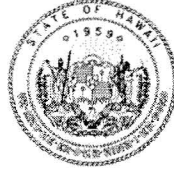


LINDA LINGLE
Governor



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

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 COMMITTEES ON
WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS
AND
AGRICULTURE**

**FRIDAY, MARCH 14, 2008
9:15 A.M.**

**SENATE BILL NO. 2646, S.D.2
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairpersons Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 2646, S.D.2. The Department of Agriculture supports this measure as the department has been a leading advocate for incentives that will promote the viability of agriculture. However, we have concerns about the possible adverse budgetary impact that this bill may have on the Executive Supplemental Budget request and defer to the Department of Budget and Finance and the Department of Taxation on the fiscal implications of this bill. We offer the following comments on Parts IV, V, and VI.

**Part IV
Residential Housing**

The Department prefers that agricultural housing on IAL occupy minimal space on the lands in order to optimize the production capacity of the lands. We recommend replacing the proposed section on IAL residential housing with more specific language that provides for clustering thereby minimizing the dwelling footprint.

Part V
IAL Tax Credit

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

We offer the following recommendations:

- This should be a refundable tax credit for the first three years only to encourage voluntary declaration of lands as important agricultural lands. Thereafter, any unused portion of the credit should be allowed to be carried forward in subsequent years until exhausted.
- 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 VI
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.~~



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
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MARK K. ANDERSON
DEPUTY DIRECTOR
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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 WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS**
AND
HOUSE COMMITTEE ON AGRICULTURE
Friday, March 14, 2008
9:15 AM
State Capitol, Conference Room 325

in consideration of
SB 2646, SD 2
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the House Committee on Water, Land, Ocean Resources, and Hawaiian Affairs and Agriculture.

The Office of Planning (OP) supports the intent of SB 2646, SD 2, and urges the Committees to pass this measure with amendments that: (1) provide uniform definitions for agricultural businesses across the various incentives; (2) address land use concerns related to the measure for agricultural housing on important agricultural land; and (3) links the county real property tax incentive to county agricultural dedication programs. OP defers to the Departments of Budget and Finance and Taxation on the technical aspects of the bill, and limits our testimony to the items noted above.

SB 2646, SD 2 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. The enactment of a set of agricultural incentives as set forth in this and other bills being considered this session is also critical to the initiation of processes for the designation of important agricultural lands statewide.

Amendments to Address Specific Concerns

1. **Uniform definitions.**

The incentives in Sections 2, 10, and 15-16 use different terms and definitions in defining agricultural business, agribusiness, etc. that will be eligible for these incentives. This variability in definition could unnecessarily complicate the use and administration of these incentives. OP recommends that a uniform set of definitions be used, which could either: (1) be included in a definitions section in one chapter and referenced by the respective sections; or (2) incorporated verbatim in each HRS section.

2. **Sections 8 and 10, Important agricultural land; agricultural housing.**

Section 8 of the bill would allow agricultural housing for farmers and agricultural employees on important agricultural land (IAL). OP is very concerned that the measure as written does not: (1) fully support the policy intent of limiting this use of IAL to bona fide agricultural housing; or (2) ensure that the area used for agricultural housing is minimized and does not fragment productive IAL. The following amendments would address these concerns.

a. **Page 12, line 21 – page 12, line 2, Clarify and strengthen the agricultural housing focus, as follows.**

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

b. **Page 13, line 18 – page 14, line 2, Limit the area developed for agricultural housing.** Allowing 20% of the IAL land to be used for housing is insupportable. This could remove substantial acreages of our

best agricultural land from agricultural use, and result in residential expansion that is inappropriate for rural areas. OP supports 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 recommend:

- 1) Limiting the total land area per dwelling to the minimum lot size allowed under the Department of Health's (DOH) individual or community wastewater system rules, with a maximum cap on the number of acres to be developed for agricultural housing; and
- 2) 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 rural areas.

c. Page 14, line 11, Include a requirement for lease provisions that ensures that agricultural housing will be maintained for agricultural purposes, as follows:

“(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 the agribusiness employer.”

d. Section 8, Important agricultural lands agricultural business tax credit, Paragraph (D), agricultural housing.

