

**SB 354**

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT**

**FEBRUARY 3, 2017  
1:15 P.M.  
CONFERENCE ROOM 224**

**SENATE BILL NO. 354  
RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 354 This measure requests the Legislature to establish a 13-member task force to create a definition for the term “bona fide agricultural producer” to be used across State government, or create different definitions to be applied for different uses. A report to the 2018 Legislature is required. There is an appropriation to carry out the task. The Department of Agriculture supports the intent of this measure provided it does not affect the department’s priorities listed in the Executive Budget and offers the following comments.

The goal of the task force is to develop a single or multiple definitions to describe all “bona fide agricultural producers”. We anticipate that creating a single or multiple definitions with the intent of supplementing or replacing definitions in existing law will likely require substantial amendments to the Hawaii Revised Statutes.

Also, creating a single definition of “bona fide agricultural producer” will likely require the development of standards and criteria to define what constitutes a qualifying level of performance or achievement for each category of agricultural producer. We believe a single definition may need to be broad so as not to inadvertently exclude

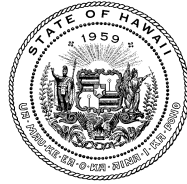


farmers that are part-time, full-time, existing, new, recovering from natural/other disasters, corporate, partnership, sole-proprietor, value-added, aquaculture, personal/subsistence, crop, livestock, forestry, apiary, floriculture, nursery, research, and so forth. If gross income from sales of agricultural products is used in the definition of “bona fide agricultural producer” the same situation arises as every agricultural activity such as truck crop farming, aquaculture, shade house nursery, and livestock grazing has very different gross incomes per acre. Further, the task force needs to be mindful that if it is intended that the counties are also required to use the definition or definitions in their respective zoning ordinances, they may balk at complex and multiple definitions.

Thank you for the opportunity to present our testimony.

DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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HONOLULU, HAWAII 96809  
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MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

To: The Honorable Mike Gabbard, Chair  
and Members of the Senate Committee on Agriculture and Environment

Date: Friday, February 3, 2017  
Time: 1:15 P.M.  
Place: Conference Room 224, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 354, Relating to Agriculture

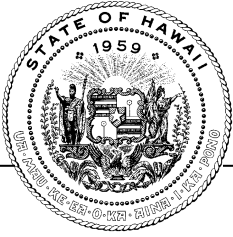
The Department of Taxation (Department) appreciates the intent of S.B. 354 and provides the following comments for your consideration.

S.B. 354 creates a temporary task force within the Department of Agriculture for the purpose of creating a definition for the term "bona fide agricultural producer," to be used across state government. The Department is included as a member of the temporary task force. The measure is effective July 1, 2017.

The Department notes that section 237-5, Hawaii Revised statutes, defines "producers" as:

Any person engaged in the business of raising and producing agricultural products in their natural state, or in producing natural resource products, or engaged in the business of fishing or aquaculture, for sale, or for shipment or transportation out of the State, of the agricultural or aquaculture products in their natural or processed state, or butchered and dressed, or the natural resource products, or fish. As used in this section "agricultural products" include floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, animal, and any other farm, agronomic, or plantation products.

The Department is willing and able to participate in this temporary task force. Thank you for the opportunity to provide comments.



**OFFICE OF PLANNING  
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**DAVID Y. IGE**  
GOVERNOR

**LEO R. ASUNCION**  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT**  
Friday, February 3, 2017  
1:15 PM  
State Capitol, Conference Room 224  
  
in consideration of  
**SB 354**  
**RELATING TO AGRICULTURE.**

Chair Gabbard, Vice Chair Riviere, and Members of the Senate Committee on Agriculture and Environment.

The Office of Planning (OP) supports SB 354, and offers these comments. SB 354 would establish a temporary task force to define “bona fide agricultural producer” to ensure that government policies and programs enacted to assist and support the agricultural sector of Hawaii’s economy are implemented effectively.

The development of a definition for a bona fide farming operation has value not only to those programs that offer financial and technical assistance, tax benefits, or favorable rates for bona fide farmers, but also for the regulation of land uses in the State Agricultural District.

