

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
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Phone: (808) 973-9600 FAX: (808) 973-9613

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 HOUSE COMMITTEE ON AGRICULTURE

**MARCH 15, 2017
8:30 A.M.
CONFERENCE ROOM 312**

**SENATE BILL NO. 803 SD2
RELATING TO FOOD SAFETY**

Chairperson Creagan and Members of the Committee:

Thank for the opportunity to testify on Senate Bill 803 SD2 which proposes to establish an income tax credit and special fund to assist farmers with expenses associated with compliance with the Food Safety Modernization Act (FSMA). The bill also allows the Department of Agriculture to adopt rules to carry out its responsibilities. The Department supports the intent, offers comments, and a recommendation.

The Department recognizes that costs to comply with the FSMA will likely be considerable and may cause farm closures. Providing tax credits to the farmers will help offset their expenses to meet the FSMA requirements. The bill requires the Department to verify the nature and amount of the qualified expenses, certify the amount of tax credits, and maintain records of the names and addresses of the qualified taxpayers claiming the credits. In addition, the bill provides the department the ability to assess and collect fees that are to be deposited into the proposed special fund and to be used to offset the costs of certifying the tax credits claims. The absence of detail as to what constitutes "qualified expenses" (page 6, lines 3-5) makes the adoption of rules to carry out its responsibilities critical to our ability to clearly define what expenses are



qualified and help to ensure we are consistent in the manner we review and assess each application and cost item for the tax credit.

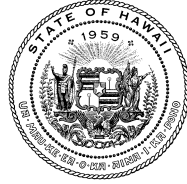
Additionally, the Department asks for general fund resources and additional personnel to establish this tax credit program and assist in the administration of the other tax credits we are responsible for (Sections 235-110.93 and 235-110.94). The Department estimates that we need at least 3 additional positions and \$300,000 in general funds to carry out these legislative mandates. These funds include salary and operational costs.

It is important to note that the Department prefers HB453 which creates a Food Safety Grant Program to support local farmers with costs of compliance with FSMA.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Richard P. Creagan, Chair
and Members of the House Committee on Agriculture

Date: Wednesday, March 15, 2017

Time: 8:30 A.M.

Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 803, S.D. 2, Relating to Food Safety

The Department of Taxation (Department) appreciates the intent of S.B. 803, S.D. 2, and provides the following comments for your consideration.

S.B. 803, S.D. 2, creates the Food Safety Modernization Act tax credit. The credit is a nonrefundable income tax credit equal to the qualified expenses of a farmer, food processor, or produce merchant whose gross income from the sale of agricultural products is \$500,000 or less. Qualified expenses are expenses incurred to comply with the requirements of the Food Safety Modernization Act of 2011, Public Law 111-353. The credit has a per-taxpayer cap of \$50,000 per taxable year and an aggregate cap of \$2,000,000 per taxable year. Fees collected by the Department of Agriculture for the cost of certifying the credit will be deposited into the Food Safety Modernization Act special fund, created in Section 2 of the measure. S.D. 2 has a defective effective date of March 9, 2092.

First, the Department notes that the bill requires the Department of Agriculture to certify the amount of each credit and to track the cumulative amount of all credits claimed. The Department defers to the Department of Agriculture regarding its ability to make these certifications, but requests that the certification requirement for this credit be maintained. The Department of Taxation does not have the knowledge and expertise necessary to certify this credit.

Second, the Department notes that the Committee Report from the Senate Committee on Ways and Means requests that this Committee consider making the tax credit refundable. As a general matter the Department prefers nonrefundable tax credits, which are easier to administer and less prone to abuse by taxpayers. With a relatively low aggregate cap of \$2 million, it may be more feasible to consider pursuing the goals of this measure through a grant program rather than a tax credit. A grant program can be controlled with more precision and the funds will be available to recipients faster than a tax refund can be issued.

Finally, the tax credit created by this measure applies to taxable years beginning after December 31, 2092. The Department is able to administer a new tax credit if it applies to taxable years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.



