

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



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SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TAXATION

TESTIMONY REGARDING SB 2198 RELATING TO LAND CONSERVATION

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

DATE: FEBRUARY 12, 2008

TIME: 1:15PM

ROOM: 224

This legislation provides a nonrefundable income tax credit for bargain sales or contributions of land for purposes of preservation.

The Committee on Water & Land passed this measure unamended.

The Department of Taxation provides comments on this legislation.

The Department very much recognizes the importance of preserving conservation and culturally relevant lands in order to maintain Hawaii's priceless lands. However, the Department has issues with administering this tax credit.

I. TECHNICAL COMMENTS

The following technical flaws are apparent:

USE OF FAIR MARKET VALUE—The Department is always apprehensive when "fair market value" is used as the standard by which a tax credit or other tax incentive is calculated. Fair market value can mean something different to anyone, especially when a tax benefit is involved. The concern for the Department relates more to perceived frauds and abuses of land prices used to calculate the amount of the credit.

Assuming fair market value is the only measure that can be used for this credit, the Department strongly suggests that the bill be amended to require a qualified appraisal of any land deals. For even more fraud protection, the Department suggests incorporating a penalty similar to Internal Revenue Code § 6695A that will penalize both an appraiser who is complicit in a fraudulent land deal for purposes of this credit.

PROPERTY CLASS STANDARDS—The Department is concerned about certain of the definitions used with the credit. For example, "conservation and preservation purpose" and "cultural property" are both very broad terms and the express definitions only increase the expanse of these definitions. The Department recognizes the rulemaking authority; however settling the issue in statute is the preferred method.

PUBLIC OR PRIVATE CONSERVATION AGENCY—There is concern over who will be running any conservation program. In order to ensure continuity and consistency, the Department suggests amending the bill to ensure some specific government agency be charged with implementing the conservation program before any tax credit is available.

PASS-THROUGH ENTITY PROVISION—Subsection (g) is unnecessary and confusing. Well-settled principles of partnership (pass-through) entity law typically do not allow any tax consequences for the "entity." All tax attributes of a partnership flow through to the partners that realize the tax consequences on individual tax returns. The Department strongly suggests that subsection (g) be eliminated entirely.

DOUBLE TAX BENEFIT—Generally, the taxpayer would receive a charitable contribution deduction for the donation of the property to a government entity or a nonprofit entity. In addition, arguably providing a tax credit in exchange for the donation could be treated as taxable sale of the property.

RULEMAKING—The Department already has broad rulemaking authority. Subsection (i) is unnecessary. There is also a conflict between subsection (i) and (j). Do both agencies get to make concurrent rules? Will one agency's rules trump the other?

CERTIFICATION PROCESS—In light of the Department's concerns, the Department also suggests a certification process whereby, rather than the Board of Land & Natural Resources being authorized to make rules for this credit, the DLNR could be authorized to certify credits, maintain information, and simply send a certificate to the Department to process the credit. Other similar certification processes are currently administered with the Department of Business, Economic Development & Tourism and the Hawaii Film Office. *See e.g.*, HRS § 235-17.

II. REVENUE IMPACT

This legislation will result in a revenue loss of approximately \$3.2 million for FY 2009.

The Legacy Land Conservation program under DLNR provides matching funds for non-profits to engage in land purchases for conservation. In many of these cases, a part of the land interest is gifted to the non-profit. It is assumed that most conservation land donation transactions goes through this mechanism.

Gifts through the Legacy Lands project for 2008 are projected to be \$3,238,500. We assume that this covers half of all eligible transactions under the credit (including investments covered in

Department of Taxation Testimony

SB 2198

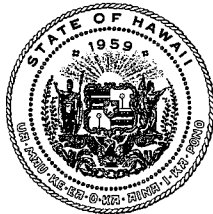
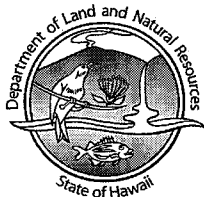
February 12, 2008

Page 3 of 3

section (c) paragraph (2)). Thus we project the value of eligible transactions to be \$6.5 million, of which a 50% tax credit would cause of revenue loss of \$3.2 million.

Impact for future years is indeterminate, due to the large volatility in gift amounts from year-to-year.

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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

on Senate Bill 2198 – RELATING TO LAND CONSERVATION

BEFORE THE SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT AND TAXATION

February 12, 2008

Senate Bill 2198 provides a land conservation incentive tax credit to encourage the preservation and protection of land in the State. The Department of Land and Natural Resources (Department) supports the intent of this measure to provide incentives for landowners to preserve and protect their important mauka lands, but defers to the Department of Taxation on its feasibility and fiscal implications.

