

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION

Ka 'Oihana 'Auhau

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

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1562, Relating to Agriculture.

BEFORE THE:

Senate Committees on Agriculture and Environment and Housing

DATE: Monday, February 3, 2025

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 224

Chairs Gabbard, and Chang, Vice-Chairs Richards, III, and Hashimoto, and Members of the Committees:

The Department of Taxation (DOTAX) offers the following comments regarding S.B. 1562 for your consideration.

Section 3 of S.B. 1562 adds a section to chapter 235, Hawaii Revised Statutes, (HRS), establishing a tax credit for land donated to the new Combined Housing Operational Agriculture Mobilization Program proposed in this bill. Section 3 of the bill takes effect for taxable years beginning after December 31, 2024.

DOTAX recommends including the following language to the end of subsection (d), setting a deadline for which the credit may be claimed:

The credit allowed under this section shall be claimed against the net income tax liability for the taxable year. All claims for the 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 this subsection shall constitute a waiver of the right to claim the credit.

DOTAX also recommends amending subsection (e) as follows:

If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of credit over liability may be carried forward until exhausted within five years of the filing of the initial claim for the credit under this section.

DOTAX requests that the effective date of the bill be amended to taxable years beginning after December 31, 2025, to provide sufficient time to make the necessary form, system, and instruction changes.

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

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



State of Hawai'i
DEPARTMENT OF AGRICULTURE
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SHARON HURD
Chairperson, Board of Agriculture

DEAN M. MATSUKAWA
Deputy to the Chairperson

TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT
AND HOUSING

MONDAY, FEBRUARY 3, 2025
1:00 PM
CONFERENCE ROOM 224

SENATE BILL NO. 1562
RELATING TO AGRICULTURE.

Chairs Gabbard and Chang, Vice Chairs Richards and Hashimoto and Members of the Committees:

Thank you for the opportunity to provide testimony on Senate Bill No. 1562 that creates a new chapter in Title 11 (Agriculture and Animals) and establishes the Combined Housing Operational Agricultural Mobilization Program (CHOAMP) to assist bona fide farmers to live and farm on agricultural lands. Establishes a tax credit for and donated to the program. The Department of Agriculture (Department) offers comments.

This measure cobbles together a number of concepts and a few tools the intended outcome which is to provide 99-year leaseholds to low- to moderate-income participants who want to undertake bona fide agricultural production as a primary occupation and have a farm dwelling on unspecified agricultural lands. Separately, the Department is to provide subsidized lease rates and award grants for agricultural improvements to participants, and support public-private partnerships to develop agricultural infrastructure including farmworker housing, irrigation systems and value-added processing facilities. Finally, there is a tax credit to encourage landowners to donate their agricultural land to the Program.

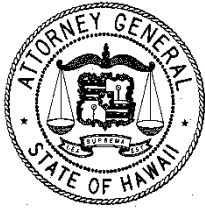
The Department recognizes that farm housing is an issue for bona fide commercial farmers. Adequate time and resources will be needed to successfully stand up this portion of the Program. We estimate initial funding for the first year of approximately \$750,000 to procure a study of available land that satisfies the intent of this measure and to hire a full-time, permanent, property manager V (SR-24) to oversee implementation. Upon completion of the study, year two appropriations would include additional funds to procure lands, and operational funds to manage the program. The



Page 2

Department would have a better idea of the second year cost following the completion of the study.

Thank you for the opportunity to present our testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:
S.B. NO. 1562, RELATING TO AGRICULTURE.

BEFORE THE:
SENATE COMMITTEES ON AGRICULTURE AND ENVIRONMENT AND ON
HOUSING

DATE: Monday, February 3, 2025 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Anne E. Lopez, Attorney General, or Kelcie K. Nagata or
Christopher J.I. Leong, Deputy Attorneys General

Chairs Gabbard and Chang and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to establish the Combined Housing Operational Agriculture Mobilization Program, administered by the Department of Agriculture, to provide housing and farming opportunities to people engaged in bona fide agricultural activities.

