

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE JOINT HOUSE COMMITTEES ON AGRICULTURE AND FOOD
SYSTEMS AND ECONOMIC DEVELOPMENT

FRIDAY, FEBRUARY 10, 2023
9:30 A.M.
CONFERENCE ROOM 325 AND VIDEO CONFERENCING

HOUSE BILL NO. 1383
RELATING TO AGRICULTURE

Chair Gates, Chair Holt and Members of the Committees:

Thank you for the opportunity to present testimony on House Bill 1383. This bill requires the Department of Agriculture (Department) to establish a four-member agricultural import replacement task force to identify the top ten fruit and vegetable imports to the State that can be commercially grown by local farmers; submit a report of the task force's findings and recommendation to the 2025 Legislature; and amends Chapter 235 to provide for an agricultural import replacement tax credit. The Department supports the bill and offers the following comments.

The Department acknowledges this effort may help to increase food self-sufficiency within the State. On page 1, lines 7-8, we respectfully suggest an alternate representative from the University of Hawaii, College of Tropical Agriculture and Human Resources (CTAHR) to provide the technical expertise as to what crops can be commercial grown by local farmers. On page 6, lines 17-19, we respectfully recommend "qualified taxpayers" to include limited liability companies, S corporations, partnerships,



sole proprietorships, non-profit organizations, and agricultural cooperatives that meet necessary insurance requirements.

The Department supports this bill and defers comment on tax credits to the Department of Taxation.

Thank you for your consideration and opportunity to testify on this measure.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR
Choose an item.



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau
P.O. BOX 259

HONOLULU, HAWAII 96809
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GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

H.B. No. 1383, Relating to Agriculture

BEFORE THE:

House Committee on Agriculture & Food Systems
House Committee on Economic Development

DATE: Friday, February 10, 2023

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 325

Chairs Gates and Holt, Vice-Chairs Kahaloa and Lamosao, and Members of the Committees:

The Department of Taxation ("Department") offers the following comments regarding H.B. 1383 for your consideration.

H.B. 1383 adds a new section to chapter 235, Hawaii Revised Statutes (HRS), creating a nonrefundable income tax credit for "qualified expenses," less any grant funds received under section 141-10, HRS, for "qualified taxpayers" who are engaged in the growing or production of "agricultural import replacements" in the State. The measure sets a \$5,000,000 aggregated cap and requires the Board of Agriculture to certify all qualified expenses. The credit may be carried forward until exhausted. The terms "agricultural imports," "agricultural import replacements," "net income tax liability," "qualified expenses," and "qualified taxpayer" are defined in this measure.

The measure is effective upon approval and applies to all taxable years beginning after December 31, 2024.

The Department defers to the Board of Agriculture on its ability to certify this credit and administer its aggregate cap, but requests that the third-party certification requirement be maintained, as the Department lacks subject-matter expertise to

Department of Taxation Testimony
H.B. 1383
February 10, 2023
Page 2 of 2

determine the eligibility for and administration of this credit.

The Department further notes that it is able to implement this measure by the current effective date.

Thank you for the opportunity to provide comments on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:
H.B. NO. 1383, AGRICULTURE.

BEFORE THE:
HOUSE COMMITTEES ON AGRICULTURE AND FOOD SYSTEMS AND ON
ECONOMIC DEVELOPMENT

DATE: Friday, February 10, 2023 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Cynthia M. Johiro, Deputy Attorney General

Chairs Gates and Holt and Members of the Committees:

The Department of the Attorney General has a concern regarding this bill and provides the following comments.

This bill, as stated on page 1, lines 1-4, establishes “an agricultural import replacement task force to identify the top ten fruit and vegetable imports to the State that can be commercially grown by farmers in the State.” The bill also adds a new section to chapter 235, Hawaii Revised Statutes, that provides on page 2, lines 4-9, an income tax credit for a qualified taxpayer, as defined on page 6, lines 17-19 as: “any person, business entity, or cooperative association of such persons engaged in the State in the growing or production of agricultural import replacements.” “Agricultural import replacements” means “fruits or vegetables grown in the State and sold for consumption in the State or for use by business entities licensed and registered in the State” as identified by the agricultural import replacement task force, established by this bill. See page 6, lines 3-9.

The requirement that the tax credit be limited only to persons in the State growing or producing agricultural import replacements could be subject to challenge as a violation of the Commerce Clause of the United States Constitution.

