

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

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DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON AGRICULTURE
AND
ENERGY AND ENVIRONMENTAL PROTECTION
FRIDAY, MARCH 28, 2008
9:00 A.M.
ROOM 325**

**HOUSE CONCURRENT RESOLUTION NO. 208
HOUSE RESOLUTION NO. 176
SUPPORTING CONGRESSIONAL ACTION TO EXEMPT THE STATE OF HAWAII FROM
FEDERAL PREEMPTION PROHIBITING STATE INSPECTION OF PLANTS, PLANT
PRODUCTS, AND OTHER BIOLOGICAL ORGANISMS**

Chairpersons Tsuji and Morita and Members of the Committees:

Thank you for the opportunity to testify on House Concurrent Resolution No. 208 and House Resolution No. 176. The Department supports these resolutions. Invasive species are entering Hawaii at an alarming rate. No other area in the United States receives as many new invasive species annually, nor has a greater proportion of invasive species becoming established. Hawaii's rate of invasive species establishment is 500 times the rate of the continental U.S.

Hawaii is import dependent with over 90% of goods brought in to meet consumer demand. The transportation of imports brings invasive species into the islands. Hawaii is especially vulnerable to invasive pests arriving on agricultural material originating from foreign countries with climate conditions similar to our own. The threat from invasive pests is always present and growing due to the expansion of global trade. The Hawaii Department of Agriculture's Biosecurity Program seeks to bridge the gap between state and federal inspections but protection obstacles have made our state laws difficult to enforce.

The Plant Protection Act of 2000, Public Law No. 106-224 has preempted the states or any political subdivision of a state from preventing the entry of any pest in foreign commerce. In addition, The Homeland Security Act of 2002, introduced in the aftermath of the September 11, 2001 attacks, created the Department of Homeland Security (DHS) which gave federal law enforcement agencies broad powers to combat anti-terrorism threats. This new department assumed a number of government functions previously conducted in other departments, one of which being the transfer of agricultural inspection from United States Department of Agriculture (USDA) to DHS.

In 2003, all USDA inspectors were prohibited from clearing foreign passengers and their baggage in Customs and conducting inspection of all foreign agricultural commodities other than plants intended for propagation. This function was transferred to U.S. Customs and Border Protection (CBP). Since then, foreign pest interceptions have dropped drastically creating invasive species problems in farms and conservation areas across the U.S. As a result, states and national agricultural organizations have pleaded for the transfer of the agricultural inspection function back to the U.S. Department of Agriculture.

Foreign taro imports, for example, increase the risk of introducing serious insect and disease pathogens and shipments may be released if pest interceptions are not deemed to be "Federally Actionable". Requests to Customs and Border Protection for state notification of taro imports have not been supported despite their verbal agreement to improve cooperation and communication. Locally grown taro, as well as all other culturally significant or important agricultural crops, is left extremely vulnerable until the preemption obstacle is dealt with.

The department is in favor of supporting any congressional action that will exempt the state of Hawaii from federal preemption giving the state the ability to inspect foreign agricultural material and to take action against pests detrimental to Hawaii's people, economy, environment, and way of life. Thank you again for this opportunity to testify.

LINDA LINGLE
GOVERNOR OF HAWAII



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

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Laura H. Thielen
Chairperson
Board of Land and Natural Resources
Commission on Water Resource Management

Russell Y. Tsuji
First Deputy

Ken C. Kawahara
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

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

**on House Concurrent Resolution 208/House Resolution 176 – Supporting Congressional
Action to Exempt the State of Hawaii From Federal Preemption Prohibiting State
Inspection of Plants, Plant Products, and Other Biological Organisms**

**BEFORE THE HOUSE COMMITTEES ON
AGRICULTURE
and
ENERGY AND ENVIRONMENTAL PROTECTION**

March 28, 2008

House Concurrent Resolution 208/House Resolution 176 requests support for congressional action for providing exemption to the State of Hawaii (State) from federal preemption of state inspections of foreign imports. The Department of Land and Natural Resources supports these resolutions and provides the following comment.

Foreign imports continue to be a source of invasive species that are harmful to Hawaii's natural resources. Recent introductions such as the Erythrina Gall Wasp which arrived from Asia have caused extensive damage to forests in Hawaii. Federal inspections fail to recognize threats particular to Hawaii while concentrating on organisms that threaten mainland crops and ecosystems. Hawaii's unique and diverse ecosystems are vulnerable to many species not recognized by federal quarantine regulations. Exempting Hawaii from federal preemption of state inspections would help protect the State from additional incursions.



