public policy goal of protecting and managing some of the islands' treasured natural areas, agricultural lands, open spaces, and historical sites. Indeed, tax incentives that allow landowners to retain ownership while committing to protection can help achieve public conservation priorities without requiring the government to expend many millions more to buy and manage the land itself.

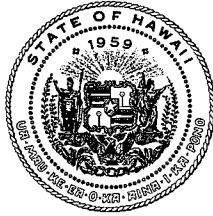
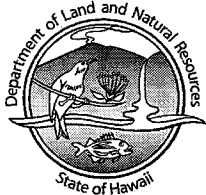
We sincerely appreciate the opportunity to provide our testimony. If you have any questions or wish to discuss our testimony, please do not hesitate to contact me at (808) 877-3882.

Mahalo,



Warren A. Suzuki
Senior Vice President

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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CHAIRPERSON
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KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

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BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES

on House Bill 2518, House Draft 1 – RELATING TO LAND CONSERVATION

BEFORE THE SENATE COMMITTEE ON
WATER AND LAND

March 12, 2008

House Bill 2518, House Draft 1 provides a land conservation incentive tax credit to encourage the preservation and protection of land in the State. While the Department of Land and Natural Resources (Department) acknowledges the intent of this measure to provide incentives for landowners to preserve and protect their important *mauka* lands, the Department nonetheless defers to the Department of Taxation on any tax implications and effects the bill would have on their operations.

Over half of the lands in Hawai‘i are privately owned and *mauka* lands, including intact forests, open woodlands, and pasture lands, and provide a significant amount of “ecosystem services,” that support all of Hawaii’s residents and visitors. These services include the delivery of clean drinking water, carbon sequestration that stabilizes the climate, cultural practices, opportunities for recreation, and many others. These lands also play a critical role in supporting Hawaii’s unique native plants and animals. It is essential to provide solid stewardship incentives for private landowners to care for *mauka* lands that are critical in ecosystem service production.

The Department participated in a working group formed in response to House Concurrent Resolution 200, 2006 Legislative Session, to conduct an analysis of local, national, and international incentive programs that promote landowner protection of important *mauka* lands and recognize the public benefits of the ecosystem services provided by those lands. The establishment of state tax credits for donated conservation easements and landowner-funded activities that promote conservation on private lands was one of the key recommendations in the working group report (<http://hawaii.gov/dlnr/reports/2008/division-of-forestry-wildlife/FW08-Important-Mauka-Lands-Report.pdf>).

Promoting conservation easements is a valuable conservation tool. Conservation easements are restrictions placed on land to enhance conservation values. They are either voluntarily sold or donated by a landowner. The Legacy Land Conservation Program (LLCP), Chapter 173A, Hawaii Revised Statutes, provides State funding for the acquisition of conservation easements on lands having value as a resource to the State. This measure would provide tax credits for landowners that donate or make a bargain sale of land or conservation easements or voluntarily

invest in conservation management. These credits would be added to federal tax benefits for these actions. The combination of existing Federal tax benefits and proposed state tax credits will likely provide an immediate stimulation to expanded conservation actions and promote delivery of ecosystem services on *mauka* lands throughout the State with its public benefits.

The Department is aware of the Department of Taxation's concerns with certifying what donations of land or investments in management of land qualify for the tax credit. The Department is the appropriate agency to certify donations or management actions for natural and cultural resources and the Department of Agriculture would be the appropriate agency for agricultural easements or management. The Department is willing to work with the Department of Taxation on how best to implement such a process and identify ways to streamline the process and book-keeping and reporting requirements.

