

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

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

**MONDAY, FEBRUARY 7, 2022
1:00 P.M.
VIA VIDEO CONFERENCE**

**SENATE BILL NO. 1316
RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 1316 that establishes an agricultural production tax credit that includes agricultural producers who produce at least 50 percent of food crops for local consumption.

The Department of Agriculture supports this measure to the extent that it directly supports Hawaii's agricultural producers who are the foundation of Hawaii's drive towards increased food self-sufficiency and food security. The tax credit applies to taxable years beginning after December 31, 2021.

We defer to the Department of Taxation as to the potential fiscal impacts of this measure.

The Department notes that this measure does not define "qualified expenses" and partly defines "qualified taxpayer," and leaves unspecified the maximum amounts for tax credits that can be claimed by a qualified taxpayer as well as the total cumulative amount of tax credits available under this program annually. Further, this measure does not have an end date.

According to the 2017 Agricultural Census, there are just over 7,300 agricultural producers in Hawaii. The Department may require additional personnel, related



resources, a special fund in which to deposit and use the fees collected to qualify agricultural costs and certify tax credits, and the authority to adopt rules to carry out its responsibilities to certify qualified expenses in a fair, timely, and transparent manner.

Thank you for the opportunity to testify on this important measure.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
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To: The Honorable Mike Gabbard, Chair;
The Honorable Clarence K. Nishihara, Vice Chair;
and Members of the Senate Committee on Agriculture and Environment

From: Isaac W. Choy, Director
Department of Taxation

Date: Monday, February 7, 2022
Time: 1:00 P.M.
Place: Via Video Conference, State Capitol

Re: S.B. 1316, Relating to Agriculture

The Department of Taxation (Department) offers the following comments on S.B. 1316 for the committee's consideration.

S.B. 1316 amends chapter 235, Hawaii Revised Statutes (HRS), to create a new nonrefundable tax credit for qualified taxpayers who produce at least fifty per cent of food crops for local consumption. The amount of the credit is equal to the qualified expenses of the qualified taxpayer, up to an unspecified cap. There is also an unspecified annual aggregate cap. Both the aggregate cap and certification of the credit will be administered by the Board of Agriculture. The credit applies to tax years beginning after December 31, 2021.

First, the Department defers to the Board of Agriculture on its ability to certify the credit and administer the aggregate cap, but requests that third-party certification be maintained. The Department does not have then necessary subject-matter expertise for certification.

Second, the Department notes that there is no definition of or restriction on what counts as "qualified expenses." The Department recommends adopting a clear definition of "qualified expenses" that limits eligibility only to expenses that are relevant and necessary for purposes of the credit. This will help limit significant unintended losses in revenue and better accomplish the Legislature's desired goals.

Additionally, the Department notes that the current definition of "qualified taxpayer" is vague and may be misconstrued. It is not clear how "fifty per cent of food crops" will be quantified, nor is it clear how the crops being "for local consumption" will be verified. The Department recommends clarifying this definition to avoid unintended revenue losses. As currently written any taxpayer could qualify for the credit.

Finally, the Department respectfully requests that the credit be made available for taxable years beginning after December 31, 2022. This will give the Department sufficient time to make the necessary administrative and computer changes.

Thank you for the opportunity to testify on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Agricultural Production Tax Credit

BILL NUMBER: SB 1316 (Carried over from 2021 Session)

INTRODUCED BY: KOUCHI (Introduced by request of another party), ACASIO, CHANG, KANUHA, KEOHOKALOLE

EXECUTIVE SUMMARY: Establishes an agricultural production tax credit that includes agricultural producers who produce at least fifty per cent of food crops for local consumption.

SYNOPSIS: Adds a new section to Chapter 235, HRS, that would provide a nonrefundable credit equal to 100% of the qualified expenses of the qualified taxpayer, up to a maximum of \$____. Provides an aggregate cap of \$____ for all qualified taxpayers in any taxable year.

Provides that all claims for a 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 tax credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

Defines “qualified taxpayer” as including agricultural producers who produce at least fifty per cent of food crops for local consumption.

Does not define qualified expenses.

Provides a mechanism for the Department of Agriculture to certify credit claims. Provides that the Department of Agriculture to charge a fee to offset the costs of certifying tax credit claims.