Article V, section 6 of the Hawaii State Constitution requires that "instrumentalities of the state government and their respective powers and duties [to] be allocated by law and among and within not more than twenty principal departments[.]" The proposed section -8 (page 7, lines 18-20) requires the Chairperson of the Board of Agriculture to "establish an oversight committee to provide guidance and recommend improvements to the program." However, the placement of the committee within a principal department is only implied. We recommend amending section -8, on page 7, lines 18-20, as follows:

~~[The chairperson of the board of agriculture shall establish]~~ There shall be established an [oversight] advisory committee within the department of agriculture. The advisory committee shall provide guidance and recommend improvements to the program.

Additionally, the bill lacks clarity regarding the Department of Agriculture's authority to acquire agricultural lands under the program. While the bill specifies on page 5, lines 3-5, that the program shall "[a]cquire, hold, and manage agricultural lands," it does not specify how the Department of Agriculture would obtain an interest in those lands. More specifically, the bill is silent whether those lands will be set aside by the Department of Land and Natural Resources. For example, section 141D-4, Hawaii Revised Statutes (HRS), specifies that "[u]pon mutual agreement and approval by the board of land and natural resources . . . [t]he department may accept from the department of land and natural resources the transfer and management of certain qualifying . . . lands." To address this ambiguity, we recommend adding a provision to clarify the Department of Agriculture's authority, similar to sections 141D-4 and 166E-3, HRS.

Thank you for the opportunity to provide comments.

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director



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TO: Senator Mike Gabbard, Chair
Senator Herbert M. "Tim" Richards III, Vice Chair
Committee on Agriculture and Environment

FROM: Richard T. Bissen, Jr., Mayor
Rogerene Arce, Director of Agriculture

DATE: February 1, 2025

SUBJECT: **SUPPORT OF SB1562, RELATING TO AGRICULTURE**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The act establishes the Combined Housing Operational Agriculture Mobilization Program to assist bona fide farmers to live and farm on agricultural lands and establishes a tax credit for land donated to the program.

We **SUPPORT** this measure for the following reasons:

1. This bill is a step towards assisting our farmers and food producers by addressing one of the biggest barriers to enter into the farming space and agriculture industry, which is housing. This will positively increase our collective ability to increase local food production and practice more sustainable small scale farming operations.
2. There are already so many barriers to farming that are especially felt by our most vulnerable and dispossessed community, our kānaka 'ōiwi, that range from the price of land, water, and infrastructure. This bill seeks to address one of the main barriers of housing, by offering secure, longterm access to land and affordable housing.
3. The Combined Housing Operational Agriculture Mobilization Program can have a profound impact on our community and economy by creating a space for future generations to live, work and ultimately thrive.

Mahalo for your consideration.



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e-mail info@hfbf.org; www.hfbf.org

February 3, 2025

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON HOUSING

TESTIMONY ON SB 1562
RELATING TO AGRICULTURE

Conference Room 224 & Videoconference
1:00 PM

Aloha Chairs Gabbard and Chang, Vice-Chairs Richards and Hashimoto, and Members of the Committee:

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 provides comments on SB 1562, which seeks to support housing for farmers and farm workers. We recognize the urgent need for affordable housing solutions to support Hawai'i's agricultural workforce and the viability of our farms. However, we also believe it is critical to approach this initiative with caution to prevent unintended consequences that could negatively impact Hawai'i's agricultural industry and land use policies.

HFB strongly supports efforts to provide affordable and accessible housing for our farming and ranching community. The high cost of living in Hawai'i poses significant challenges to farm workers and small farmers, many of whom struggle to find affordable housing near their places of work. Adequate housing is essential to retaining a skilled agricultural workforce and sustaining local agriculture production.

SB 1562 proposes the implementation of the **Combined Housing, Operational Agriculture, and Mobilization Program (C.H.O.A.M.)**, which seeks to integrate housing and agriculture in a structured development model. While the concept has potential benefits, HFB urges careful evaluation of the following concerns to ensure that agricultural land remains dedicated to active agricultural production and farming:

1. Preservation of Agricultural Land

- Hawai'i has limited agricultural land, and any program that combines housing and farming must ensure that land remains used for its intended agricultural purpose.
- Zoning and land use policies must be upheld to prevent urban encroachment and speculative real estate development that could displace active farmers.