The Department notes that the Senate version, Senate Bill 2198, Senate Draft 2 amended the measure to require that the State agency work with the taxpayer to identify opportunities for public access if appropriate and reasonable. The Department supports this approach because it allows flexibility in dealing with public access to the lands qualifying for the tax credit. Requiring public access to all potential lands will be a disincentive for some landowners to participate. While appropriate for some lands such as beach or recreational access, open public access may not be appropriate for other lands such as cultural and historic properties, and working farms or ranches that have legitimate concerns about vandalism, resource theft, and liability. The taxpayer should be required to provide access to the public or private conservation agency holding the conservation easement to monitoring the status of the conservation easement or to verify that conservation management actions have been implemented on the property. Public access should be encouraged and required where appropriate to fulfill the purpose of the easement, but not be required in cases where it would jeopardize or degrade resources intended for protection or create an undue hardship or liability for the landowner.



Hawaii Agriculture Research Center

99-193 Aiea Heights Drive, Suite 300

Aiea, Hawaii 96701

Ph: 808-487-5561/Fax: 808-486-5020

TESTIMONY BEFORE THE SENATE COMMITTEE ON WATER AND LAND

HB 2518 HD1

RELATING TO LAND CONSERVATION

March 12, 2008

Chairman Hee and Members of the Committee:

My name is Stephanie Whalen. I am President and Research Director of the Hawaii Agriculture Research Center (HARC). I am testifying today on behalf of the center, our research and support staff, and our members and clients.

HARC strongly supports HB 2518 HD1 Relating to Land Conservation.

In order to preserve some of the lands of Hawaii incentives are important. Because of the unique land holding situation in Hawaii many land owners do not qualify for the federal tax credits provided to those helping to preserve lands for the purposes proposed in this measure. Although there has been efforts to make an exception specifically for Hawaii to allow our land owners to receive these federal tax credits, those efforts have not been successful.

It is in the public interest of this state to provide those tax credits to ensure some lands for unique or special use are preserved in perpetuity.

Thank you for this opportunity to provide **SUPPORT** for **HB 2518 HD1**, preserving land in Hawaii for the public interest.

testimony

From: kolea1@aol.com
Sent: Monday, March 10, 2008 10:12 PM
To: testimony
Subject: HB2518

I support HB 2518 relating to land conservation to be submitted by the
Committee on Water and Land
on

DATE: Wednesday, March 12, 2008
TIME: 2:45 p.m.
PLACE: Conference Room 414
State Capitol
415 South Beretania Street

Mahalo for your consideration of my testimony.

Barbara Arnold
Honolulu, HI

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testimony

From: sara ackerman [stellabuttercup@gmail.com]
Sent: Monday, March 10, 2008 8:56 PM
To: testimony
Subject: House Bill 2518 HD1

I support this bill - House Bill 2518 HD1!

Sara Ackerman
59-520 Hoalike road
Haleiwa, HI 96712

--

con amor, Sara

testimony

From: charlotte [kczmurphy@hawaii.rr.com]

Sent: Tuesday, March 11, 2008 8:45 AM

To: testimony

Subject: Committee on water and land: Wednesday March 12,2008 HB2518,HD1

Dear Chair *Hee* and Committee members,

HB 2518 provides a voluntary incentive for private landowners to protect our precious lands and offers an alternative to acquisition and government management. It advances conservation by creating a competitive class of land use in an economy where conversion by private landowners to other uses are an attractive or economic necessity. We urge you to support HB 2518. Concerned residents of Hawaii and the North shore, Oahu
Kevin, Charlotte and Zack Murphy

testimony

From: steven@stevensquire.com
Sent: Tuesday, March 11, 2008 8:31 AM
To: testimony
Subject: House Bill 2518 HD1

I support the House Bill 2518 HD1 providing tax credits to landowners that put their land into conservation.