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March 28, 2008

HOUSE COMMITTEE ON AGRICULTURE
And
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY ON
HCR 208 / HR 176

Chair Tsuji and committee members:

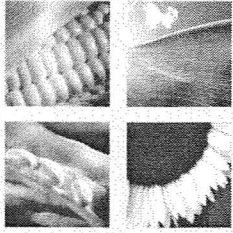
My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation (HFBF) supports HCR 208 / HR 176 supporting congressional action to exempt the State of Hawaii from federal preemption prohibiting state inspection of plants, plant products, and other biological organisms.

One of the biggest challenges facing Hawaii's agricultural industry is the introduction of invasive species that cause economic devastation to crops and livestock. Farmers are faced with new pests and disease everyday and have increased their inputs that have become very expensive. With the high cost of fuel, all of the chemical inputs and supplies have further increased the farmers overall cost of doing business.

We need to give the State Department of Agriculture the ability to inspect all products, including foreign imports, coming into the State. Other countries do not have to follow the same protocols and regulations that Hawaii farmers have to abide to. The State needs to have the ability to intercept and inspect all goods and products coming into Hawaii. We believe added protection at the ports will help reduce the long term economic and environmental impacts to the State.

Thank you.



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony by: Sarah Styan
House AGR/EEP Committees
Friday, March 28, 2008
Room 325: 9:00 am

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HCR208/HR176, Supporting Congressional Action to Exempt the State of Hawaii From Federal Preemption Prohibiting State Inspection of Plants, Plant Products and Other Biological Organisms

Position: Strong Support

Chair Tsuji and Morita, and Members of the House AGR/EEP Committees:

My name is Sarah Styan. I am a Kauai resident, President of HCIA and research scientist of Pioneer Hi-Bred International, Waimea Research Station. The HCIA represents seed production and research facilities operating in Hawaii. The HCIA is comprised of five member companies that farm an estimated 8,000 acres on four islands, valued at \$97.6 million in operating budget (2006/2007 HASS). We are proud members of Hawaii's diversified agriculture and life sciences industries.

As testified in previous years, HCIA believes that prevention of importation of invasive species is more prudent than later financing of eradication or containment programs. Examples of such latter efforts include the battle against the coqui frogs, miconia, gorse weed, fireweed and others.

We heartily support this measure that conveys the urgency and necessity to exempt Hawaii from federal preemption to inspect imported plants and plant products.

Your support of this measure is requested to protect Hawaii's farmers and environment. I can be reached at 808-338-8300 ext. 113 if there are any questions.

Thank you for the opportunity to present testimony.

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Testimony of The Nature Conservancy of Hawai'i
H.C.R. 208 / H.R. 176 Supporting Congressional Action to Exempt
the State of Hawaii from Federal Preemption Prohibiting State Inspection
of Plants, Plant Products, and Other Biological Organisms
House Committees on Agriculture and
Energy & Environmental Protection
Friday, March 28, 2008, 9:00AM, Room 325

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i supports H.C.R. 208/H.R. 176.

The Hawai'i Department of Agriculture is doing an admirable job with limited resources to protect the State from new pest species. With additional financial support from the Legislature, the Department's development and implementation of a multi-faceted Biosecurity Strategy will enhance this effort with more inspectors, more efficient and effective inspection services, co-located state-federal inspection facilities, and agreements with importers for improved sanitary protocols before items are shipped to Hawai'i.

While the Commerce Clause of the U.S. Constitution and the preemption provisions of the U.S. Plant Protection Act, limit states' ability to regulate items in trade, there are improvements that can be made in federal legislation to help states like Hawai'i stem the tide of invasive species. Federal and state agencies can be directed to collaborate more closely on inspections, federal inspectors can be authorized to enforce state quarantine laws, and federal agriculture authorities can be directed to expedite states' requests for stricter regulations to protect themselves from particular pest threats.

Thanks to initial work by former U.S. Representative Ed Case and, more recently, by U.S. Senator Daniel Inouye, the Senate version of the Farm Bill (H.R. 2419) contains the attached provision to assist Hawai'i in this issue. The Farm Bill is now being considered by Congressional conference committee of Senate and House members.