2. Role of the Department of Agriculture (DOA) in Housing Management

- DOA's primary mission is agriculture, not housing. HFB is concerned that tasking DOA with housing management could detract from its core responsibilities, such as farmer support, research, pest control, and food security initiatives.
- If a housing component is introduced, it may be more appropriate for a housing-focused agency, such as the Hawai'i Housing Finance and Development Corporation (HHFDC), to manage housing administration, while DOA continues to oversee agricultural operations.

3. Infrastructure and Resource Strain

- Integrated housing developments will require adequate water, electricity, roads, and sewage infrastructure. These additional demands could strain existing agricultural resources, particularly in rural farming areas.
- Water rights and irrigation access must be protected to prioritize farm productivity over residential consumption.

4. Enforcement of Agricultural Use

- Housing within agricultural zones must include strong safeguards to ensure that residents actively participate in farming.
- A clear enforcement mechanism is needed to prevent scenarios where properties designated for agricultural housing are later used as residences without farm activity.

5. Economic and Community Impact

- Land speculation is a significant concern—if landowners purchase agricultural properties under the pretext of farming but do not actively cultivate the land, Hawai'i's food production could suffer.
- The program must also ensure that local farmers and farm workers, not outside investors, benefit from this initiative.

To balance the need for farm worker housing with the importance of protecting Hawai'i's agricultural lands, HFB recommends:

- Limiting housing projects to actively engaged farmers and farm workers, with periodic compliance checks to ensure agricultural use.
- Requiring oversight from an appropriate housing agency, while DOA continues to focus on farm-related functions.
- Developing clear zoning protections to ensure that land designated for agricultural use is not converted into non-farm residential developments over time.
- Prioritizing infrastructure solutions that support both farm productivity and responsible housing development.

HFB supports housing initiatives that genuinely benefit farmers and farm workers but urges careful planning and strong safeguards to prevent the misuse of agricultural land and resources. We respectfully request that SB 1562 be amended to include necessary protections, ensuring that this program strengthens, rather than compromises, Hawai'i's agricultural future.

Thank you for the opportunity to provide testimony.



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Honolulu, O'ahu

Natalie Urminska
Kaua'i

Aloha Chairs Gabbard & Chang, Vice Chairs Richards & Hashimoto, and Members of the Committees,

The Hawai'i Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports SB1562.**

SB1562 offers an innovative approach to addressing two of the most pressing challenges faced by Hawaii's agricultural community: access to affordable housing and productive use of agricultural lands. The Combined Housing Operational Agriculture Mobilization (CHOAM) Program proposes a solution that allows bona fide farmers to live and work on the land they cultivate. Encouraging land donations through tax incentives can increase the availability of agricultural lands for local farmers, who may otherwise be priced out of the market.

Overall, SB1562 is comprehensive in outlining the structure and intent of the CHOAM Program; however, several areas may benefit from further clarification to ensure robust oversight, financial sustainability, and alignment with the intended agricultural goals. **We request consideration of attached amendments to:**

Clarify the Tax Credit Provisions & Tie to Land Quality:

Cap the land donation tax credit to protect state funds, and scale the credit based on the Land Study Bureau's productivity ratings and existing agricultural infrastructure.

Clarify Program Term and Lease Structure:

Decide between long-term (99-year) leases for a single cohort or mid-term (20–30-year) leases for successive cohorts, and establish clear policies for housing improvements and transitions upon lease expiration.

Provide More Specific Guidance for Implementation and Enforcement:

Direct the Department of Agriculture to adopt administrative rules under HRS Chapter 91, detail eligibility and lease terms, and strengthen oversight committee membership and responsibilities.

These recommendations will strengthen program integrity, foster balanced representation and effective oversight, preserve fiscal responsibility, and ensure that the lease structure sustains both existing and successive cohorts of new farmers.

Mahalo for the opportunity to testify.

Hunter Heavilin
Advocacy Director
Hawai'i Farmers Union

Clarify the Tax Credit Provisions & Tie to Land Quality

Cap or Limit on Tax Credit

Consider instituting a cap (per taxpayer, per year, or total program) to protect the State's fiscal interests. The proposed new tax credit in §235- for donated agricultural lands could become costly if large parcels are donated. Also clarify whether partial donations of land are eligible and how the appraised value will be treated.

Proposed Language:

- (b) The amount of the credit shall be the lesser of:
 - (1) The appraised value of the agricultural lands validly donated, as determined by an independent appraiser; or
 - (2) \$_ in the aggregate for all donated parcels in a single taxable year.