Thank you for the opportunity to provide testimony,

-Steven Squire

testimony

From: Everett Magnuson [emagnuson@earthlink.net]
Sent: Tuesday, March 11, 2008 8:21 AM
To: testimony
Subject: HB 2518, HD1

I am emailing in support of HB 2518, HD1

Sincerely,

Everett Magnuson
57-086 Eleku Kuilima Place
Kahuku, HI 96731

testimony

From: Ann [kaneboy@hawaii.rr.com]
Sent: Tuesday, March 11, 2008 8:51 AM
To: testimony
Subject: Testimony House Bill 2518 HD1

COMMITTEE ON WATER AND LAND
 Senator Clayton Hee, Chair
 Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, March 12, 2008
TIME: 2:45 p.m.
PLACE: Conference Room 414

State Capitol

415 South Beretania Street

Dear Chair Ito and Committee Members:

The Trust for Public Land (TPL) supports HB 2518 Relating to Land Conservation. TPL conserves land for people to enjoy as parks, gardens and other natural places, ensuring livable communities for generations to come. Nationwide, TPL has five program initiatives: (1) providing parks for people, (2) protecting working lands (farms, ranches, and forests), (3) conserving natural lands (wilderness, wildlife habitat), (4) safeguarding heritage lands (cultural and historical resources), and (5) preserving land to ensure clean drinking water and the natural beauty of our coasts and waterways. In Hawaii, TPL has worked with public and private partners to conserve over 36,000 acres of land in the State, including Waimea Valley on O'ahu, Lumahai Beach on Kaua'i, Wao Kele O Puna on the Big Island, Mu'olea Point in Hana on Maui, and portions of Hi'ilawa Valley on Moloka'i.

As development and urban sprawl increase, concern about the future of land use and its relation to Hawaii's natural resources, economy and heritage have come to the forefront of community concern. Some of these concerns are protected and embodied in recent laws providing funding for the acquisition of private lands for public conservation purposes. The recent State Legacy Lands Act is but one example. Funding from programs such as the Legacy Lands Conservation Program yield great benefits to the people of Hawaii, but further incentives are necessary to provide alternatives to the tremendous financial pressures to convert needed agricultural or conservation land to other uses that generate greater revenue. It is also impossible for the government to acquire and take care of all of these lands.

HB 2518 provides a voluntary incentive for private landowners to protect our precious lands and offers an alternative to acquisition and government management. It advances conservation by creating a competitive class of land use in an economy where conversion by private landowners to other uses are

an attractive or economic necessity. I urge you to support HB 2518.

Ann Drechsler
59-322 Alapio Road
Haleiwa Town, Hawaii 96712-9605
638-9027
kaneboy@hawaii.rr.com

testimony

From: annetakinn@aol.com

Sent: Tuesday, March 11, 2008 9:32 AM

To: testimony

Subject: Testimony for HB2518 Hearing March 12,2009, 2:45 pm Conference Rm, 414

Dear Senator Hee,
I strongly support HB2518 relating to Land Conservation to provide tax credit to encourage the preservation and protection of conservation land in the state of Hawaii.

Annetta Kinnicutt
341 Iliaina St.
Kailua, Hi 96734

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testimony

From: Toni Sickler [sicklert003@hawaii.rr.com]
Sent: Tuesday, March 11, 2008 9:44 AM
To: testimony
Subject: Bill HB 2518, HD1 Committee on Water and Land March 12 2:45m Conference Room 414

COMMITTEE ON WATER AND LAND
Senator Clayton Hee, Chair
Senator Russell S. Kokubun, Vice Chair

NOTICE OF HEARING
DATE: Wednesday, March 12, 2008
TIME: 2:45 p.m.
PLACE: Conference Room 414

**HB 2518, HD1
(HSCR1007-08)
RELATING TO LAND CONSERVATION.
Provides a tax credit to encourage the preservation and protection of conservation land in the state. (HB2518 HD1)**

Dear Chair Ito and Committee Members:

I am unable to attend March 12th hearing but I wish my voice to be heard. I overwhelming support HB 2518, HD1. We have so few opportunities to secure open land for the public use and this bill will help to address this situation.

Our community has demonstrated overwhelming support in preserving open space and protecting such lands from development.

Please pass this bill. It will be a further step to provide a method of funding to preserve and protect. With creative thinking, saving open space is a real possibility that I wholly support.