Section 8 of the bill establishes standards for agricultural housing on IAL in Chapter 205. Rather than define a separate set of standards for agricultural housing in the tax codes, it would be more appropriate and consistent to replace the language in paragraph D with a reference to the provision of agricultural housing as defined in Section 6 of the bill, as follows:

- 1) Page 21, line 20 - page 22, line 13. Replace this language with the following:

“(D) Agricultural housing as defined in section 205- of section 8 of this Act.”

3. Section 6, Cost containment for the real property tax tax credit.

We defer to the Department of Taxation on this section.

In closing, we note that SB 2646, SD 2, lacks the language in HB 2357, HD 1 that states that the bill establishes incentives in satisfaction of the requirements of Act 183, Session Laws of Hawaii 2005. We recommend this language be inserted in this bill.

Thank you for the opportunity to testify.

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON WATER, LAND, OCEAN RESOURCES &
HAWAIIAN AFFAIRS, AND AGRICULTURE
ON
SENATE BILL NO. 2646, S.D. 2

March 14, 2008

RELATING TO IMPORTANT AGRICULTURAL LANDS.

Senate Bill No. 2646, S.D. 2, 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 14 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.

Personal Testimony Presented before the
House Committee on Water, Land, Ocean Resources, and Hawaiian Affairs
House Committee on Agriculture
March 14, 2008
9:15 a.m.
by
Dr. Andrew G. Hashimoto

SB 2646, SD2: Relating to Important Agricultural Lands

Chair Ito, Chair Tsuji, and Members of the Committees:

My name is Andrew Hashimoto, and I serve as Dean of the UH Mānoa College of Tropical Agriculture and Human Resources (CTAHR). I am pleased to provide personal testimony on Senate Bill 2646, SD2, which provides tax incentives and establishes rules that protect and sustain viable agricultural operations on important agricultural lands. This testimony is presented from the perspective of the dean of CTAHR and someone who has participated in the Important Agricultural Lands discussions for the past five years. It does not represent the position of the University of Hawai'i.

I support SB 2646, SD2.

In 1978, the Hawaii State Constitution was revised to add Article XI, Section 3, which mandates: "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands." Act 183, Session Laws of Hawai'i 2005 established standards, criteria, and mechanisms to identify important agricultural lands and implement the intent and purpose of article XI, section 3, of the Hawaii State Constitution.

SB 2646, SD2 represents another step toward securing the future of agriculture in Hawai'i. The incentives and protections provided by SB 2646, SD2 reflect years of discussion and study in which diverse groups have come together with the common goal of conserving important agricultural lands and ensuring a vital, sustainable agricultural industry in the state. SB 2646, SD2 will create value and stability for landowners and agribusinesses and will promote the establishment and long-term survival of agricultural ventures on important agricultural lands.

Thank you for the opportunity to testify on this bill.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

March 14, 2008

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

The Honorable Cliff Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Ito, Tsuji and Members:

**Subject: SENATE BILL 2646 SD2
Relating to Important Agricultural Lands**

The Department of Planning and Permitting **opposes certain provisions** of Senate Bill 2646 SD2. This bill would adopt economic and other incentives for Important Agricultural Lands (IAL).

We agree that more incentives are needed to bolster agri-business. We also support the preservation of Important Agricultural Lands (IAL) and recognize the need to allow for farm-related housing. However, we cannot support the provisions of Senate Bill 2646 SD2 as they relate to farm dwellings and expedited processing for certain projects on IAL.

Section 8 of the bill imposes more caveats on farm dwellings, distinguishing farmers' dwellings from employee dwellings. The bill deems important to define where immediate family members may live – in separate dwellings or not. We question whether this issue is a compelling state interest under Chapter 205. Although we support a better definition of farm dwelling, we believe the provisions in this section are far too detailed for statewide application, and should be an issue better addressed by county zoning and other regulatory codes.

We do not outright object to the proposed twenty percent limit on each IAL property that can be used for dwelling purposes. However, we note that the cumulative effective of many lots using this option, may transform an agricultural area into one that resembles a de facto residential neighborhood. Further, this provision would not control the dwellings from being sold as condominiums.

We also note that there is a proposed subsection (5) that would not allow a residential subdivision on IAL land. Please note 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 would not process a subdivision request for strictly residential use.