The Commerce Clause provides that Congress shall have the power to “regulate Commerce . . . among the several States.” U.S. Const. art I, § 8, ct. 3. “Though

phrased as a grant of regulatory power to Congress, the clause has long been understood to have a 'negative' aspect that denies the States the power unjustifiably to discriminate against or burden the interstate flow of articles in commerce," known as the Dormant Commerce Clause. *Or. Waste Sys., Inc. v. Dep't of Env'tl. Quality*, 511 U.S. 93, 98 (1994). The doctrine prohibits states from "advancing their own commercial interests by curtailing the movement of articles of commerce, either into or out of the state," *Fort Gratiot Sanitary Landfill, Inc. v. Mich. Dep't of Natural Resources*, 504 U.S. 353 (1992) (internal brackets omitted), upon concern about "economic protectionism," i.e., "regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors." *Department of Revenue of Ky. v. Davis*, 553 U.S. 328, 337 (2008).

With this bill, only persons in the State growing or producing agricultural import replacements may avail themselves of the tax credit. The same tax credit would not be available to persons selling food products made with agricultural import replacements grown outside of Hawaii.

Based on the foregoing, one solution would be to remove the requirement that only persons who are "in the State" growing or producing agricultural import replacements are eligible for the tax credit. This could be accomplished by deleting the words "in the State" from the definitions of "Agricultural import replacements" and "Qualified taxpayer" found on page 6, lines 4-5, 5-6, and 18. This would address the possible Dormant Commerce Clause challenge by allowing the tax credit to apply equally to all persons growing or producing agricultural import replacements.

Additionally, article V, section 6 of the State Constitution provides that all executive and administrative offices, departments, and instrumentalities of the State shall be allocated by law among and within its principal departments unless they are established for temporary and special purposes. While the task force appears to be established for a special purpose, it is not clear whether it is temporary, as the bill does not provide any definite dissolution date.

Therefore, if the task force is intended to be permanent, we recommend that this bill be amended to insert the following wording at page 1, line 1:

(a) There is established and placed within the department of agriculture an agricultural import replacement task force

If the task force is intended to be temporary, we recommend adding subsection (e) to section 1 of the bill as follows:

(e) The task force shall be dissolved on [date].

Thank you for the opportunity to provide comments.



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Waialua, HI 96791-9501
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February 8, 2023

House Committees on Agriculture & Food Systems & Economic Development
Friday February 10, 2023, 9:30 a.m.

SUBJECT: Comments on HB 1383– RELATING TO AGRICULTURE

Dear Chair Gates and Holt, Vice-Chairs Kahalo and Lamosaoa, and members of the Committees:

On behalf of the North Shore Economic Vitality Partnership (North Shore EVP), I would like to extend support for HB 1383, which establishes a task force to identify the top ten fruits or vegetables that are imported into the State but may be commercially grown in the State and creates an income tax credit to incentivize the production of those fruits or vegetables to obviate the need to import them into the State.

Local production of highest volume (or is it value?) imported fruits and vegetables is perhaps the most direct strategy in the helping the state reduce imports and increase the quantity of crops grown and consumed in Hawaii. But in addition to merely identifying the top 10 crops it is critical to identify the largest importers of those commodities as well. HB1383 as written provides tax credit incentives for anyone growing any of the top 10 “agricultural imports” regardless of how much a farm grows or where the crops are sold or used.

We believe this bill can be amended in such a way to promote true import substitution where “Agricultural import replacements” are not just grown here, but are sold into the supply chain as a direct and documented replacement to imports.

Thank you for the opportunity to testify on this bill.

Kevin M Kelly
President

HB-1383

Submitted on: 2/8/2023 8:19:16 PM

Testimony for AGR on 2/10/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|----------------------|
| Indy Rishi Singh | Ono Seeds | Support | Remotely Via Zoom |

Comments:

I will comment on zoom. Thank you for your work and service!



Email: communications@ulupono.com

HOUSE COMMITTEES ON AGRICULTURE & FOOD SYSTEMS AND ECONOMIC
DEVELOPMENT

Friday, February 10, 2023 — 9:30 a.m.

UluPono Initiative supports HB 1383, Relating to Agriculture.

Dear Chair Gates, Chair Holt, and Members of the Committees:

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 choices, and better management of freshwater resources.

UluPono supports HB 1383, which establishes a task force to identify the top ten fruits or vegetables that are imported into the State but may be commercially grown in the State and creates an income tax credit to incentivize the production of those fruits or vegetables to obviate the need to import them into the State.

UluPono supports import replacement efforts to increase local food production for local consumption, which helps bolster our state's food security. By providing tax incentives for certain fruits and vegetables, farmers will be more likely to produce those fruits and vegetables. We believe that the task force membership should include a representative from the University of Hawai'i College of Tropical Agriculture and Human Resources and representatives from each county's economic development department. We note that it may not be necessary to include a Department of Education Assistant Superintendent to support this task force.