Tax Credit Scaling Based on Land Quality and Infrastructure Donated farmland can vary greatly in productivity and may already include agricultural infrastructure such as irrigation systems or processing facilities. Require that the credit amount be adjusted based on the **Land Study Bureau's** (LSB) detailed land classification (overall productivity rating) and the presence of existing agricultural infrastructure. Despite reference to LSB type ratings in statute, the Important Agricultural Lands effort has seen less than 30% of total dedicated acres rated 'A' or 'B'. Rewarding higher-quality land and existing infrastructure donations can encourage landowners to contribute parcels best suited for agriculture.

Proposed Language (new subsection):

(c) In determining the amount of the tax credit for land donations, the department of taxation, in consultation with the department of agriculture, shall adopt rules pursuant to chapter 91 to scale the tax credit based on:

1. The land's overall (master) productivity rating, as determined by the Land Study Bureau's detailed land classification; and
2. The presence and condition of existing agricultural infrastructure, including but not limited to irrigation systems, fencing, farm roads, and processing facilities, provided that parcels with higher productivity ratings and substantial existing agricultural infrastructure shall be eligible for higher allowable credits, subject to any applicable cap under subsection (b).

By tying the tax credit to the land's productivity and the presence of valuable infrastructure, the bill incentivizes the donation of prime agricultural parcels that can be most effectively utilized by program participants, while protecting state fiscal

interests through caps and clear appraisal rules.

Clarify Program Term and Lease Structure

Single Cohort vs. Successive Cohorts: The bill should clearly articulate whether the CHOAM Program envisions a one-time, permanent assignment of long-term leases, or if it intends to offer “rolling” or “stepped” lease opportunities for future beginning farmers. This decision impacts how the program fosters generational renewal in farming. Long-term leases provide stability and encourage capital investments but can limit opportunities for future new farmers; mid-term leases enable more frequent turnover and broader participation but may discourage major infrastructure investments by tenants.

Proposed Language (insert a new subsection, for example in § -2 or § -4):

() The department shall determine the duration of leases under the program to best serve the long-term viability of agriculture while providing opportunities to successive cohorts of beginning producers.

Specifically, the department shall:

1. Determine whether lease terms will be:
 - Up to ninety-nine years, offering lifetime security for a single cohort; or
 - A shorter duration (e.g., twenty or thirty years) to allow for transitional opportunities for new farmers over time;
2. Develop guidelines for lease renewals, transfers, or reassignments to ensure that qualifying new and young farmers can continue to benefit from the program;
3. Balance the need for farmer security, capital investment, and infrastructure development against the objective of supporting multiple generations of beginning farmers.

Impact on Housing Development

If the CHOAM Program intends to reassign farm dwellings to new participants, clarity is needed regarding housing ownership or improvements that remain on-site after a lease ends. Specify a process for compensating departing tenants for on-farm housing improvements if there will be a mid-term turnover, or confirm that any on-site improvements remain with the land trust for future lessees.

Proposed Language (in the same subsection):

() Should the program utilize mid-term leases, the department shall adopt a clear policy for the transfer or buyout of housing and improvements upon the expiration or termination of a lease, ensuring that:

1. Improvements remain perpetually affordable and

- accessible to the subsequent lessee;
- 2. Departing farmers are fairly compensated for their equity in structures and improvements; and
- 3. Future program participants can benefit from established infrastructure and housing.

Proposed Language:

() The oversight committee, in coordination with the department, shall periodically review and evaluate the program's lease structure to ensure it continues to meet the dual objectives of supporting incumbent farmers' long-term success and creating opportunities for new and young farmers.

Provide More Specific Guidance for Implementation and Enforcement

Rulemaking Authority

The bill references certain operational details (resale formula, lease rates, income thresholds, etc.) but does not explicitly require the DOA to adopt administrative rules for these processes. Insert a section explicitly directing the DOA to adopt rules under Hawaii's Administrative Procedure Act (HRS Chapter 91) to implement the CHOAM Program, including details on eligibility, lease terms, and enforcement procedures.