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March 15, 2017

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON SB 803, SD2
RELATING TO FOOD SAFETY

Room 312
8:30 AM

Aloha Chair Creagan, Vice Chair DeCoite, 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 interests of our diverse agricultural community.

HFB supports SB 803, SD2, which establishes an income tax credit to assist farmers with expenses associated with compliance with the Food Safety Modernization Act (FSMA).

Foodborne illnesses can be serious and we should seek ways to reduce the risk. This bill will provide that assistance to our farmers for the costs they will incur to become food safety compliant.

The many criteria associated with FSMA to be compliant should not be an impediment for safe food. Hawaii cannot afford to further lose farmers as we strive to increase local food production. We want to incentivize our farmers' ability to continue their operations and provide Hawaii with abundant safe food.

Hawaii Farm Bureau respectfully requests your **strong support of SB 803, SD2**, which will assist farmers with expenses to become compliant with the Food Safety Modernization Act.

Thank you for the opportunity to testify on this measure.



MAUI
CHAMBER OF COMMERCE
VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON AGRICULTURE
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 312
WEDNESDAY, MARCH 15, 2017 AT 8:30 A.M.**

To The Honorable Richard P. Creagan, Chair;
The Honorable Lynn DeCoite, Vice Chair; and
Members of the Committee on Agriculture

**TESTIMONY IN SUPPORT OF SB 803 TO PROVIDE AN INCOME TAX CREDIT TO FARMERS
TO ASSIST IN COSTS OF COMPLIANCE WITH FDA FOOD SAFETY MODERNIZATION ACT**

Aloha, my name is Pamela Tumpap and I am the President of the Maui Chamber of Commerce representing approximately 600 businesses and 16,000 employees on Maui. I am writing share our support of SB 803.

This bill fits with one of our important legislative priorities this year, which is to support the agriculture industry and our local farmers. One of the more recent issues to arise that could negatively affect our agriculture industry are the new requirements imposed by the FDA's Food Safety Modernization Act. Farmers may be faced with huge costs and time consuming processes in order to comply with many of the new regulations, which is a burden that many cannot undertake with the already unpredictable nature of the agriculture industry. Therefore, we support this bill that would give an income tax credit to farmers to assist with meeting the costs of complying with the federal Food Safety Modernization Act. This is vital for our agriculture industry that provides a number of jobs and resources for our local community.

We appreciate the opportunity to testify on this matter and therefore ask that this bill be passed.

Mahalo for your consideration of our testimony and we hope you will move this bill forward.

Sincerely,

Pamela Tumpap

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Establish Food Safety Income Tax Credit

BILL NUMBER: SB 803, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

EXECUTIVE SUMMARY: Establishes an income tax credit to assist farmers with expenses associated with compliance with the federal Food Safety Modernization Act. Given that this credit does not apply to farmers generally or small farmers generally, are we telling farmers that we don't expect them to grow food that would be safe for consumers without paying them public money?

BRIEF SUMMARY: Amends HRS chapter 235 by adding a new section allowing the food safety modernization act tax credit.

The amount of the tax credit would be 100% of the qualified expenses of the qualified taxpayer, up to a maximum of \$50,000. The credit is nonrefundable but may be carried forward indefinitely.

All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit.

The department of agriculture would verify and certify the qualified expenses, like how motion picture and television production credit expenses are certified by the Hawaii film office.

Defines "qualified taxpayer" as a farmer, food processor, and produce merchant wholesaler who is subject to the Food Safety Modernization Act, Pub. L. No. 111-353, and whose gross income from the sale of agricultural products for the most recently reported fiscal year totals no more than \$500,000.

Defines "qualified expenses" as expenses incurred by a qualified taxpayer to comply with the requirements of the Food Safety Modernization Act.

