

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
WATER AND LAND**

**Monday, February 8, 2016  
9:00 AM  
State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 2029  
RELATING TO WATER INFRASTRUCTURE LOANS**

House Bill 2029 proposes to amend Chapter 174C, Hawaii Revised Statutes (HRS), by adding a new part to establish a water infrastructure loan program. **The Department of Land and Natural Resources (Department) acknowledges the intent of House Bill 2029 but opposes this measure and respectfully suggests alternatives to meet the intent of the bill.**

While the Department recognizes the need for water infrastructure improvements, the Department opposes the proposed amendments to Chapter 174C, HRS, because it is not the role of the Department's Commission on Water Resource Management (Commission) to provide maintenance, or project development support or assistance for water supply infrastructure. Under the State Water Code, the Commission is a trustee of the water resources for the State. The role of the Commission is to balance maximum beneficial uses with protection of the water resources of the State by setting policy and establishing programs and plans for this purpose. The State Water Code declaration of policy §174C-2, HRS, states:

*The state water code shall be liberally interpreted to obtain maximum beneficial use of the waters of the State for purposes such as domestic uses, aquaculture uses, irrigation and other agricultural uses, power development, and commercial and industrial uses. However, adequate provision shall be made for the protection of traditional and customary Hawaiian rights, the protection and procreation of fish and wildlife, the maintenance of proper ecological balance and scenic beauty, and the preservation and enhancement of waters of the State for municipal uses, public recreation, public water supply, agriculture, and navigation. Such objectives are declared to be in the public interest.*

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

The Commission administers statewide water-related regulatory, planning, and protection programs in conformance with the above declaration of policy. Administration of a water infrastructure loan program would result in a conflict of interest because the Commission's stewardship role requires impartiality and neutrality in its weighting and balancing of competing public interests and objectives.

In 1992, the Commission was administratively separated from the Department's Engineering Division (formerly called the Division of Water and Land Development) due to such perceived conflict. Presently, the Commission's role in infrastructure development is limited to the construction of monitoring wells, which serve to ensure the protection and sustainability of groundwater resources for the benefit of all of the current and future citizens of the State. The Commission interest in water infrastructure is appropriately limited to the goals of resource protection.

The proposed water infrastructure loan program appears to be modeled after the Green Energy Market Securitization (GEMS) Program that was established under the Department of Business, Economic Development & Tourism (DBEDT) by Act 211, Session Laws of Hawaii 2013. A review of the Annual Reports to the Governor and Legislature and the meeting minutes of the Hawaii Green Infrastructure Authority indicate that this initiative is a very large undertaking.

As the bill notes, implementation of this program will require additional staff resources. To support the GEMS Program, 5.5 exempt positions were created, including an Executive Director, Executive Assistant, Administrative Services Coordinator, Accountant, and two Program Officers. Agreements or contracts for consultant services for professional and technical assistance and for administration of the loan program will be required. Agreements executed under the GEMS Program include: Loan Purchase and Servicing Agreements, Marketplace Access Agreements, and Loan Servicing Agreements. Staff with expertise in loan purchase and servicing would be needed to coordinate and manage these agreements. The Department does not have staff with expertise or knowledge of loan purchase and servicing or marketplace access.

In addition, significant funding will be required to carry out this measure. Sections 2 and 3 provide for an unspecified amount of general revenues to support the program. The Department is concerned about the impacts that the funding appropriated under this bill would have on the Executive Supplemental Budget request. The GEMS Program was seeded with \$140 million, the net proceeds from \$150 million of rate-reduction bonds that were issued by DBEDT. The water infrastructure loan program will require a continuous cash flow to function effectively. It is not clear how future funds will be derived pending loan repayments, which could extend over a period as long as thirty-years.

With regard to the members of the water infrastructure authority, the Chairperson of the Board of Land and Natural Resources is also the Chairperson of the Commission.