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
Re: Senate Bill 2646 SD2
March 14, 2008
Page 2

Lastly, we are concerned about Part VII of the bill that 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 land use commission boundary amendments, special permits, special management area use permits, and shoreline setback variances. We assume that these sections do not affect "201H" affordable housing requests that have a relationship with agriculture, or Chapter 343 environmental documents.

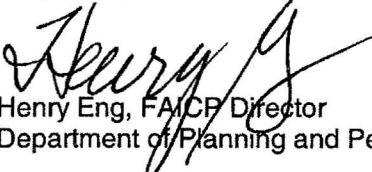
We reiterate our support for the protection of IAL lands and the need for new incentives to keep these lands in active agricultural use, but we object to singling out a use for expedited processing. Note that when one project is given priority it means placing that application ahead of all others, which means adding further delays to their permit processing.

Your Committees should 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 projects, uses or facilities are 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 prepared to participate in such a discussion.

As an alternative, the legislature could fund the Third Party Review program for agricultural processing facilities. Qualified private companies would be hired to review the building permit plans and certify to the city that the plans meet city requirements; on this basis the city issues the permits. Perhaps the State Department of Agriculture could distribute the funds to owners of processing facilities who would use the funds to hire a qualified company. By using the Third Party option, projects are not part of the queue line for city review, and other applications are not impacted, but the processing time is faster.

Please amend this measure to address the concerns expressed in our testimony. Thank you for this opportunity to comment.

Very truly yours,



Henry Eng, FAICP Director
Department of Planning and Permitting

HE: jmf
sb2646sd2-kh.doc



Maui County Farm Bureau

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

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS
AND
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON
SB 2646, SD 2
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Ito, Chair Tsuji 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 SB2646 SD@**, an IAL Omnibus Bill providing incentives to begin the IAL process, **with amendments**.

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.

The cost associated with the tax incentives with questions about the level at which a cap should be placed has been raised. The Hawaii Department of Agriculture estimates the ANNUAL cost to control the little fire ant to be in the neighborhood of \$210 million. The estimated revenue loss due to the tax

incentives is not even half of the amount. Instituting the IAL program and encouraging locally grown high risk crops will reduce our risk of introduction of these invasive species. These initiatives should not only be looked at as an investment towards Hawaii's sustainability and increased self sufficiency but also as a cost containment measure.

Throughout the process, water has been a much debated issue. As farmers and ranchers it is very obvious that lands without access to affordable and reliable water supplies cannot support viable farming and ranching operations. The amendment proposed by HFBF addresses this issue. Uncompensated or expenditures, farmers sitting in courtrooms instead of working in fields, defending water do not grow crops or livestock ...in fact it will result in failure of the operations. If such actions requiring a defense of agricultural access to water does not occur, this tax credit will not be used.

We respectfully request that this **Bill be passed with the suggested HFBF amendments, and restoration of the proposed level of tax credits** so landowners will designate their lands as Important Agricultural Lands as soon as possible. We support all amendments proposed by HFBF. Time is of the urgency. We cannot lose any more farmers or ranchers.

**HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819**

MARCH 14, 2008

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS
AND
HOUSE COMMITTEE ON AGRICULTURE

**TESTIMONY ON
SB 2646, SD 2
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chair Ito and Chair Tsuji 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 SB 2646, SD 2, with amendments, 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.

We are working with LURF and it's members as well as respective state agencies to further discuss this measure. We continue to believe that some assurance of water for IAL is critical.

We would like to add on page 22, Section 10, another subparagraph (4) to read:

- (4) Regulatory processing, studies, legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands.**

This qualified cost will provide the needed assurance for the possibility of incurred costs.

We would also like to request reinserting language in HB 2357, HD 1 (companion) which amends agricultural water use and development plan for agricultural use.

We respectfully request your support and passage of SB 2646. Thank you.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, Exclusion for rental income, credit for real property taxes paid, and business tax credit on important agricultural lands

BILL NUMBER: SB 2646, SD-2

INTRODUCED BY: Senate Committees on Economic Development and Taxation and Ways and Means

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 income and general excise taxes. 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 taxes beginning with the 2010 regular session.