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 (HCR) 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 was provided a copy of a proposed amendment being circulated by The Nature Conservancy to address 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 agrees that it is the right Department to certify donations for natural and cultural resources. 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.

Below are excerpts from the HCR 200 Report, Exhibit F. - *Overview of Conservation Easements and Related Tax-benefits*, with additional information on the benefits of State Tax Credits.

- **What are the benefits to a landowner of donating or selling a conservation easement over all or part of his or her land?**
 - Landowners may receive a federal income tax deduction for all or a portion of the value of a donated conservation easement
 - In 12 states, landowners may receive a state tax credit for all or a portion of the value of a donated conservation easement
 - Landowners who donate conservation easements can significantly lower their estate taxes
 - Landowners with conservation easements may enjoy reduced property taxes for land under easement

- **State Tax Credit Benefits**
 - In addition to federal income tax deductions, landowners who donate conservation easements may also be eligible for a state tax credit. Twelve states currently offer some form of state tax benefit based on the value of a donated easement, though there is no uniform model.
 - Most of these states adopt the eligibility criteria found in the federal Internal Revenue Code section 170(h).
 - The state tax credit may be for all or a portion of the fair market value of the easement, subject to an annual cap, and may allow any unused value be carried forward for a set period of years.
 - Some states make the credits tradable – meaning the tax credits may be sold to a third party for cash (usually at a reduced rate)
 - Some states also allow landowners to seek credits based on transaction costs from the easement donation (e.g. assessors fees) or for stewardship and other land management costs

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 ECONOMIC DEVELOPMENT AND TAXATION
TUESDAY, FEBRUARY 12, 2008
1:15 p.m.
Room 224

SENATE BILL 2198
RELATING TO LAND CONSERVATION

Chairperson Fukunaga, Vice-Chair Espero and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2198 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 provided that it does not displace or adversely affect the priorities in the Executive Biennium Budget and offers one amendment 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 an amendment that will help to designate important agricultural lands and offer land owners of these 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.

We would like the following amendment to be inserted on page 2, after line 3:

"The holder of the interest in agricultural lands protected or preserved pursuant to this section may petition the state land use commission for designation of the affected agricultural lands as important agricultural land, pursuant to section 205-45 and have access to incentives developed and enacted pursuant to Part III of chapter 205 that do not adversely affect the provisions of this section."



Legislative Testimony
SB 2198, RELATING TO LAND CONSERVATION
Senate Committee on Economic Development and Taxation

February 12, 2008
Room: 224

1:15 p.m.

The Office of Hawaiian Affairs supports the intent of SB 2198, which would provide an incentive tax credit for conservation and preservation lands.

OHA has substantive obligations to protect the cultural and natural resources of Hawai'i for its beneficiaries, the people of this land. The Hawaii Revised Statutes (HRS) mandate that OHA "[s]erve as the principal public agency in the State of Hawaii responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians; . . . and [t]o assess the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians." (HRS § 10-3)

Because of these mandates, we must examine all proposals with a view toward the best possible preservation and perpetuation of constitutionally and judicially protected Native Hawaiian rights and practices. On its face, this bill appears to provide for such interests by promoting preservation and conservation through providing tax incentives for private land donations.

We would prefer, however, if the bill included language that assured preservation of Native Hawaiian access, gathering and religious rights and practices within the donated lands that would qualify for the proposed tax exemption. Arguably, these rights run with undeveloped land, but for clarity purposes OHA would prefer language included in the statutory amendment.

We also have questions about the proposed Section 235 - ____ (c)(2), which states that the tax credit would apply to an eligible State taxpayer who "voluntarily invests in the management of land to protect or enhance a conservation or preservation purpose under a land protection agreement, conservation management agreement, or other legal instrument that is consistent with a conservation or preservation purpose." This subsection needs to be clarified so that

people do not profit or get subsidized for fulfilling management responsibilities that they already have and should be completing. What qualifies as investment and appropriate land management? Also, must this management investment be toward a conservation or preservation purpose that will run with the land in perpetuity, as in the case of a conservation easement, or could the management investment be a temporary one that may lead to development of the same parcel?

Thank you for the opportunity to testify and for considering our concerns.

Testimony of The Nature Conservancy of Hawai'i
Supporting S.B. 2198 Relating to Land Conservation
Senate Committee on Economic Development & Taxation
Tuesday, February 12, 2008, 1:15 PM, Room 224

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, Hawai'i, Moloka'i, Lāna'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 S.B. 2198 Relating to Land Conservation.