As Hawai'i's local food issues become increasingly complex and challenging, we appreciate this committee's efforts to look at policies that support local food production.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



P.O. Box 253, Kunia, Hawai'i 96759
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e-mail info@hfbf.org; www.hfbf.org

February 10, 2023

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

TESTIMONY ON HB 1383
RELATING TO AGRICULTURE

Conference Room 325 & Videoconference
9:30 AM

Aloha Chairs Gates and Holt, Vice-Chairs Kahaloa and Lamosao, and Members of the Committees:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports HB 1383, which establishes a task force to identify the top ten fruits or vegetables that are imported into the State but may be commercially grown in the State and creates an income tax credit to incentivize the production of those fruits or vegetables to obviate the need to import them into the State.

About 85-90% of Hawai'i's food is imported which makes it particularly vulnerable to disruptions in shipping and the food supply. The "Economic Impacts of Increasing Hawai'i's Food Self-Sufficiency".report by Dr, Mathew Loke of HDOA and Dr. Ping Sung Leong of CTAHR estimates that replacing just 10% of the food we currently import would amount to approximately \$313 million. Assuming a 30% farm share, \$94 million would be realized at the farm-gate which would generate an economy-wide impact of an additional \$188 million in sales, \$47 million in earnings, \$6 million in state tax revenues, and more than 2,300 jobs.

Food import replacement can also have a significant impact on Hawai'i's economy by decreasing the risk of introducing harmful invasive pests. These pests could have devastating effects on the island's agricultural economy and its fragile ecosystems. Invasive species such as coqui frogs, red fire ants, CBB, two-line spittlebug, coffee leaf rust, macadamia nut feltid coccid, and varroa mites have severe consequences beyond agriculture and require millions in public dollars to fund eradication or containment programs.

We support efforts to replace agricultural imports with Hawai'i-grown products to provide our communities with the fresh fruits and vegetables they want while helping the State's farmers be more successful.

The proposed task force will provide necessary information to help farmers decide what products they can grow to replace that being brought into Hawai'i.

HFB respectfully requests the following amendment:

SECTION 1. (a) There is established within the department of agriculture an agricultural import replacement task force to identify the top ten fruit and vegetable imports to the State that can be commercially grown by farmers in the State

Thank you for the opportunity to testify on this measure of great importance.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Agricultural Imports Replacement; Task Force; Income Tax Credit

BILL NUMBER: HB 1383

INTRODUCED BY: ONISHI, GATES, HUSSEY-BURDICK, KAHALOA, LAMOSAO, MORIKAWA, NAKASHIMA, PERRUSO, TARNAS, TODD, WOODSON, Pierick, Ward

EXECUTIVE SUMMARY: Establishes a task force to identify the top ten fruits or vegetables that are imported into the State but may be commercially grown in the State. Creates an income tax credit to incentivize the production of those fruits or vegetables to obviate the need to import them into the State.

SYNOPSIS: In a non-HRS provision, establishes an agricultural import replacement task force to identify the top ten fruit and vegetable imports to the State that can be commercially grown by farmers in the State.

Adds a new section to chapter 235, HRS, to establish a nonrefundable tax credit equal to 100% of the qualified expenses of a qualified taxpayer, less any grant money received under section 141-10, HRS, up to \$_____ per taxable year.

Specifies that the credit is determined at the entity level and may be allocated to partners, S corporation shareholders, or trust beneficiaries following section 704(b) of the Internal Revenue Code.

Caps the tax credits at \$5 million per taxable year. If the cap is reached, any taxpayers who are limited may claim the balance of the credit in the subsequent taxable year.

Creates a process where a qualified taxpayer submits an application to the Department of Agriculture, which will certify eligible expenses. Allows for a user fee.

All tax credit claims shall be filed before the end of the 12th month following the close of the taxable year for which the credit may be claimed, upon pain of waiver of the right to claim the credit.

Defines “agricultural import replacements” as the fruits or vegetables grown in the State and sold for consumption in the State or for use by business entities licensed and registered in the State that are the same types of fruits and vegetables identified by the agricultural import replacement task force.

Defines “agricultural imports” as the top ten fruits or vegetables that are imported into the State but may be commercially grown in the State, as identified by the agricultural import replacement task force.

Defines “qualified expenses” as expenses incurred by a qualified taxpayer to produce agricultural import replacements. “Qualified expenses” include costs for any equipment, materials, or supplies necessary to grow agricultural import replacements.

EFFECTIVE DATE: Tax credit applies to taxable years beginning after December 31, 2024.

