LAND USE RESEARCH
FOUNDATION OF HAWAII

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March 28, 2012

Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means

Support of HB 2668, H.D. 2, S.D. 1, Relating to Agriculture. (Amends the important agricultural lands tax credit to allow an additional fifteen percent credit for drought mitigation; changes the tax credit cap; creates livestock feed tax credit for 2012; and creates livestock feed development tax credit program.)

Thursday, March 28, 2012, 9:00 a.m., in Conference Room 211

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to express its **support of HB 2668, H.D. 2, S.D. 1,** and of the various agricultural stakeholder groups who defend the goals of viable agricultural operations, and the conservation and protection of agriculture, including important agricultural lands (IAL) in Hawaii. The bill emphasizes the need for collaboration amongst diverse sectors of the community - business, government, and agricultural stakeholders - and the importance for them to work together cooperatively to implement IAL incentives in order to attain results which may prove beneficial and significant to all parties.

In strong support of the use of agricultural lands for purposes allowed under state and county laws and ordinances, LURF has partnered with the Hawaii Farm Bureau Federation (HFBF) and other agricultural stakeholders to pass the IAL legislation, which provides for the voluntary and government designation of IAL, loans for qualified agricultural expenses and other incentives to support productive and sustainable farming operations on agricultural lands. LURF and HFBF have also supported legislation to provide irrigation water and other incentives to agricultural lands and farmers.

HB 2668, H.D. 2, S.D. 1. The bill proposes to amend the IAL tax credit to reduce the aggregate annual agricultural cost tax credit cap, however, the measure also proposes to 1) allow an additional fifteen percent refundable tax credit for drought mitigation from January 1, 2012 to December 31, 2020; 2) create a livestock feed tax credit for 2012; and 3) create a livestock feed development tax credit program from January 1, 2013 to December 31, 2014.

<u>LURF's Position</u>. The purpose of this bill is consistent with the underlying intent and objectives of the IAL laws (Hawaii Revised Statutes [HRS], Sections 205-41 to 52), which were enacted to fulfill the mandate in Article XI, Section 3, of the Hawaii State Constitution, "to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." The IAL laws established a new paradigm which avoids requirements and mandates, and instead focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, and to build necessary infrastructure. This bill is thus an effort to expand the existing IAL program by establishing additional incentives for landowners to preserve and maintain IAL.

As noted in HRS Section 205-41, the intent of Act 183 (2005) was to develop agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use in Hawaii concurrently with the process of identifying important agricultural lands as required under the Act. Such incentives and programs are identified in HRS 205-41, and include tax credits and/or exemptions that promote investment in agricultural businesses or value-added agricultural development, specifically escalating tax credits based on the tax revenues generated by increased investment or agricultural activities conducted on IAL.

LURF appreciates the underlying intent of HB 2668, H.D. 2, S.D. 1, which is to support agriculture and aid agriculture-related businesses, and believes that the bill is consistent with the purpose and intent of the IAL laws. Passage of the long-awaited IAL legislation would be meaningless without implementation of these incentives which require the cooperation and support of the business and economic community. The establishment of tax incentives for those engaged, or desirous of engaging, in agricultural activities are critically needed to support viable agricultural activity in this State. It is therefore hoped and anticipated that efforts will be made and all appropriate legislative measures be taken to fully effectuate the intent and objectives of the IAL laws.

Thank you for the opportunity to present testimony regarding this matter, in support of this bill.

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To: The Honorable David Y. Ige, Chair
and members of the Senate Committee on Ways and Means

Date: Thursday, March 29, 2012
Time: 9:00 A.M.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2668 H.D. 2 SD 1, Relating to Agriculture

The Department of Taxation (Department) appreciates the intent of H. B. 2668 H.D. 1 and provides the following information and comments on for your consideration.

This measure creates an additional tax credit for drought mitigation, and changes the aggregate tax credit cap for the 2012 tax year and subsequent years. It also creates a livestock feed tax credit for 2012 and a feed development tax credit for tax years 2013 to 2014.

