



**OFFICE OF PLANNING
STATE OF HAWAII**

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
**SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND HAWAIIAN AFFAIRS**

Tuesday, February 9, 2021

1:01 PM

Via Videoconference

in consideration of
SB 1410
RELATING TO AGRICULTURE.

Chairs Gabbard and Shimabukuro, Vice Chairs Nishihara and Keohokalohe, and Members of the Senate Committees on Agriculture and Environment and Hawaiian Affairs.

The Office of Planning offers **comments** on SB 1410 that would: 1) Amend § 165-2, Hawaii Revised Statutes (HRS), by adding “customary and traditional subsistence farming”, defined as an activity “conducted by a native Hawaiian cultural practitioner” that is used for direct personal or family consumption on land that contains no dwelling or residence and on which no person resides, to the definition of “farming operation”; 2) Amend Chapter 205, HRS, to add customary and traditional subsistence farming to the permitted uses within the State Agricultural District; and 3) Amend Chapter 226, HRS (Hawaii State Plan) to protect customary and traditional subsistence farming as part of the State’s economic policy.

It is unclear to us where the subsistence farming as defined by SB 1410 would take place if it is for personal use without a dwelling or residence. Farming is different from other traditional and customary native Hawaiian cultural practices such as fishing or gathering. Also, § 165-2, HRS, relates to commercial agricultural operations and subsistence farming where no income is generated is contradictory to this. Finally, the bill further expands the allowable uses within the State Agricultural District making enforcement of current regulations more difficult.

Thank you for this opportunity to testify.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT &
HAWAIIAN AFFAIRS**

**FRIDAY, FEBRUARY 5, 2021
10:00 A.M.
VIA VIDEO CONFERENCE**

**SENATE BILL NO. 1410
RELATING TO AGRICULTURE**

Chairpersons Gabbard, Shimabukuro and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 1410 that seeks to establish "customary and traditional subsistence farming", which is customary and traditional subsistence farming conducted by a native Hawaiian cultural practitioner in certain situations, as a protected activity under the Hawaii Right-to-Farm Act. The bill also seeks to amend the Hawaii Land Use Law by establishing that the cultivation of crops and activities related to game, fish, and livestock on agricultural lands may be for economic use or "customary and traditional subsistence farming". Finally, the bill would add to the economic objectives and policies for agricultural in the Hawaii State Planning Act a new policy to assure the right of native Hawaiian cultural practitioners to engage in "customary and traditional subsistence farming" for direct personal or family consumption. The Department of Agriculture has strong concerns on this measure.

Th Department believes it is inappropriate to amend Chapter 165 (the Hawaii Right-to-Farm Act) through the insertion of "customary and traditional subsistence farming" as it does not appear to meet the definition of a "farming operation" which is a commercial agricultural, silvicultural, or aquacultural facility or pursuit. As written, this



measure conflates subsistence farming by a native Hawaiian cultural practitioner for personal or family consumption with commercial agricultural operations. If enacted, this amendment will diffuse the focus on commercial agriculture and its important role in Hawaii becoming more food self-sufficient. The Right-to-Farm is meant to protect those commercial agricultural operations by limiting the circumstances under which farming operations may be deemed to be a nuisance. Complaints typically arise from noises, odors, dust, and fumes common to agricultural operations. The Right-to-Farm Act does not establish a right to commence or maintain a farming operation.

The proposed amendments to Section 205-2(d)(1-3) and Section 205-4.5(a)(1-2) will be moot if the proposed amendment to Chapter 165 is not accepted. This is not to say that “customary and traditional subsistence farming” is not a permitted use on agricultural land, however the activities and uses that are used to describe the Agricultural District would be confused by the inclusion of a specific practice that is limited to native Hawaiian cultural practitioners undertaking customary and traditional subsistence farming.

Similarly, amending the Hawaii State Planning Act (Section 226-7(b)) by inserting a specific practice that is limited to native Hawaiian cultural practitioners undertaking customary and traditional subsistence farming seems misplaced. Perhaps similar language may be a better fit in Section 226-25(b), objective and policies for socio-cultural advancement.

Thank you for the opportunity to comment on this measure

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205
Kane'ohe, HI 96744
(808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com
Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
and SENATE COMMITTEE ON HAWAIIAN AFFAIRS
For hearing Tuesday, February 9, 2021

Re: SB1410 RELATING TO AGRICULTURE.

Clarifies that "customary and traditional subsistence farming", which is customary and traditional subsistence farming conducted by a native Hawaiian cultural practitioner in certain situations, is included as a protected activity under the Hawaii Right to Farm Act. Clarifies that the cultivation of crops and activities related to game, fish, and livestock on agricultural lands may be for economic use or customary and traditional subsistence farming. Provides that one of the State's policies under the Hawaii State Planning Act's agricultural objectives is to assure the right of native Hawaiian cultural practitioners to engage in customary and traditional subsistence farming for direct personal or family consumption. Effective 7/1/2060.