More than half the land in Hawai'i is in private ownership. 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 S.B. 2198 helps advance.

Like the Legacy Lands Act approved by the Legislature in 2005, S.B. 2198 can help provide opportunities and additional choices for land conservation in Hawai'i. A mix of existing government and private funding for conservation land purchases, as well tax incentives like those in S.B. 2198 can enable landowners a variety of options to suit their needs as well as help government to achieve a public benefit.

The tax incentives proposed in S.B. 2198 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 islands' treasured natural areas, agricultural lands, opens 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.

Some background questions and answers about the bill are attached.

Attachment

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Q&A Regarding Proposed Hawai'i State Conservation Tax Credit

Proposal

To enact legislation to provide State tax credits for landowners who donate a conservation easement and/or undertake conservation activities to protect habitat, agricultural lands and cultural resources.

1. What is a conservation easement?

A conservation easement is a legally binding agreement between a landowner and a nonprofit conservation organization or government agency that limits the uses to which the land may be put in order to protect important conservation, agricultural or cultural values.

Under a conservation easement, a landowner conveys some rights in his/her land while retaining other rights.

Conservation easements “run with the land” and bind future landowners to the terms of the easement.

2. Why provide tax benefits to landowners who donate conservation easements or otherwise manage their lands to promote conservation?

Landowners do not presently receive any benefits for the ecosystem services (*e.g.*, watersheds, carbon sequestration, open space) their lands provide, yet the public depends crucially upon the provision of these services.

To be attractive to landowners, conservation must be competitive with other existing or potential uses of the land – a goal that this proposal helps advance.

3. What federal tax benefits are currently available to landowners who donate conservation easements or take conservation action on their lands?

Landowners may receive a federal income tax deduction for all or a portion of the value of a donated easement. These easements must be perpetual to qualify for tax deductions.

The donor may apply the value of the conservation easement as a deduction up to 34% of their adjusted gross income and can carry the deduction forward up to 5 years.

Under the Pension Protection Act of 2006, the donor may apply the value of the conservation easement as a deduction up to 50% (100% for farmers) of their adjusted gross income and can carry the deduction forward up to 15 years. This Act expires 12/07, but may be extended.

Landowners may also receive federal tax credits for preservation of historic buildings

4. What other benefits are available to landowners who donate conservation easements or take conservation action on their lands?

Landowners who donate conservation easements can significantly lower their federal estate taxes, perhaps preventing their children from having to sell the land to pay the taxes.

Landowners with conservation easements may enjoy reduced property taxes for land under easement because of the reduced fair market value.

Landowners may also apply for a variety of federal and state grant programs to cost share land management and conservation projects on their land.

5. Do other states make tax credits available to landowners who donate conservation easements or take conservation action on their lands?

Twelve (12) states provide tax credits for landowners who donate conservation easements. Six other states are considering measures to establish conservation easement tax credits.

Each state determines how it will treat donations of conservation easements for income tax purposes. Most states limit the deduction to 25-50% of the value of the easement donation and place some sort of limit on the maximum amount of the credit. Several states also have per year and per landowner limits.

Fifteen (15) states provide tax credits for landowners who take action to preserve habitat or agricultural lands.

Twenty-nine (29) states provide tax credits for landowners who take action to protect historic or cultural resources.

6. How do state tax credits affect state budgets?

States have reported minimal reductions to state revenues in the first five years after adopting conservation easement tax credits. States with similar requirements to the proposed Hawai'i bill issued an average of 10 tax credits per year for the first five years after enactment reducing revenues by less than \$400,000 per year.

The availability of conservation tax credits motivated preservation of an average of 11,000 acres per year at an average cost of three percent of the value of the land protected.

7. Why propose enactment of state tax credit legislation in Hawai'i?

Hawai'i has a very rich natural, cultural, and agricultural heritage. More than 90% of the plants and animals found in Hawai'i are found nowhere else on earth.

This island archipelago is faced with enormous conservation challenges, including feral ungulates, invasive weeds, incompatible land use, and conversion of natural and agricultural areas.

More than half the land in the state is in private ownership. There is tremendous financial pressure to convert native forest, ranch and agricultural lands to uses (*e.g.*, urban development) that generate greater income to the landowner.

Enactment of state tax credit legislation in Hawai'i would provide choices for landowners. A mix of existing federal and proposed state tax credits may enable landowners to conserve their land rather than sell it for development.

State tax credits would be voluntary and reward landowners to contribute to conservation.