Adds a new section to HRS chapter 235 to allow taxpayers to claim a refundable important agricultural lands real property tax credit equal to ___% of the county real property taxes paid by the taxpayer during the taxable year in which the real property tax was assessed on lands identified and designated as important agricultural lands pursuant to part III, of HRS chapter 205. Stipulates that the tax credit shall be allowed only for the entity incurring the actual cost of the real property tax. If the real property tax is part of the lease rent and not specified in the lease agreement, the lessor shall provide the lessee with the amount of the real property tax included as part of the lease rent upon request.

Requires taxpayers claiming the credit to provide information to annually permit the department of agriculture to make a quantitative and qualitative assessment of the impact of the tax credit and make such assessment public.

Directs the department of agriculture to determine on an annual basis if the important land subject to the

credit is in productive agricultural use based on a ten-year farm plan submitted to and approved by the department. The credit shall be applicable to tax years beginning after December 31, 2008 and shall not be available for tax years beginning after December 31, 2028.

Appropriates an unspecified amount of general funds for fiscal 2009 to permit the department of agriculture to collect and analyze data to make an aggregate quantitative and qualitative assessment of the impact of the important agricultural lands tax credit.

Adds a new section to HRS chapter 235 to allow taxpayers to claim a refundable important agricultural lands 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. Also 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 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 lands agricultural business 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 lands agricultural business tax credit.

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

Repeals this act on June 30, 2060 and provides that HRS section 237-24.75 shall be reenacted in the form in which it read on the day before the effective date of this act.

EFFECTIVE DATE: July 1, 2050; applicable to tax years beginning after December 31, 2050

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 the amount of real property taxes paid on such lands and an important agricultural lands agricultural tax credit for qualified agricultural costs.

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 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.

Rather than merely handing 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 full subsidy of those costs albeit over five years 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. In SD-2, it appears the intent is to set a ten year life span for the incentives albeit with defective effective dates.

While this draft of the measure deletes the specific percentage of the amount of the real property tax credit, the prior draft of this measure provided for the tax credit equal to 100% of the county real property taxes paid by the taxpayer on lands identified and designated as important agricultural lands. This provision invites the counties to impose the highest rates they can as this tax credit amounts to nothing more than a grant-in-aid to the counties in the form of the tax credit that reimburses the agricultural landowner for amounts paid to the county as real property taxes.

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

Finally it should be reiterated that the designation of important agricultural lands comes at the choice of the land owner who is rewarded with the proposed tax incentives. Large landowners probably will be less likely to designate their lands as important agricultural lands if there is a higher and better use for those lands while owners of smaller parcels which may not have the financial wherewithal to pursue other uses might take advantage of the tax incentives. But what will emerge is a patchwork of parcels designated as important agricultural lands with no rhyme or reason and more than likely not contiguous. This is not good nor rational land use planning.

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March 13, 2008

The Honorable Ken Ito, Chair

House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair

House Committee on Agriculture
State Capitol, Room 325
Honolulu, Hawaii 96813

**RE: S.B. 2646, SD2 Relating to Important Agricultural Lands
Hearing Date: Friday, March 14, 2008 @ 9:15 a.m., Room 325**

Dear Chairs Ito and Tsuji and Members of the Joint House Committees on Water,
Land, Ocean Resources & Hawaiian Affairs and Agriculture:

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS®
(HAR) **supports the intent** of S.B. 2646, SD1.

S.B. 2646, SD2 provides mechanisms for incentives for the preservation of important
agricultural lands (IAL) and the long term expansion of agriculture in Hawaii. The
preservation of IALs and long-term agricultural productivity in Hawaii is best assured
through meaningful incentives for the designation of IALs.

Mahalo for the opportunity to testify

Castle & Cooke
Hawai'i



100 Kahelu Avenue
Mililani, Hawaii 96789-3997
P.O. Box 898900
Mililani, Hawaii 96789-8900
(808) 548-4811 Fax (808) 548-6670

March 14, 2008

Honorable Ken Ito, Chair, Water, Land, Ocean Resources & Hawaiian Affairs
Honorable Clift Tsuji, Chair, Committee on Agriculture
Hawai'i State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

RE: SB 2646, SD2 - Relating to Important Agricultural Lands – Support with Changes
Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture
March 14, 2008, 9:15 a.m., Conference Room 325

Aloha Chairs Ito and Tsuji and Members of the Committees:

I am Harry Saunders, President of Castle & Cooke Hawai'i. We appreciate the opportunity to testify on SB 2646, SD2, which would provide incentives to landowners who designate their land as important agricultural lands.