The Department appreciates that maintaining and upgrading water infrastructure is important to the State and understands the desire to explore innovative infrastructure financing programs. However,

the proposed water infrastructure loan program is a new program that would distract from the core mission of the Department and would require a significant amount of specialized staff resources and funding to implement. The Department notes that there may be other existing loan programs in place that are presently available or could be expanded to meet the intent of the bill to improve or install water infrastructure. The Department defers to other agencies that have jurisdiction over the following programs:

- The aforementioned GEMS Program is designed to make clean energy improvements affordable and accessible. Hydroelectric pumping and the water infrastructure necessary to support hydroelectric pumping systems is a type of clean energy that may be appropriately financed through GEMS. The Legislature could consider expanding GEMS to include other green infrastructure technologies, such as stormwater reclamation.
- In addition, while not implemented as yet, Act 42, Session Laws of Hawaii 2015, authorizes the counties to establish and charge user fees for stormwater management, which includes stormwater reclamation and reuse.
- The Department of Agriculture's Agricultural Loan Division administers the Agricultural Loan Program. The intent of the program is to promote agricultural developments by providing credit at reasonable rates and terms. Through the establishment of a revolving loan fund, credit is made available to eligible applicants by supplementing private lender sector loan funds or by providing direct funding.
- The Department of Health's Drinking Water State Revolving Fund Program provides low interest loans for the construction of drinking water infrastructure projects, including wells and water distribution systems, to help achieve or maintain compliance with drinking water standards, protect public health and the environment. While presently limited to the four county water departments, this program is planned for expansion to non-county water systems. Since it began in 1997, the Drinking Water State Revolving Fund has disbursed more than \$201.5 million in low interest loans. The fund presently has a healthy balance available to the counties for drinking water infrastructure improvements.

In addition, the Department notes there are other bills that have been introduced that address the issue of water infrastructure installation, improvement, and financing.

DAVID Y. IGE  
GOVERNOR



SARAH ALLEN  
ADMINISTRATOR

PAULA A. YOUNGLING  
ASSISTANT ADMINISTRATOR

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TESTIMONY  
OF  
SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE  
ON  
WATER AND LAND

February 8, 2016, 9:00 A.M.

House Bill No. 2029  
RELATING TO WATER INFRASTRUCTURE LOANS

Chair Yamane, Vice-Chair Cullen, and members of the committee, thank you for the opportunity to submit testimony on HB2029. The State Procurement Office supports the intent of this bill, but opposes the exemption language on page 5, lines 4 to 5.

Statutory exemptions are contrary to the Hawaii Public Procurement Code (Code), section 103D-102, HRS, on the applicability of the chapter that states in part "...shall apply to all procurement contracts made by governmental bodies whether the consideration for the contract is cash, revenues, realizations, receipts, or earnings..." Any governmental agency with the authority to expend funds should be in compliance with chapter 103D, which promotes the policy of fair and equitable treatment of all persons who deal with the procurement system; fosters effective broad-based competition; and increases public confidence in public procurement.

One of public procurement's primary objectives is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in the awarding of contracts. Another critical objective is to ensure disclosure and public visibility into the way taxpayer dollars are being spent. As such, along with open competition the Code provides safeguards to ensure procurement integrity, determination of fair and reasonable pricing, public notice, and transparency. The Code also provides consistency in the manner in which purchasing agencies procure goods, services, and construction.

Exemptions to the Code mean that all procurements made with taxpayer monies for this authority, will not have the same oversight, accountability and transparency requirements mandated by those procurement processes provided in the Code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the State in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. It also means the authority is not required to adhere to the Code's procurement integrity laws.

To provide fairness and consistency, and due process for vendors/contractors, the Code offers a legal and contractual remedy process to resolve protested solicitations and awards, which includes impartial reviews by the Department of Commerce and Consumer Affairs administrative hearings process and the ability to request judicial review. The protest process also protects agencies and taxpayers from onerous and

baseless protests, minimizes delays and disruptions in the award of contracts, and supports a prompt resolution.

To ensure all vendors/contractors who seek public contracts compete on equal footing they are required to demonstrate compliance with Hawaii laws. The Code requires potential vendors/contractors to comply with Hawaii laws prior to award of a contract, i.e. DOTAX Tax Clearance Certificate including IRS certification, DLIR Certificate of Compliance; DCCA Certificate of Good Standing; or Hawaii Compliance Express (HCE) Certificate of vendor compliance. Upon completion of goods provided or services performed, and before final payment is made, a vendor/contractor is again required to demonstrate compliance with Hawaii laws, thereby assuring that public funds are paid to compliant vendors/contractors.