<u>Livestock feed tax credit:</u>

While the Department recognizes the desire to control the amount of tax credit available by instituting a cap on the total amount of tax credit available, the Department notes that aggregate caps are difficult to administer and can result in uncertainty for taxpayers.

The Department also notes that the Department cannot make any tax return information, and related attached documents, available for public inspection and dissemination as indicated in subsection (e).

<u>Important agricultural lands tax credit</u>:

The proposed amendments to Section 235-110.93, need further clarification in order for the Department to administer the tax credit. Based on our understanding of the original legislative intent, the Department proposes the following changes to address the confusion:

> **"[[]§235-110.93[]] Important agricultural land qualified agricultural cost tax credit.** (a) There shall be allowed to each taxpayer an important agricultural land qualified agricultural cost tax credit that may be claimed in taxable years beginning after the taxable year during which the tax credit under section 235-110.46 is repealed, exhausted, or expired. The credit shall be deductible from the

taxpayer's net income tax liability, if any, imposed by this chapter for the

taxable year in which the credit is properly claimed. [The] For qualified agricultural costs incurred after July 1, 2008, the tax credit amount shall be determined as follows:

(1) In the first year in which the credit is claimed, the tax credit shall equal the lesser of twenty-five per cent of [the lesser of the following:

(A) The] the aggregate qualified agricultural costs incurred by the taxpayer [after July 1, 2008;] or

[(B)] $625,000;

(2) In the second year in which the credit is claimed, the tax credit shall equal the lesser of fifteen per cent of [the lesser of the following:

(A) The] the aggregate qualified agricultural costs incurred by the taxpayer [after July 1, 2008;] or

[(B)] $250,000; and

(3) In the third year in which the credit is claimed, the tax credit shall equal the lesser of ten per cent of [the lesser of the following:

(A) The] the aggregate qualified agricultural costs incurred by the taxpayer [after July 1, 2008;] or

[(B)] $125,000.

The taxpayer may incur qualified agricultural costs during a taxable year in anticipation of claiming the credit in future taxable years during which the credit is available. The taxpayer may claim the credit in any taxable year after the taxable year during which the taxpayer incurred the qualified agricultural costs upon which the credit is claimed. The taxpayer also may claim the credit in consecutive [or inconsecutive] taxable years until exhausted.

Further, the Department notes that deletion of the provision in subsection (e) which requires tax credits under this section to be claimed within twelve months of the taxable year for which the credit is claimed, read in combination with the language in subsection (a) allowing this tax credit to be claimed "in any taxable year" after the costs were incurred and in "consecutive or inconsecutive tax years until exhausted," allows taxpayers to claim this tax credit at any time at all, without limitation. These provisions are inconsistent with how tax credits are claimed in general, and are therefore problematic for the Department to administer. The Department recommends that this language be adjusted such that the tax credit is applied year-by-year.

Thank you for the opportunity to provide comments.

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March 28, 2012

HEARING BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON HB 2668, HD2, SD1
RELATING TO AGRICULTURE

Room 211
9:00 AM

Chair Ige, Vice Chair Kidani, and Members of the Committee:

I am Mae Nakahata, representing the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

Hawaii Farm Bureau Federation is in **strong support** of HB 2668, HD2, SD1, expanding the use of the refundable tax credits for drought mitigation and livestock assistance.

This measure addresses two of the main areas of concern related to agriculture in Hawaii.

Affordable feed has been a major challenge for the livestock industry and has resulted in the loss of major dairies across the state. Ranches suffer during the summer as forage decrease and their livestock continue to need feed. Poultry farmers are totally dependent on imported feed and are at the mercy of grain prices. We therefore strongly support the use of tax credits to assist in this area. Providing credits to develop local feedstock is important to reduce our dependence on imports.

Weather predictions indicate increased longer periods of drought in Hawaii. Further incentivizing private investments in drought mitigation for IAL lands is critical. We strongly support this measure.

Thank you for this opportunity to comment on this critical bill and we respectfully request your strong support in passage.