Statewide, the counties face enormous challenges in managing the encroachment of non-agricultural uses in the State Agricultural District, which was established to protect and conserve agricultural land for agricultural uses. Permissible uses in the State Agricultural District generally must be associated with a legitimate farming operation to limit the intrusion of higher-valued non-agricultural uses on agricultural land.

OP and staff from the Department of Agriculture, county planning departments, and State Land Use Commission have discussed over the years the need to better define a farming operation, as used in the State Land Use Law, Hawaii Revised Statutes Chapter 205. OP believes the counties’ difficulties would be eased considerably by a standard definition for a bona fide agricultural producer, which could provide the counties with clear standards for applicants seeking permits in the State Agricultural District.

Thank you for the opportunity to testify on this measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 8:38 AM  
**To:** AEN Testimony  
**Cc:** warrenmcfb@gmail.com  
**Subject:** \*Submitted testimony for SB354 on Feb 3, 2017 13:15PM\*

**SB354**

Submitted on: 2/2/2017

Testimony for AEN on Feb 3, 2017 13:15PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Warren Watanabe	Maui County Farm Bureau	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**Hawaii Cattlemen's Council, Inc.**

**COMMITTEE ON AGRICULTURE AND ENVIRONMENT**  
**Senator Mike Gabbard, Chair | Senator Gil Riviere, Vice Chair**

DATE: Friday, February 3, 2017  
TIME: 1:15 p.m.  
PLACE: Conference Room 224

**SB 354 – RELATING TO AGRICULTURE**

Establishes a temporary task force for the purpose of creating a single definition of "bona fide agricultural producer" to be used across state government or creating different definitions to be applied for different uses. Requires a report to the legislature. Makes an appropriation.

Chair Gabbard, Vice Chair Riviere, and Members of the Committee:

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 150+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council supports SB 354 as this is needed in helping state and county tax officials more clearly define those engaged in legitimate agricultural activities, as well as providing a framework for qualification in other State programs.

The ability to discern those in active agricultural pursuits will go a long way in clarifying bona fide agricultural producers from gentlemen farmers and providing qualifying criteria for future state initiatives and subsidies.

We appreciate that the committee would include agricultural community members within its' representation. The inclusion of primary stakeholders is critical to the success of the potential committee. The Hawaii Cattlemen's Council respectfully asks to be added as an agricultural industry member of that committee.

Please excuse our lack of physical presence as our industry's national convention is being held on the mainland during the time of this hearing. We thank you for your understanding and for giving us the opportunity to testify on this important matter.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, January 30, 2017 1:10 PM  
**To:** AEN Testimony  
**Cc:** alan@prloffice.com  
**Subject:** Submitted testimony for SB354 on Feb 3, 2017 13:15PM

**SB354**

Submitted on: 1/30/2017

Testimony for AEN on Feb 3, 2017 13:15PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Alan Gottlieb	Ponoholo Ranch	Support	No

Comments: This effort is badly needed to help differentiate Bona-fide commercial agricultural producers from fake farmers and backyard hobbyists who take advantage of tax breaks meant to help commercial farmers. I could also go a long way in helping frame the discussion around subdividing land for fake farmers. If there was a good definition of an bona-fide ag producer, subdivision laws could be modeled to allow subdivisions for bona-fide farming operations, but not for fake farms or backyardegens. We suggest that the language be changed from: b) Members of the task force shall include five representatives of farmers and ranchers, with at least one from each county, to be selected by the chairperson of the board of agriculture, and one designee of each of the following... to b) Members of the task force shall include five representatives of Commercial farmers and ranchers, with at least one from each county, to be selected by the chairperson of the board of agriculture, and one commercial Farmer or Rancher designee of each of the following.....

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 2, 2017 12:43 AM  
**To:** AEN Testimony  
**Cc:** mnakahata@gmail.com  
**Subject:** \*Submitted testimony for SB354 on Feb 3, 2017 13:15PM\*

**SB354**

Submitted on: 2/2/2017

Testimony for AEN on Feb 3, 2017 13:15PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mae Nakahata	Individual	Support	No

Comments:

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