Open bidding procedures assures that the State obtains value, and potential vendors/contractors are treated fairly. Those who lack a working knowledge of the Code, may view it as a cumbersome process. The SPO believes that it is vital to good government to have a fair and consistent process to award government contracts that hold agencies responsible and accountable for their actions.

The SPO is against exempting the Hawaii water infrastructure authority, administratively attached to the Department of Land and Natural Resources, for the administration of the loan program from the Code, as it is not in the best interest of government, the business community, and the general public. The Code establishes a time-tested, fair, reliable set of rules and processes for award of contracts.

In conclusion, there is no compelling reason to statutorily exempt the Hawaii water infrastructure authority, administratively attached to the Department of Land and Natural from the Code. The SPO recommends amending page 5, lines 3 to 5 to read as follows:

- “(5) Enter into contracts for the administration of the loan program, ~~without the necessity of~~  
~~complying~~ in accordance with chapter 103D;”

Thank you.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 11:26 PM  
**To:** waltestimony  
**Cc:** warrenmcfb@gmail.com  
**Subject:** \*Submitted testimony for HB2029 on Feb 8, 2016 09:00AM\*

**HB2029**

Submitted on: 2/6/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

<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:

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February 8, 2016

HEARING BEFORE THE  
HOUSE COMMITTEE ON WATER AND LAND

TESTIMONY ON  
HB 2029: RELATING TO WATER INFRASTRUCTURE LOANS

Room 325  
9:00 AM

Aloha Chair Yamane, Vice Chair Cullen, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 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.

**The Hawaii Farm Bureau strongly supports HB2029**, establishing, authorizing and making and making an appropriation for a water infrastructure loan program within DLNR.

There is no doubt that water infrastructure development have lagged the needs of population growth across the State. In addition to new development, repair and maintenance of aging infrastructure also need to be addressed. In addition to those meeting potable water needs, there is an equal need to address irrigation and other water requirements associated with agriculture.

We commend the focus on storm water reclamation as weather forecasts indicate increasing erratic weather patterns, with prolonged droughts followed by intense storm events. Management of storm waters will be critical to protect the environment, properties and lives. At the same time, storm waters will be critical sources of water to be used during the prolonged droughts that are sure to follow.

Responsibility for publicly held water infrastructure currently resides in the Department of Agriculture, Agricultural Resource Management Office and County Water Departments. A coordinated body focused on water infrastructure development, repair and maintenance is reasonable. However, it **should include existing agencies and complement their efforts.**

The measure lists the scope of water infrastructure and types of activities eligible for the loan program. These descriptions follow traditional water infrastructure expectations.

Times have changed and the infrastructure demands of agricultural systems go beyond delivery of water to the farms and ranches. Untreated water that was considered the norm for agriculture may no longer be acceptable in certain cases based on the requirements of the Food Safety Modernization Act or FSMA. Farms using non-potable water face the need to acquire treated water for certain operations. Without treatment having water itself will not suffice. We believe **water treatment should be included in the definitions associated with water infrastructure.**

There are Federal programs that have assisted the State in water infrastructure. This is one of the core mission of the Hawaii Association of Conservation Districts whose funding(HB2420) was discussed last Friday. We appreciate your support in passing the measure. HACD works along with USDA NRCS to fund major projects to control flooding while utilizing the water. Funding for programs such as PL-566 eroded over the years, however, President Obama has proposed funding these measures and Senator Hirono has introduced amendments to qualify Hawaii as a recipient. **The scope of this authority should include working with organizations such as HACD to identify and access federal funds to leverage state funding.**

HFBB commends this proactive measure to address Hawaii's water infrastructure needs. We request your **strong support of HB2029 with amendments as suggested** to focus on increasing Hawaii's resiliency to droughts and storm events. Thank you.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 06, 2016 6:51 PM  
**To:** waltestimony  
**Cc:** dale@hicattle.org  
**Subject:** \*Submitted testimony for HB2029 on Feb 8, 2016 09:00AM\*

**HB2029**

Submitted on: 2/6/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale Sandlin	Hawaii Cattlemens Council	Support	Yes

Comments:

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**HB2029**

Submitted on: 2/6/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dylan Armstrong	Individual	Support	No