Proposed Language:

§ -11 Rules

- (a) The department shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter, including but not limited to:
- (1) Eligibility criteria and documentation requirements for participants;
 - (2) Procedures for setting and adjusting lease rents;
 - (3) A resale formula and restrictions;
 - (4) Standards for sustainable agriculture;
 - (5) Inspection, monitoring, and enforcement protocols;
 - (6) Procedures for removal or termination of participants; and
 - (7) Administrative penalties and appeals.

Strengthen the Oversight Committee Structure

Membership and Stakeholder Representation

Section -8 mentions an oversight committee but does not specify membership or representation. Include representatives from relevant state agencies, agricultural organizations, community land trusts, and possibly local food or environmental advocacy groups to ensure balanced decision-making and expertise.

Proposed Language (in § -8):

The oversight committee shall consist of eleven members:

- The Chairperson of the Board of Agriculture, who shall serve as chair;
- One representative from the Department of Land and Natural Resources;
- One representative from the Hawaii Housing Finance and Development Corporation;
- One representative from each county's planning department;
- One representative of a community land trust operating in the State;
- One representative of the Hawaii Farmers Union;
- One representative of a farmer advocacy or cooperative organization; and
- One representative of an environmental conservation group.

Committee Responsibilities The extent of the committee's authority or responsibilities is unclear. Additionally, specify the committee's duties, such as reviewing lease rates, consulting on rulemaking, making recommendations for new lands to acquire, and evaluating the program's performance.

TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME TAX; Combined Housing Operational Agriculture Mobilization Program Tax Credit

BILL NUMBER: SB 1562

INTRODUCED BY: MCKELVEY

EXECUTIVE SUMMARY: Establishes the Combined Housing Operational Agriculture Mobilization Program to assist bona fide farmers to live and farm on agricultural lands. Establishes a tax credit for land donated to the program.

SYNOPSIS: Adds a new section to the HRS to establish the combined housing operational agriculture mobilization program. Lands designated under the program are to be used exclusively for: (1) Agricultural production, including cultivation of crops, livestock farming, aquaculture, and value-added production directly related to farm outputs; (2) Farmworker housing and farm dwelling units for individuals actively engaged in bona fide agricultural activities; (3) Agricultural infrastructure development, including irrigation systems, barns, greenhouses, and shared-use facilities; and (4) Sustainable land use practices, including soil conservation and regenerative farming.

Adds a new section to chapter 235, HRS, to provide a tax credit for lands donated to the program and accepted by the Department of Agriculture. The credit is nonrefundable but may be carried forward until exhausted. The amount of the credit is the value of the land as determined by an independent appraiser.

EFFECTIVE DATE: July 1, 2025, provided that the tax credit shall apply to taxable years beginning after December 31, 2024; and implementation of the combined housing operational mobilization program shall commence no later than January 1, 2026.

STAFF COMMENTS: We do not see this credit as one with a potential for high uptake. The credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount compared to the loss in revenue from the credit.

Digested: 1/31/2025

SB-1562

Submitted on: 1/31/2025 1:42:10 PM

Testimony for AEN on 2/3/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Seth Kamemoto	Individual	Comments	Written Testimony Only

Comments:

While I appreciate the intent of this bill (to give real farm families a chance at a life in Hawaii), I am concerned with applicability issues and how changing family dynamics might jeopardize continuing participation. Does “their primary source of income or livelihood” apply to the entire family or just one “primary participant”? A couple with a child could have one adult making \$50k from farming, and the other adult making \$49k in another occupation. If the second adult is offered a raise to \$51k, OR the farmer’s yield goes down to \$48k, they might no longer qualify. Or, when the child becomes a teenager or young adult and takes a job for \$2k, the household income would again skew away from farming as the “primary source of income”. And when the farmer gets old and is ready to retire, are they kicked out?? Or would the child be “forced” to farm just to retain housing for everyone?

On the other end of the spectrum, this could be gamed to some degree because there appears to be no wealth maximums or weightings that would de-prioritize wealth or other assets. A very wealthy family could live/retire here just on wealth alone, as wealthy families can pull many levers to make their income appear very low, which could give them a false priority in these programs and also allow them to continue qualifying even with very little agricultural output (even if bona fide). To be clear, an adult over 59 1/2 with a \$2M Roth IRA can draw \$80k per year that’s invisible to income. So a “primary source of income” in this case could be one cent of bona fide agricultural production.