EFFECTIVE DATE: Applicable to taxable years beginning after December 31, 2021.

STAFF COMMENTS: The credit proposed by this bill has some problems.

Largest on the list is the failure of the bill to define qualified expenses or qualified taxpayer. The existing definition of qualified taxpayer includes certain things but does not tell us what is NOT a qualified taxpayer. The definition of qualified expenses is essential to tell us what is creditable.

If the bill is interpreted to mean only agricultural producers who produce at least fifty per cent of food crops for local consumption, there may be a constitutional issue because the Commerce Clause of the U.S. Constitution says that the tax system cannot discriminate against out-of-state taxpayers; thus, a tax benefit restricted to agriculture grown, raised, or caught in Hawaii was held to violate the Constitution. *In re Hawaiian Flour Mills, Inc.*, 868 P.2d 419 (1994); Hawaii Tax Information Release No. 93-4.

The credit as proposed is a 100% credit, meaning, at least for qualified expenses under the as yet undisclosed limit, the business pays nothing and the Hawaii taxpayers pay everything. There is currently nothing to indicate that the business seeking the credits would have “skin in the game.”

The tax system is there to raise revenue to keep the government moving. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

Furthermore, tax credits are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as generous about the expenditure of these funds when our kids are roasting in the public school classrooms, there isn't enough money for social service programs, or our state hospitals are on the verge of collapse?

If lawmakers want to subsidize this activity, then a direct appropriation would be more accountable and transparent. That way lawmakers will be very clear on (1) how much we taxpayers are paying, and (2) what we are getting in return.

Digested: 2/3/2022



Email: communications@ulupono.com

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT
Monday, February 7, 2022 — 1:00 p.m.

Ulupono Initiative supports SB 1316, Relating to Agriculture.

Dear Chair Gabbard and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono supports SB 1316, which establishes an agricultural production tax credit that includes agricultural producers who produce at least fifty per cent of food crops for local consumption.

Ulupono supports the State's goal to double local food production by 2030. Encouraging our Hawai'i growers to expand production, through incentives such as a tax credit, is extremely important to increase the overall local consumption of fresh, healthy products.

Ulupono would like to note that this measure does not define a "qualified expense." As this bill moves forward, we ask the committee to consider the various expenses that would be covered with such a broad tax credit. For example, agricultural production costs that may qualify include access to land and water, equipment purchases, labor force establishment, on-farm inputs, invasive species mitigation, food safety compliance, and processing and packaging.

We recommend that this committee consider amending the definition of a "qualified taxpayer" by replacing "food crop" with "fresh local agricultural products" defined as "fruits, vegetables, nuts, coffee, eggs, poultry and poultry products, livestock and livestock products, milk and milk products, aquacultural and maricultural products, and horticultural products that are one hundred per cent grown, raised, and harvested in Hawaii." This definition reflects the Department of Agriculture's Seal of Quality Program – the top-of-the-line program established to protect the Hawai'i brand for both fresh and value-added products.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

FEBRUARY 7, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 1316
RELATING TO AGRICULTURE

Conference Room 224 & Videoconference
1:00 PM

Aloha Chair Gabbard, Vice-Chair Nishihara, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 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.

The Hawaii Farm Bureau supports SB 1316, which establishes an agricultural production tax credit that includes agricultural producers who produce at least fifty percent of food crops for local consumption.

Farming is a tough business. High production costs are a major driver of narrow profit margins for Hawaii's farmers. Land, water, labor, taxes, transportation, utilities, inputs, invasive species, and food safety regulations are all costs of doing business that often results in our farmers just being able to break even. HFB supports any initiative that reduces the cost of production so that locally produced goods can compete with imported products, strengthening our local economy.

Hawaii Farm Bureau Policy states:

"State tax and monetary policies should be designed to encourage private initiative to help stabilize farm economics in the State of Hawaii, to promote employment and economic growth, and to distribute the tax burden equitably. Further such policy should be used by the state, when appropriate, to encourage agricultural growth and expansion."

This measure falls in the "encourage agricultural growth and expansion." category.

Thank you for this opportunity to testify on this important subject.

SB-1316

Submitted on: 2/3/2022 4:13:45 PM

Testimony for AEN on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Barry	Individual	Support	No

Comments:

Aloha,

I support SB1316.