Comments:

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**To:** waltestimony  
**Cc:** mnakahata@gmail.com  
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**HB2029**

Submitted on: 2/7/2016

Testimony for WAL on Feb 8, 2016 09:00AM in Conference Room 325

<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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DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



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SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson

**LATE**

TESTIMONY OF SCOTT E. ENRIGHT  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON WATER AND LAND

FEBRUARY 8, 2016  
9:00 A.M.  
CONFERENCE ROOM 325

HOUSE BILL NO. 2029  
RELATING TO WATER INFRASTRUCTURE LOANS

Chairperson Yamane and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2029. The purpose of this measure is to establish a water infrastructure loan program under the Hawaii water infrastructure authority within DLNR. It also grants authority to make loans for water infrastructure development, repair, and maintenance activities. Finally, it makes an appropriation to support this initiative. The Department of Agriculture supports the intent of this measure provided that it does not impact the priorities submitted in the department's executive budget.

Irrigation infrastructure is the backbone of Hawaii's agricultural industry. It is critical to ensure the viability of these systems as the push toward food security is made. Many of these systems are aging and are in need of significant improvements to modernize their collection and delivery systems to increase storage and reduce water losses and maintenance costs. These funds are necessary to help extend the life of these systems for many decades to come and to continue to move Hawaii toward a more sustainable future.

Thank you for the opportunity to testify on this measure.





**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

**LATE**

Testimony of  
Llewellyn Kaohelaulii, Kona Moku Representative  
Manokalanipo (Kauai)

Before the House Committee on  
WATER and LAND

Monday, February 08, 2016  
9:00 AM  
Conference Room 325

**In consideration of  
HOUSE BILL 2029  
RELATING TO STATEWIDE INFRASTRUCTURE CAPACITY BUILDING CONSTRUCTION  
FINANCING**

House Bill 2027 establishes the infrastructure Capacity Construction Loan Revolving Fund to provide loans to counties, state agencies, or private developers for infrastructure improvements. It appropriates funds. **Aha Moku supports this measure.**

For the past hundred years, in most of the Hawaii Islands, Native Hawaiian *mahiai*, agricultural experts and *lawaia*, fishermen have lost the critical amounts of water needed for their lo'i, taro cultivation and to replenish coastal lands so that fisheries can flourish. Much of this was done due to a variety of reasons. But one reason is that there was no way for these practitioners to purchase or operate water distribution systems off of existing streams that would service their lo'i, fishponds, traditional open ocean farming.

Native Hawaiians are also tax-paying members of the public trust and many need the infrastructure that may be possible to restore important places that can contribute to the wellbeing of contemporary communities. While this is not usually on the radar of legislators when the issue pertains to water, access to water infrastructure by the Hawaiian culture can benefit all communities. An example is the Kahua O Kaneiolouma Village. This ancient village was once one of the largest and most important in Poipu, Kauai. It has been in the process of restoration for the past 10 years and houses the sacred Kaneiolouma Heiau. Enclosed within this village is a large *loko 'ia* (fishpond) that once fed a large portion of west Kaua'i; and, now would be able to sustain much of the coastline of Koloa and Poipu. However, the water needed for this fishpond comes from the mauka areas of Poipu. Water infrastructure is needed to finish this restoration.

While we know that this need for water infrastructure exists on all islands, on Kaua'i we especially need this on all of our moku – Kona, Halele'a, Ko'olau, and Puna.

Thank you for the opportunity to testify on this bill. My contact information is:  
2249 Kuai Road, Koloa, HI 96756



# Wai Maoli

HAWAII FRESH WATER INITIATIVE

827 Fort Street Mall | Honolulu, HI 96813 | (808) 537-6333  
HawaiiCommunityFoundation.org

**LATE**

## Fresh Water Council Members

William Aila

Stephen Anthony\*

Michael Buck

Suzanne Case

Reginald Castanares

Meredith Ching

Derek Chow

Ka'eo Duarte

Sumner Erdman

Mark Fox

Thomas Giambelluca

Timothy Johns

Howard Killian

Patrick Kobayashi

Ernest Lau

Keith Okamoto

Jerry Ornellas

Monty Richards

Kapua Sproat

David Taylor

Dennis Teranishi

Barry Usagawa

\*US Geological Survey  
Liaison/Scientific Advisor to HCF

## Testimony of the Hawai'i Fresh Water Initiative on H.B. 2029

**Relating to Water Infrastructure Loans  
House Committee on Water & Land  
Monday, February 8, 2016  
Conference Room 325**