Caps the credit at \$2 million for all qualified taxpayers in any taxable year, but provides that any taxpayer who is not eligible to claim the credit in a taxable year due to the \$2,000,000 cap having been exceeded for that taxable year shall be eligible to claim the credit in the subsequent taxable year.

EFFECTIVE DATE: March 9, 2017, applies to taxable years beginning after December 31, 2017.

STAFF COMMENTS: This proposed tax credit would appear undesirable as a matter of tax policy because the creditable behavior is a federal law that the taxpayer must comply with anyway. Maybe farmers generally, or small farmers generally, might be deserving of assistance. If that is the case, the proper way to deliver the assistance is through grants of appropriated funds.

The existence of this credit sends the wrong message. Are we telling farmers that we don't expect them to grow food that would be safe for consumers without paying them public money? If we don't give them the money and they go out of business, shouldn't we be saying, "Why do we need to have a farmer in the marketplace who is willing to put unsafe food on the market?"

If this credit is put on the books, it may create an undesirable precedent. All taxpayers need to spend money to comply with the law. How about a credit for people who have to pay to have a tax return prepared?

Digested 3/13/2017

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 3:23 PM
To: AGRtestimony
Cc: dale@hicattle.org
Subject: *Submitted testimony for SB803 on Mar 15, 2017 08:30AM*

SB803

Submitted on: 3/13/2017

Testimony for AGR on Mar 15, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Dale Sandlin	Hawaii Cattlemens Council	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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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 11:06 AM
To: AGRtestimony
Cc: warrenmcfb@gmail.com
Subject: *Submitted testimony for SB803 on Mar 15, 2017 08:30AM*

SB803

Submitted on: 3/14/2017

Testimony for AGR on Mar 15, 2017 08:30AM in Conference Room 312

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

Comments:

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Sent: Monday, March 13, 2017 4:16 PM
To: AGRtestimony
Cc: mendezj@hawaii.edu
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SB803

Submitted on: 3/13/2017

Testimony for AGR on Mar 15, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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To: AGRtestimony
Cc: launahele@yahoo.com
Subject: *Submitted testimony for SB803 on Mar 15, 2017 08:30AM*

SB803

Submitted on: 3/13/2017

Testimony for AGR on Mar 15, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Benton	Individual	Support	No

Comments:

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Email: communications@ulupono.com

HOUSE COMMITTEE ON AGRICULTURE
Wednesday, March 15, 2017 — 8:30 a.m. — Room 312

Ulupono Initiative Strongly Supports SB 803 SD 2, Relating to Food Safety

Dear Chair Creagan, Vice Chair DeCoite, and Members of the Committee:

My name is Kyle Datta and I am General Partner of Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and reduce waste. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono strongly supports SB 803 SD 2, which provides an income tax credit to farmers for compliance with food safety regulations and sets up a food safety modernization act special fund, because it aligns with our goal of creating more locally produced food.

One of the greatest challenges facing agricultural enterprises over the next few years is getting into compliance with new federal food safety regulations. These new rules are expected to protect public health by providing more information about food production. However, the new regulations are expected to be significantly more strict than the current guidelines, which requires more time and cost for compliance. It is a challenge for our farmers and ranchers to navigate the nuances of the law, track new data requirements, and implement best practices for food safety. Without this funding, farmers and ranchers, particularly smaller scale operations, may be in violation of the law or be forced to shut down, which will jeopardize the future of local agriculture in Hawai'i.

As Hawai'i's local food issues become more complex and challenging, organizations need additional resources and support to address and overcome them. We appreciate this committee's efforts to look at policies that support local food production.

We believe that by collaborating, we can help produce more local food and support an economically robust homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Investing in a Sustainable Hawai'i



Kyle Datta
General Partner

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 6:31 PM
To: AGRtestimony
Cc: jamesjtz@aol.com
Subject: *Submitted testimony for SB803 on Mar 15, 2017 08:30AM*

SB803

Submitted on: 3/13/2017

Testimony for AGR on Mar 15, 2017 08:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
James Gauer	Individual	Support	No

Comments:

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