The intent of Act 183 (2005) "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 that designate their lands as important agricultural lands. These incentives would be designed to promote the retention of important agricultural lands for viable agricultural use over the long term."

We support the farm operator incentives as contained in SB 2646, SD2 and landowner incentives proposed in HB 2807, HD2 and respectfully request that the dialog continue to further refine and create a comprehensive incentive package. For these reasons, we ask your Committees to consider further refining to SB 2646, SD2.

We strongly feel that a comprehensive incentive program for both farmers and landowners is essential to move IAL forward. And, we respectfully point out that LAND is the key component to this issue and its use and benefit to address farmers and landowners must be considered.

Mahalo for your interest in hearing our position. Should you have any questions, feel free to contact Carleton Ching, Vice President of Government and Community Relations, at 548-3793, or Mark Takemoto, Natural Resources Administrator at 548-6656.

Sincerely,
Harry A. Saunders
President

**SB 2646 SD2
RELATING TO IMPORTANT AGRICULTURAL LANDS**

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

MARCH 14, 2008

Chair Ito, Chair Tsuji, and Members of the House Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture:

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 SB 2646 SD2, "A BILL FOR AN ACT RELATING TO IMPORTANT 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.

Real Property Tax Credit

This bill also authorizes a tax credit for real property taxes paid on IAL. It is anticipated that this provision should encourage land owners to designate their lands as IAL and subsequently result in a reduction in land rents for IAL parcels that are leased to a farming operation. We believe that this provision should also assist in maintaining long term 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.

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.



Food Company Hawaii

1116 Whitmore Avenue Wahiawa, Hawaii 96786

March 14, 2008

Honorable Ken Ito, Chair, Water, Land, Ocean Resources & Hawaiian Affairs
Honorable Clift Tsuji, Chair, Committee on Agriculture
Hawai`i State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

**RE: SB 2646, SD2 Relating to Important Agricultural Lands – SUPPORT
Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture
March 14, 2008, 9:15 a.m., Conference Room 325**

Aloha Chairs Ito and Tsuji and Members of the Committees:

I am Dan Nellis, Operations Director of Dole Food Company Hawaii (“Dole”). Thank you for the opportunity to share our views on SB 2646, SD 2, Relating to Important Agricultural Lands.

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. But it is imperative that such a comprehensive package include meaningful and adequate options for all landowners in different situations, not just independent farmers and small landowners.

Among other things, this bill provides:

1. Excludes collection of income tax on IAL lease income;
2. Excludes general excise tax on IAL lease income;
3. Provides a state tax credit for county real property tax;
4. Allows farm worker housing for farmers, employees, and their families on IALs;
5. Establishes an IAL Qualified Agricultural Cost Tax Credit;
6. Allows a loan guarantee program for IALs; and
7. Requires priority permitting for agricultural processing facilities.

We support these and other incentives proposed in HB 2807, HD2 that allow for concurrent designation of IAL and the reclassification of agricultural lands to Rural or Urban District so long as the reclassification is consistent with the relevant county general plan.

As you consider IAL legislation, please remember that it is important that any IAL package include a sufficient variety of incentives such that there is attraction for voluntary designation in a multitude of scenarios. The intent of the IAL was to set policies for and to establish the framework for identifying important agricultural lands; however, it should also provide for the development of true incentives for agricultural viability in Hawai'i.

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

Sincerely,

Dan Nellis
Operations Manager, Dole Food Company Hawaii



MAUI LAND & PINEAPPLE COMPANY, INC.

March 12, 2008

The Honorable Representative Ken Ito, Chair
The Honorable Representative Riki Karamatsu, Vice Chair
Committee on Water, Land, Ocean Resources & Hawaiian Affairs
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

The Honorable Representative Clift Tsuji, Chair
The Honorable Representative Tom Brower, Vice Chair
Committee on Agriculture
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Subject: SB 2646, SD2 (SSCR2789) – Relating to Important Agricultural Lands

Dear Honorable Chair Ito, Honorable Vice Chair Karamatsu, Honorable Chair Tsuji,
Honorable Vice Chair Brower and Committee Members:

Maui Land & Pineapple Company, Inc. (“ML&P”) supports SB 2646, SD2 (SSCR2789) –
Relating to Important Agricultural Lands.