Mahalo,

Barbara Barry

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
ON
SENATE BILL NO. 1316

February 7, 2022
1:00 p.m.
Room 224 and Videoconference

RELATING TO AGRICULTURE

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 1316 adds a new section to Chapter 235, HRS, that establishes a non-refundable income tax credit for agricultural producers who produce at least 50% of their food crops for local consumption; provides that the tax credit shall be equal to the qualified expenditures of the taxpayer, up to an unspecified maximum amount; sets the annual aggregate cap for the tax credit as an unspecified amount; and requires the Board of Agriculture to certify the tax credits and maintain records of taxpayers who claim the tax credit.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;
- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.

SB-1316

Submitted on: 2/4/2022 7:20:11 PM

Testimony for AEN on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dante Carpenter	Testifying for Carpenter & Carpenter, Inc.	Support	No

Comments:

Sen. Gabbard, Chair; Sen. Nishihara, Vice-Chair; and Members of the Agriculture & Environment Committee (AEN):

I am Dante Carpenter, Consultant to the **Waialua Egg Farm**, Farm-Fresh and Cage-Free Egg Production Facility located in Waialua, O'ahu. Be advised that this Egg-production facility is a "State of the Art" enterprise with eventual capacity to produce One (1) million eggs per day for sale to residents within the State of Hawai'i. Presently there are over 200,000 young hens, delivered as young chicks, who have begun being egg producers in the Waialua egg Farm Facility! Over \$40 million dollars have been spent in property acquisition, design & construction of these modern facilities to meet all the newest health and safety requirements of Egg Production!

Indeed, the Waialua Egg Farm strongly supports either or both of Tax Credit Bills as SB1315, and SB1316, calling for either "Food Manufacturing" or "Agricultural Production" in the deloverping food products for Hawai'i markets and its residents' consumption.

Respectfully submitted

Dante Carpenter

SB-1316

Submitted on: 2/5/2022 6:24:17 PM

Testimony for AEN on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sherry Pollack	Individual	Support	No

Comments:

Please pass SB1316 which establishes an agricultural production tax credit that includes agricultural producers who produce at least fifty per cent of food crops for local consumption. MAHALO!



1050 Bishop St. PMB 235 | Honolulu, HI 96813
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Executive Officers

Charlie Gustafson, Tamura Super Market, *Chair*
Eddie Asato, Pint Size Hawaii, *Vice Chair*
Gary Okimoto, Safeway, *Secretary/Treas.*
Lauren Zirbel, HFIA, *Executive Director*
John Schliff, Rainbow Sales and Marketing, *Advisor*
Stan Brown, Acosta Sales & Marketing, *Advisor*
Paul Kosasa, ABC Stores, *Advisor*
Derek Kurisu, KTA Superstores, *Advisor*
Toby Taniguchi, KTA Superstores, *Advisor*
Joe Carter, Coca-Cola Bottling of Hawaii, *Immediate Past Chair*

TO: Committee on Agriculture and Environment
Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 7, 2022
TIME: 1pm
PLACE: Via Videoconference

RE: SB1316 Relating to Agriculture

Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, and distributors of food and beverage related products in the State of Hawaii.

HFIA is in support of this measure to establish an agricultural production tax credit that includes agricultural producers. Now more than ever we can see the importance of diversifying Hawaii's economy and increasing local food production.

Increasing local food production is a goal we all share. Hawaii farmers and ranchers face a range of challenges and obstacles. Hawaii has limited and expensive agricultural land available, labor costs are in our state are high, and resources like fuel and electricity are also more costly than on the mainland. The Hawaii businesses that are working to feed our state need the support of our legislature.

The covid-19 pandemic and subsequent economic downturn hit Hawaii harder than any other state and our local agricultural producers were heavily negatively impacted. This measure is one important way for the State to support Hawaii's farmers as they recover, and grow our agricultural sector. We encourage the committee to pass this measure and we thank you for the opportunity to testify.

SB-1316

Submitted on: 2/7/2022 8:14:10 AM

Testimony for AEN on 2/7/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Drew Wilkinson	Individual	Support	No

Comments:

As owner and operator of a small scale farm, I support SB1316 and believe there should be a agricultural tax credit for production farmers in Hawaii.

thank you,

Drew Wilkinson