Thank you for your time and consideration.

**Aloha,
Toni Sickler
59-415 Makana Road
Haleiwa, Hi 96712**

Phone: 808-638-8497

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 2518, HD1 Relating to Land Conservation
Senate Committee on Water and Land
Wednesday, March 12, 2008, 2:45PM, Room 414

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Moloka'i, Lāna'i, Hawai'i and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i supports H.B. 2518, HD1 Relating to Land Conservation.

Undeveloped private lands often provide significant benefits and services to the general public such as watersheds, erosion control, carbon sequestration, green space, recreational opportunities, and cultural preservation. However, landowners do not presently receive any remuneration for the ecosystem services their lands provide. While the public depends upon the provision of these services, society often treats them as essentially free.

For many private landowners, there is significant pressure to convert forests, ranch and agricultural lands, open spaces, and lands with historical or cultural features to uses that generate greater income to the landowner. A mix of existing government and private funding for conservation land purchases, as well tax incentives like those in this bill can enable landowners a variety of options to avoid conversion and help government achieve a public benefit. Indeed, tax incentives that allow landowners to retain ownership while committing to protection can help achieve public conservation priorities without requiring the government to expend many millions more to buy and manage the land itself.

Should the Committee consider replacing the text of this bill with the text from the Senate version (S.B. 2198, SD2), we ask that you consider lengthening or, preferably, eliminating the 2012 sunset date in Section 5 in favor of a reporting requirement by the relevant state agencies.

The sunset provision in S.B. 2198, SD2 does not give land owners much time to become educated and to take advantage of the tax credits. In other states, it took at least three years before even a nominal number of land owners completed the process. In many cases, landowners will want to test the water with a small donation and follow up a few years later with a more meaningful donation.

California adopted a 10-year sunset, prior to which they could assess the effectiveness of their legislation. For many other states, rather than adopting a sunset provision, they implemented a reporting requirement to gather data about the use of the tax credits. After collecting data, many states increased the tax credit available and how long it could be carried forward. **States have found that the tax credits were useful money savers in their quest to protect scarce resources.** The longer the programs have been underway, the trend has been to create more generous incentives to inspire more landowners to donate.

BOARD OF TRUSTEES

S. Haunani Apoliona Peter D. Baldwin Christopher J. Benjamin Zador W. Brown, Jr. Carl A. Carlson, Jr. David C. Cole Samuel A. Cooke
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Bill D. Mills Wayne Minami Michael T. Pfeffer H. Monty Richards Jean E. Rolles Scott Rolles James Romig Eric Yeaman

testimony

From: Elizabeth Dunne [elizabethdunne@hotmail.com]
Sent: Tuesday, March 11, 2008 11:12 AM
To: testimony
Subject: Testimony in Support of HB 2518

Testimony in Support of HB 2518 – Relating to Land Conservation

Committee on Water and Land
Hearing: Wed., March 12, 2008, at 2:45 p.m., Conference Room 414

Dear Chair Hee, Vice Chair Kokubun, and Committee Members:

I strongly support HB 2518 relating to land conservation. Land conservation is essential to preserve the character of the islands, to maintain a high quality of life, and to promote sustainability.

Because over half of the lands in Hawai'i are privately owned, laws encouraging private landowners to preserve land for public benefit play a critical role in shaping the future landscape of our islands. State tax credits for land conservation provide a financial incentive for private landowners to voluntarily protect precious land in the face of development pressures.

I urge you to support HB 2518.