STAFF COMMENTS: The credit as proposed is a 100% credit, meaning, at least for expenses under the 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,” and thus does not create any incentive for the business to be efficient.

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, overtaxed by the pandemic?

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: 2/8/2023



Food+ Policy Internship 2023

food@purplemaia.org

February 9, 2023

To: House Committee on Agriculture & Food Systems & House Committee on Economic Development

*Subject: HB 1383, **Relating To Agriculture***

We are writing in strong support for HB 1383, which would establish a task force to identify the top ten fruits or vegetables imported into the State and create an income tax credit to incentivize their local production. This bill is a **vital step** towards promoting food security and a sustainable food economy in Hawaii.

By reducing the dependence on imported produce, we can ensure that the state has access to fresh, locally grown produce all year round. This will not only benefit the health of our citizens but also support our local farmers and strengthen the local economy. Additionally, the income tax credit will provide a significant incentive for farmers to invest in the production of these fruits and vegetables – further driving local production and reducing the need for imports.

In conclusion, this bill is a win-win for the State of Hawaii, promoting food security, supporting local farmers, and improving the health of our citizens. We strongly urge you to support this bill and take this important step towards a more sustainable future for Hawaii.

Thank you for considering our testimony in support of this bill.

Mahalo,

Tierra Bartolotti & the Food+ Policy Team

#fixourfoodsystem

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2023, the cohort of interns are undergraduate and graduate students from throughout the UH System. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.

HB-1383

Submitted on: 2/8/2023 9:01:11 AM

Testimony for AGR on 2/10/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Leimomi Khan | Individual | Support | Written Testimony Only |

Comments:

Aloha, I support the intent of this legislation, the result of which would encourage and benefit local farmers and make our islands more self-sustaining. Would you, however, also consider identifying agricultural products that are extremely expensive, whether on the top 10 list or not, for a tax incentive, for example, taro, likened to rice as a staple, as poi is about \$7 or so a pound and healthy foods, such as tomato, typically over \$2 a pound. I am not knowledgeable whether such tax incentives already exist, but if not, please consider this recommendation. Mahalo for your consideration of my testimony.

HB-1383

Submitted on: 2/8/2023 9:28:01 AM

Testimony for AGR on 2/10/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Caroline Azelski | Individual | Support | Written Testimony Only |

Comments:

Strong support. Thank you.

HB-1383

Submitted on: 2/8/2023 9:43:50 AM

Testimony for AGR on 2/10/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Regina Gregory | Individual | Support | Written Testimony Only |

Comments:

Good idea, long overdue. Maybe reconsider task force members: Why is the assistant superintendent of the office of facilities and operations from the department of education a member? Why is there no representation from UH College of Tropical Agriculture & Human Resources (CTAHR)?



Food+ Policy Internship 2023

food@purplemaia.org

February 8, 2023

To: Chair Gates, Vice Chair Kahaloa, and the House Committee on Agriculture & Food Systems as well as Chair Holt, Vice Chair Lamosao and the House Committee on Economic Development

Subject: **HB1383**, Relating to Agriculture

Aloha,

Food+ Policy **supports HB1383**, which is an extremely important bill that would identify the top ten fruits and vegetables that are imported into the state but may be grown commercially in the state. This would be moving Hawai'i forward to creating a more resilient food system that could better provide residents with essential food products and begin to alleviate Hawai'i's dependence on imported products.

Growing food we eat here in the islands would not only strengthen Hawai'i's food system sustainability, but also help to relieve stresses in times of emergencies or disasters by promoting home grown crops that would not be available with little to no open sea or air transports.

HB1383 would also help to deter climate change issues through reduction of goods transportation, and increase the use and vegetation coverage on agriculture lands, allowing for more carbon sequestration. In all this would create a more resilient Hawai'i, via a local production food system, transitioning to a more prosperous food resilient Hawai'i.

In order for Hawaii to become more resilient and self-sustaining, we must begin to create a stronger food secure infrastructure. That begins with identifying which fruits and vegetables

The Food+ Policy internship develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2023, the cohort of interns are undergraduate and graduate students from throughout the UH System. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.

Hawai'i residents consume and can be grown here, and filling the need with produce produced here at home in Hawai'i. This is why I humbly ask the Agriculture committee to schedule a hearing for HB1383.

Mahalo,
Kelsey Amos & the Food+ Policy Team
#fixourfoodsystem

HB-1383

Submitted on: 2/9/2023 12:25:08 AM

Testimony for AGR on 2/10/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Dana Keawe | Individual | Support | Written Testimony Only |

Comments:

support