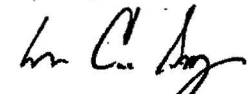
The subject legislation provides incentives that landowners with lands designated as Important Agricultural Lands will be able to benefit from. ML&P has consistently taken the position that the designation of agricultural lands as Important Agricultural Lands without further assistance being provided to the landowners and farmers will not insure that a viable agricultural activity will occur on the lands. In order for viable agricultural activity to occur on the Important Agricultural Lands, a comprehensive program of incentives is necessary. The incentives being provided by the subject legislation will provide some of the needed incentives.

Maui Land & Pineapple Company, Inc. respectfully requests your support of the subject legislation.

The Honorable Representative Ken Ito, Chair
The Honorable Representative Riki Karamatsu, Vice Chair
The Honorable Representative Clift Tsuji, Chair
The Honorable Representative Tom Brower, Vice Chair
March 13, 2008
Page - 2 -

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

Mahalo,



Warren A. Suzuki
Senior Vice President



HAWAII LEEWARD PLANNING CONFERENCE

P.O. BOX 2159 • KAMUELA, HAWAII 96743-2159

In Consideration of
Senate Bill No. 2646, SD1
Relating to Agricultural Lands

Friday, 14 March 2008
9:15 a.m. - Conference Room 325
House Committee on Water, Land, Ocean Resources & Hawaiian Affairs
House Committee on Agriculture

The Honorable Representative Ken Ito, Chair - WLH
The Honorable Representative Clift Tsuji, Chair - AGR
The Honorable Representative Jon Riki Karamatsu, Vice-Chair - WLH
The Honorable Representative Tom Brower, Vice-Chair - AGR
and Honorable Members of the Committees on WLH and AGR
State Capitol, Honolulu, Hawaii 96813

Chairs Ito and Tsuji, Vice-Chairs Karamatsu and Brower, and Members:

I am Jacqui Hoover, President of the Hawaii Leeward Planning Conference (HLPC), a member-based organization incorporated in 1974 whose seventy-five plus members are committed to sound planning, wise use of our resources, and effective government process.

HLPC supports the intent of SB 2646, SD1 which "Provides incentives and protections to establish and sustain viable agricultural operations on important agricultural lands" which is consistent with the intent of Act 183 (2005) which was intended to "set policies for and to establish the framework for identifying important agricultural lands".

It is imperative that LAND be recognized first and foremost as the key component to agricultural viability. Incentives and protections that benefit both farmers and ranchers, as well as, land owners must be identified and implemented.

HLPC also requests that thoughtful consideration be given to providing as a matter of law, a land owner's fundamental right to build a single family residence on any buildable parcel of land regardless of State or County Land Use classification or the level of agricultural income derived, if any. HLPC expects that the more restrictive State Conservation District subzones would be excluded. Such provisions would clarify and protect basic property rights on over 100,000 parcels in the State Agricultural District, many of which were created, purchased by, or bequeathed to their current owners with the specific intent of being a buildable, usable house site.

Thank you for this opportunity to express our views on this matter.

Respectfully submitted,

Jacqui L. Hoover, President
Hawaii Leeward Planning Conference

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From: Chuck Prentiss [mailto:prentissc001@hawaii.rr.com]
Sent: Wednesday, March 12, 2008 11:28 PM
To: WLHtestimony
Subject: Testimony

Chair Jill Tokuda, WLH
Hearing on SB2646 SD2
March 14, 9:15 AM Room 325
Testimony in opposition
Charles A. Prentiss, President
Hawaii's Thousand Friends

The problem with SB2646 SD2 is that HRS 205-49 in para (3) only allows the Land Use Commission to designate half ("a majority of") of an owners' important ag land unless the owner requests more (pursuant to 205-45). This can leave almost half of important ag land subject to redesignation to other uses. That is what is unacceptable, and I think not consistent with the constitutional requirement. This problem needs to be corrected before any incentives measure is adopted.