The Hawaii Fresh Water Initiative was launched in 2013 to bring many diverse parties together to develop a forward-thinking and consensus-based strategy to increase water security for Hawaii. A blue ribbon panel of water stakeholders drawn from multiple perspectives came together to jointly and unanimously recommend key strategies and policies that will increase Hawaii's water security in the face of declining rainfall levels and climate change.

The Council identified a single goal for Hawaii: to create 100 million gallons per day (mgd) in additional, fresh water capacity for our islands by 2030. One of the key strategies to achieve this statewide goal is to increase water conservation by 40 mgd over the next 15 years.

H.B. 2029 establishes a water infrastructure loan program under the Hawaii water infrastructure loan authority within DLNR, and allows the authority to make loans for water infrastructure development, repair, and maintenance.

The Council believes that improving our water infrastructure to diversify capture, encourage reuse, and reduce system loss is an important step towards a more secure fresh water future. Innovative new methods and programs to finance this infrastructure improvement are increasingly required.

The Fresh Water Council supports the intent of H.B. 2029 in providing additional, innovative new funding sources to reach our state goal of 100 mgd in additional fresh water availability by 2030.



**LATE**

February 8, 2016

Representative Ryan I. Yamane, Chair  
Representative Ty J.K. Cullen, Vice Chair  
House Committee on Water & Land

**Comments in Support of the intent of HB 2029 Relating to Water Infrastructure Loans. (Establishes a water infrastructure loan program under the Hawaii Water Infrastructure Authority within the Department of Land and Natural Resources; allows the Authority to make loans for water infrastructure development, repair, and maintenance; and makes an appropriation.)**

**Monday, February 8, 2016 at 9:00 a.m. in CR 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission 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 the intent of HB 2029**, which establishes a Water Infrastructure Loan Program, and its support 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.

**HB 2029.** This bill establishes a Water Infrastructure Loan Program under the Hawaii Water Infrastructure Authority (Authority) within the Department of Land and Natural Resources (DLNR); allows the Authority to make loans for water infrastructure development, repair, and maintenance; and makes an appropriation. The loans may be used for the purchase or installation of water infrastructure improvements, equipment, and personal property for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, and water distribution systems. The Authority would be authorized to make loans to private entities, whether corporations, partnerships, limited liability companies, or other persons, which entities may lease or provide water infrastructure equipment to utility customers; and Direct loans to utility customers.

**LURF's Position.** LURF supports the intent of this measure, which is to provide state loans as an additional funding alternative needed for improvements to state-wide water infrastructure systems.

Since large amounts of prime agricultural lands and irrigation systems became available for conversion to diversified agriculture as a result of the plantation closures in the 1990s, the State has had the opportunity to strengthen and expand Hawaii's diversified agriculture industry. Agricultural lands, however, require significant quantities of water to support and maintain productivity. In order to ensure that local agricultural producers may continue to receive a dependable supply of water for crops, as well as research and development operations, sufficient funding is necessary to improve, repair and maintain Hawaii's water infrastructure development, repair, and maintenance; and the purchase or installation of water infrastructure improvements, equipment, and personal property for dams, reservoirs, hydroelectric pumping, storm water reclamation, ditch maintenance, spillways, wells, water ducts, and water distribution systems.

Local farmers and ranchers who rely on water infrastructure systems to service their agricultural lands consider such resources critical to conduct their agricultural operations and to sustain their businesses. These agricultural stakeholders believe measures such as HB 2029 will greatly assist by providing funding alternatives necessary to make improvements to water infrastructure systems for the long-term betterment of the State's agricultural industry, and depend on legislation such as this to help them work toward the expansion of diversified agriculture; promote the agricultural self-sufficiency of the State; and to protect water as an important resource.

For the above reasons, LURF **supports HB 2029**, and respectfully urges your favorable consideration.

Thank you for the opportunity to provide comments in support of this matter.