TESTIMONY REQUESTING A SMALL AMENDMENT

Please delete the racial reference on the front page of this bill, in the following portion of Section 1 Item 1:

""Customary and traditional subsistence farming" means customary and traditional subsistence farming conducted by a native Hawaiian cultural practitioner that is:"

There is no need whatsoever for the pair of words "native Hawaiian" and no need for the pair of words "cultural practitioner."

Any person should be allowed to engage in customary subsistence farming regardless of race and regardless of which culture they live by or practice. If you legislators would write laws protecting us all equally, and extending the same rights to all of us, then you would thereby automatically protect and extend rights to each and every demographic group including our much-beloved "Native Hawaiians."

In these times of racial and cultural disrespect and divisiveness, why not bring people together in mutual love and respect -- aloha kekahi i kekahi -- and stop dividing us based on race and culture.

Please rewrite the beginning of this bill to read what is below the line

"Customary and traditional subsistence farming" means subsistence farming that is:

- (1) Used for direct personal or family consumption;
 - (2) Conducted on land that does not contain a dwelling or residence;
- and
- (3) Conducted on land on which no person resides."

SB-1410

Submitted on: 2/3/2021 1:44:30 PM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

Protection of traditional and customary rights is a constitutional right.

SB-1410

Submitted on: 2/3/2021 7:00:28 PM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Glen Kila	Individual	Support	No

Comments:

Aloha e Chair and Committee Members,

My name is Glen Kila and I am the president of the Native Hawaiian Organization,

Koa Ike. Please note our support for SB 1410.

Mahalo,

Glen Kila

TESTIMONY IN STRONG SUPPORT OF SB 1410

Chair Gabbard, Vice Chair Nishihara, Chair Shimabukuro, Vice Chair Keohokalole, and Committee Members,

I write in **strong support** of SB 1410 Relating to Native Hawaiian Subsistence Agriculture, and thank you for hearing this measure.

There is something fundamentally wrong with the fact that Agricultural Districts can be used for **everything from hydroelectric facilities, wind and solar energy, and even certain golf courses** when Native Hawaiians can't feed their children from the lands that their ancestors lived and died on for thousands of years. Sustainable development has a crucially important environmental scope; however, as the UN Sustainable Development Goals (UN SDG) point out, equally important are the social aspects such as food security, health, and ending inequality. **Hawai'i must mirror its renewable energy sustainable development with indigenously aligned sustainable development that fully encompasses Native Hawaiian traditions, ideals, and practices.**

Subsistence farming, such as what families in Kahana Valley are conducting, demonstrate how culturally based farming:

- Builds stronger communities and closer families
- Cherishes and brings pride to thousands of years of Hawaiian ingenuity and knowledge
- Permits agriculture that takes into account the natural flow of water from land to sea
- Provides mental health benefits, as proven by many successful farming programs for military combat veterans suffering from trauma
- Provides healthy alternatives to fast food and processed food, and better aligns with the original Hawaiian diet prior to European contact
- Bolsters disaster resiliency, should Honolulu Port face emergency related closures
- Preserves vanishing practices and preserves skills honed over hundreds of generations for future generations to come.

There is only one Hawai'i on this earth. If we are to lose Native Hawaiian practices in Hawai'i itself, where else will we find them? I lament a day when children can only go to a museum to see remnants of taro cultivation practices, fish pond technology, and traditional fishing nets, yet we are already heading down that path right now. Stone agricultural terraces remain standing deep in Ahuimanu; holding their form deep in the forest due to skilled Hawaiian masonry from hundreds of years ago. Yet will they soon be paved over like the agricultural terraces sacrificed for the building of the H-3 Highway?

Particularly during this time of mass unemployment, negative mental health outcomes, and another renaissance in recognition for Native Hawaiian rights and dignity, **I respectfully urge you to allow our cultural practitioners to lead the way and provide for their families from the land, in the ways that were practiced for thousands of years.**

Mahalo nui loa,

Daniel Lee

SB-1410

Submitted on: 2/4/2021 11:29:29 PM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rikako Ishiki	Individual	Support	No

Comments:

Mahalo piha Chair Gabbard, Chair Shimabukuro, and Committee Members for hearing this bill!

I write in **strong support** of allowing Hawaiians to farm on land our ancestors farmed for generations to feed our families.

Farming using the **intelligent ingenuity of our kāpuna** brings families together. We can connect to the practices so many generations before us used, honed, and perfected to fit the various climates and terrains specific to Hawai'i. Native Hawaiian agriculture is unique to Hawai'i, because Hawai'i is unique in and of itself.