Sincerely,

Elizabeth M. Dunne
Honolulu, Hawaii 96815
elizabethdunne@hotmail.com

testimony

From: Bruce Bila [bbila@sbcglobal.net]
Sent: Tuesday, March 11, 2008 9:51 AM
To: testimony
Subject: HB2518HD1

We are in support of HB2518HD1 giving tax credits to landowners that will work with the State to help conserve our lands for future generations. Mahalo Bruce & Patricia Bila

testimony

From: Louie DelleFave [delletec@austin.rr.com]
Sent: Tuesday, March 11, 2008 2:31 PM
To: testimony
Subject: Testimony for HB2518

Aloha Senators,

On behalf of the Koolauloa / North Shore Alliance, I am asking for your kokua in accepting **my support** of HB2518 HD1: land conservation tax credits. This is a Senate hearing of the Twenty-Forth Legislature, Regular Session of 2008.

COMMITTEE ON WATER AND

Senator Clayton Hee, Chair

Senator Russell S. Kokubun,
Vice Chair

LAND

DATE: Wednesday, March 12, 2008
TIME: 2:45 p.m.
PLACE Conference Room 414
State Capitol
415 South Beretania Street

This will add another tool to the important toolbox of approaches the State can use to put together a creative purchase package for the Kuilima Resort and Oaktree Capital lands. This bill also helps our friends in other communities statewide who are similarly fighting for important rural and open space.

This is so extremely important to keep the open country-side that we have left! This is not only for all who live in Hawaii, but for all of the visitors who come to see the beauty and open spaces that go with the openness. To further develop the Kuilima Resort, would destroy the natural beauty of the North Shore! I appeal your good judgment to help save our last natural area!

Mahalo,
Cynthia DelleFave
delletec@mac.rr.com

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WATER AND LAND
WEDNESDAY, MARCH 12, 2008
2:45 p.m.
Room 414

HOUSE BILL 2518, HOUSE DRAFT 1
RELATING TO LAND CONSERVATION

Chair Hee, Vice-Chair Kokubun and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2518, House Draft 1 that seeks to establish a tax credit to encourage the preservation and protection of certain donated or "bargain sale" lands in the State at less than fair market value, and in perpetuity. The Department of Agriculture supports 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 and offers three amendments that could help to protect more agricultural lands. We defer to the Department of Taxation regarding the tax credit and its implications on the State budget.

We recommend three amendments that will help to protect significant agricultural lands as declared by the Department of Agriculture, or designated as important agricultural lands and offer land owners of these designated lands access to incentives for important agricultural lands that will be developed and enacted by the legislature, provided they do not conflict with the provisions of this new section. The first amendment inserts the following new language on page 2, line 3:

(note: new language is double underscored and bold print)

SECTION 3. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§235- Land conservation incentives tax credit; definitions. (a) As used in this section:

"Bargain sale" means a sale where a taxpayer is paid less than the fair market value for land or an interest in land.

"Conservation or preservation purpose" means:

- (1) Protection of open space for scenic values;
- (2) Protection of natural areas for wildlife habitat, biological diversity, or native forest cover; or
- (3) Preservation of forest land, agricultural land, watersheds, streams, rainfall infiltration areas, outdoor recreation areas, including hiking, biking, and walking trails, and historic or cultural property;

provided that the resources or areas protected or preserved are designated as significant or important by a relevant state agency and that the state agency work with the taxpayer to identify opportunities for public access if appropriate and reasonable[-]; provided further that the agricultural land has been declared as significant agricultural land by the department of agriculture, or designated as important agricultural land pursuant to chapter 205, part III. "

The second amendment is a definition to be inserted on page 3, after line 11:

"Significant agricultural land" means agricultural lands that possess at least five of the eight criteria used to identify important agricultural lands in section 205-44. "

The third amendment adds a new section to the bill, amending Section 205-45 (petition for landowner or farmer) to include similar language.

SECTION . Section 205-45, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A farmer or landowner with lands qualifying under section 205-44 may file a petition for declaratory ruling with the commission at any time in the designation process. The holder of an interest in agricultural lands that qualifies for the land conservation incentives tax credit under section 235-
may petition the commission for designation of the agricultural lands as important agricultural lands, and, upon designation, enjoy the incentives for important agricultural lands provided under section 205-46."

TESTIMONY
HB 2518 HD1
(END)