Attachment

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H.R.2419

Food and Energy Security Act of 2007 (Engrossed Amendment as Agreed to by Senate)

SEC. 11063. INVASIVE SPECIES MANAGEMENT, HAWAII.

(a) *Definitions- In this section:*

(1) *SECRETARIES- The term 'Secretaries' means--*

(A) the Secretary of the Interior;

(B) the Secretary of Agriculture; and

(C) the Secretary of Homeland Security .

(2) *SECRETARY CONCERNED- The term 'Secretary concerned' means--*

(A) the Secretary of the Interior, with respect to matters under the jurisdiction of the Department of the Interior;

(B) the Secretary of Agriculture, with respect to matters under the jurisdiction of the Department of Agriculture; and

(C) the Secretary of Homeland Security, with respect to matters under the jurisdiction of the Department of Homeland Security .

(3) *STATE- The term 'State' means the State of Hawaii.*

(b) *Controlling Introduction and Spread of Invasive Species and Diseases in the State-*

(1) *CONSULTATION AND COOPERATION- The Secretaries concerned shall--*

(A) with respect to restricting the introduction or movement of invasive species and diseases into the State, consult and cooperate with the State; and

(B) in carrying out the activities described in this subsection, consult and cooperate with appropriate agencies and officers with experience relating to quarantine procedures, natural resources, conservation, and law enforcement of--

(i) the Department of Homeland Security ;

(ii) the Department of Commerce;

(iii) the United States Treasury; and

(iv) the State.

(2) *DEVELOPMENT OF COLLABORATIVE FEDERAL AND STATE*

PROCEDURES- The Secretaries, in collaboration with the State, shall--

(A) develop procedures to minimize the introduction of invasive species into the State; and

(B) submit to Congress annual reports describing progress made and results achieved in carrying out the procedures.

(3) *EXPEDITED CONSIDERATION OF STATE AND LOCAL CONTROL PROPOSALS-*

(A) EXPEDITED PROCESS- Not later than 1 year after the date of enactment of this Act , the Secretaries shall establish an expedited process for the State and political subdivisions of the State under which the State and political subdivisions may, through the submission of an application, seek approval of the Secretary concerned to impose a general or specific

prohibition or restriction on the introduction or movement of invasive species or diseases from domestic or foreign locations to the State that is in addition to the applicable prohibition or restriction imposed by the Secretary concerned.

(B) REVIEW PERIOD- Not later than 60 days after the date of receipt by the Secretary concerned of an application under subparagraph (A) that the Secretary concerned determines to be a completed application, the Secretary concerned shall--

(i) review the completed application;

(ii) assess each potential risk with respect to the completed application; and

(iii) approve or disapprove the completed application.

(4) RESPONSE TO EMERGENCY THREATS-

(A) IN GENERAL- The State may carry out an emergency action to impose a prohibition or restriction on the entry of an invasive species or disease that is in addition to the applicable prohibition or restriction imposed by the Secretary concerned if--

(i) the State has submitted to the Secretary concerned a completed application under paragraph (3) that is pending approval by the Secretary concerned; and

(ii) an emergency or imminent threat from an invasive species or disease occurs in the State during the period in which the completed application described in clause (i) is pending approval by the Secretary concerned.

(B) NOTICE- Before carrying out an emergency action under subparagraph (A), the State shall provide written notice to the Secretary concerned.

(C) PERIOD OF EMERGENCY ACTION- If, by the date that is 10 days after the date of receipt of a written notice under subparagraph (B), the Secretary concerned does not object to the emergency action that is the subject of the notice, the State may carry out the emergency action during the 60-day period beginning on that date.

(c) Authorization of Appropriations- There are authorized to be appropriated to the Secretaries such sums as are necessary to carry out this section for each of fiscal years 2008 through 2012.

Cynthia Nyross

From: KHS, Inc. & Kauai Kunana [kunana@juno.com]
Sent: Tuesday, March 25, 2008 11:59 PM
To: AGRtestimony
Subject: Testimony in support of HCR 208

March 25, 2008

We are writing to express our support for this legislation which would protect the fragile, unique ecosystem of Hawai'i from future introductions of invasive species which threaten our native plants, animals, and agricultural industry.

Mahalo,

Bob and Louisa Wooton and Family
Kauai Kunana Dairy
4552 Kapuna Road
Kilauea, HI 96754