When a kalo plant is harvested, the leaves and most of the corn is cut off, leaving the stem or huli, which can be planted again to grow another kalo plant. Generally speaking, some of the huli used today are the same huli used by ancestors from generation to generation. So too should our lands be used. Yet unfortunately traditional land to sea ahupua'a's have been tapped at stream sources for the purposes of commercial agriculture. Lands that use to team with life and feed thousands through a complex system of ditches and stone terraces, now lay dry. The "Taro Security and Purity Task Force Legislative Report of 2010" created by Act 211 (2008) depicts **a vicious cycle in which lands historically fertile with taro are deemed poor agricultural land because water has been siphoned off for commercial purposes, allowing for rezoning and paving over of this land.** Many thousand year old agricultural terraces have been destroyed this way. It is a tragedy that these structures, which were built with such ingenuity that it can withstand year after year of winds and rain, are bulldozed away, never to feed another family again.

I beg that the status quo change. Subsistence agriculture is often believed to take away from major commercial interests that provide trickle down economic benefit. However this is a view that does not consider the complexities involved in supporting communities. **Especially with this pandemic, untold amounts of people line up for hours at food distributions across the state. People are out of work and are desperate to make ends meet.** Allow them to farm. Allow them to reach hands into the soil, to nurture, to grow; their food, their health, their families, and their communities.

Native Hawaiians have disproportionate negative health outcomes compared to other races in Hawai'i. **Allow Hawaiians to return to their traditional diet, before European contact, the days of kalo and probiotics from poi, sweet potato, breadfruit, fish, coconut, and so much more.**

I beg that the status quo change. Allow us to work the land. Let the land thrive once more. Unite our communities. Give people who are in need a chance to grow for themselves. Let's wean off our utter dependence of shipped food that loses its nutritional value in shipment. **The Hawaii Emergency Management Agency says that if Honolulu Port were to be knocked out by a hurricane, tsunami, or other emergency disaster, we only have less than a week's worth of supplies for the entire state.** In olden days, a population of a million Native Hawaiians were fed by a vast network of agricultural terraces and other systems, without a single need for a container ship.

I humbly and urgently request that this measure pass, to allow for the next generation to be born to a better, sustainable, resilient, and historically connected, Native Hawaiian aligned Hawai'i.

Thank you for your consideration.

With Aloha,

Rikako Ishiki

SB-1410

Submitted on: 2/6/2021 1:12:39 PM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Momi Ventura	Individual	Support	No

Comments:

Aloha My Name Is R.Momi Ventura, I Live In Kihei, Maui. This Bill Hits Home For Many Of Us In Hawai'i Nei. As Kanaka Maoli We Are What We Eat And Need Our Paleo Foods Are Needed Throughout The Year. Growing Our Own Foods And Or Being Supportive Towards People Who Do Grow Foods Like Uala, Ulu And Kalo Is Very Very Important. We Need Moreover To Have Support And To Continue To Feed Everyone The Hawaiian Way, And More Importantly Subsistence For Them. Mahalo For Your Time And Helping Hearts. R. M Ventura

SB-1410

Submitted on: 2/6/2021 6:26:55 PM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Support	No

Comments:

Please support this very important bill.

SB-1410

Submitted on: 2/7/2021 1:20:33 PM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Kioni Dudley	Individual	Support	No

Comments:

I support this bill.

SB-1410

Submitted on: 2/8/2021 11:47:00 AM

Testimony for AEN on 2/9/2021 1:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
J Ashman	Individual	Comments	No

Comments:

Aloha Chair Gabbard, Vice Chair Shimabukuro, and members of the Committee,

I have worked with local farmers of all sizes over the last 30 years, especially on environmental stewardship issues. I am familiar with the Right to Farm Act, which is meant to protect commercial farmers from lawsuits brought by those who find their activities to be a nuisance.

I fully agree with protecting customary and traditional subsistence farming by native Hawaiian cultural practitioners. However, I have concerns about this bill. It doesn't work to achieve the goals that I believe those who support it are seeking. There seems to be a lot of confusion and SB 1410 exacerbates it.

I think that the proponents believe that the Right to Farm Act literally establishes a "right to farm" and because they are currently not identified in the law, they do not have a "right to farm." This is not at all true. Of course they have the right to farm.

I reviewed the companion bill, HB1356, heard last week, and the testimony of the State Office of Planning and the State Department of Agriculture. I would like to echo their comments, which explain the confusion that the proposed amendments would engender; the comments also address my concerns. Thank you for your support of Hawaii's farmers, and for your support for customary and traditional subsistence farming by native Hawaiian cultural practitioners.