8. What are the key provisions of the proposed Hawaii State Tax Credit legislation?

The proposed bill provides a State tax credit for a landowner who donates a conservation easement or completes a bargain sale that fulfills a conservation purpose OR voluntarily invests in management of their land to protect or enhance a conservation purpose.

The landowner would receive a tax credit equal to 50% of the fair market value of the easement or 50% of the amount invested in conservation management of their land.

The amount of the conservation credit a taxpayer claims shall not exceed \$2,500,000 per donation regardless of the value of the land or donated interest in the land.

If the tax credit exceeds the taxpayer's income tax liability, the excess tax credit over liability may be used as a credit against tax liability in subsequent years until exhausted.

9. What are the strengths of the proposed Hawai'i State Tax Credit legislation?

The proposed bill is consistent with federal tax law and state tax law and policy.

The conservation goals of this legislation are to be achieved by cooperation among public entities, non-profit organizations and landowners, consistent with state statute and policy.

The proposed bill adopts federal Treasury Regulations to determine if conservation easement donations qualify for state tax credits, making implementation consistent on the state and federal levels.

10. What makes a successful state tax incentive program for conservation investment?

- Tax credits generous enough to motivate property owners to invest in conservation
- Pre-certification of conservation investment by an appropriate state agency as being significant or important to guard against abuse
- Simplicity of administration achieved by using established forms and criteria for land management agreements

- Inclusive investment requirements favoring both small projects by lower-income taxpayers and large projects by higher income taxpayers

11. What makes unsuccessful state tax incentive programs for conservation investment?

- Insignificant tax credits that do not motivate conservation investment

- Haphazard ad hoc administration of the program inviting abuse, including transferability of credits or retroactive application

- Under-inclusive or over-inclusive requirements for acreage or minimum investment

- Sunset clauses or linking tax credits to state budget surpluses



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**THE TRUST FOR PUBLIC LAND'S TESTIMONY IN SUPPORT
SB 2198**

**Senate Committee on Economic Development and Taxation
Tuesday, February 12, 2008, 1:15 p.m., Room 224
testimony@capitol.hawaii.gov**

Dear Chairperson Fukunaga and Vice Chair Espero:

The Trust for Public Land (TPL) supports SB 2198 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 Hawai'i, TPL has worked with public and private partners to leverage funding for the acquisition and conservation of over 36,000 acres of land in the State including Pūpūkea- Paumalū and Waimea Valley on O'ahu, Wao Keleo Puna on Hawai'i island, Mū'olea Point on Maui and Lumaha'i beach on Kaua'i.

As gentlemen estates and gated communities pop up along our shorelines, mountain and valley entryways and urban sprawl moves up the mountains our local community has become increasingly concerned about access to our shoreline, beaches, mountains and valleys for sustenance, physical, recreational and cultural activities. Further, the availability of and access to the beauty of our islands are a driving force in our economy.

TPL further supports the following recommendations:

- 1) DLNR's request that this committee consider public rights of access to beach and outdoor recreation areas as eligible conservation and preservation purposes, and;
- 2) The Department of Taxation's recommendation to use the county's assessed land value as the standard for determining the tax credit amount.

We urge you to support SB 2198.

Mahalo for the opportunity to testify,


Lea Hong
Hawaiian Islands Program Director

testimony

From: Stephanie Whalen [swhalen@harc-hspa.com]
Sent: Saturday, February 09, 2008 10:02 PM
To: testimony
Subject: sb2198

SB2198
Comte EDT
Feb 12, 2008
1:15pm
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February 11, 2008

Honorable Senator Carol Fukunaga, Chair
Honorable Senator Will Espero, Vice Chair
Members of the Senate Committee on Economic Development and Taxation
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: IN OPPOSITION OF SB2198
RELATING TO LAND CONSERVATION
Hearing: Tuesday, February 12, 2008, 1:15 p.m.

Dear Chair Fukunaga, Vice Chair Espero and the Senate Committee on Economic Development and Taxation:

For the Record my name is Buzz Hong the Executive Director for the Hawaii Building & Construction Trades Council, AFL-CIO. Our Council is comprised of 16-construction unions and a membership of 26,000 statewide.

The Council OPPOSES the passage of SB2198, which provides a tax credit to encourage the preservation and protection of conservation land in the State.

Thank you for the opportunity to submit this testimony in opposition of SB2198.

Sincerely,

William "Buzz" Hong
Executive Director

WBH/dg

L E G I S L A T I V E

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Land conservation incentives tax credit

BILL NUMBER: SB 2198

INTRODUCED BY: Hee and Hooser

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 sales that represent 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: 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

SB 2198 - Continued

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 2/11/08