DAVID Y. IGE GOVERNOR

JOSH GREEN M.D. LT. GOVERNOR



STATE OF HAWAII DEPARTMENT OF TAXATION

P.O. BOX 259 HONOLULU, HAWAII 96809 PHONE NO: (808) 587-1540 FAX NO: (808) 587-1560

To: The Honorable Donovan M. Dela Cruz, Chair;

The Honorable Gilbert S.C. Keith-Agaran, Vice Chair; and Members of the Senate Committee on Ways and Means

From: Isaac W. Choy, Director

Department of Taxation

Date: March 2, 2021 Time: 9:30 A.M.

Place: Via Videoconference, Hawaii State Capitol

Re: S.B. 496, S.D. 1, Relating to Agriculture

The Department of Taxation (Department) offers the following <u>comments</u> regarding S.B. 496, S.D. 1, for your consideration.

S.B. 496, S.D. 1, adds a new section to chapter 235, Hawaii Revised Statutes (HRS), to create a new nonrefundable tax credit to qualified taxpayers engaged in the State in the growing or production of agricultural import replacements. The measure also creates an "agricultural import replacement" task force to identify "the top ten fruit or vegetable imports" that can be "grown in the State and sold for consumption in the State or for use by business entities licensed and registered in the State," which will constitute this new category of agricultural import replacements. The tax credit is capped at an unspecified amount of qualified expenses, with an aggregate cap of \$5,000,000.

The measure defines "qualified expenses" as "costs for any equipment, materials, or supplies necessary to grow agricultural import replacements[,]" and defines "qualified taxpayers" as "any person, business entity, or cooperative association of such persons engaged in the State in the growing or production of agricultural import replacements." The Department of Agriculture (DOA) will be responsible for verifying the nature and amount of qualified expenses, certifying the tax credit, and administering the aggregate cap. The measure is effective upon approval and applies to taxable years beginning after December 31, 2022.

The Department notes that the measure as currently drafted is extremely broad. The proposed measure would exempt *all* persons engaged in the growing or production of so-called agricultural import replacements, and would also exempt costs for *any* equipment, materials, or supplies that could be deemed "necessary" to grow these fruits and/or vegetables. The Department recommends amending this measure to include additional definitions, criteria, and

Department of Taxation Testimony WAM SB 496 SD1 March 2, 2021 Page 2 of 2

restrictions for the proposed exemption to better effectuate the Legislature's desired policy goals, eliminate major administrative difficulties, and avoid unintended revenue losses.

The Department also notes that there are already several existing tax credits relating to agriculture and recommends this proposed credit be narrowly tailored to avoid duplicative or redundant credits that might lead to unintended losses of revenue. Moreover, restricting a new tax credit to reduce out-of-State imports and only benefit in-State businesses and producers may create an issue with the Commerce Clause of the U.S. Constitution.

Finally, notwithstanding the comments discussed above, the Department is able to administer the measure as currently written, with Section 2 applying to taxable years beginning after December 31, 2022.

Thank you for the opportunity to provide comments.

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 COMMITTEE ON WAYS AND MEANS

TUESDAY, MARCH 2, 2021 9:30 A.M. VIA VIDEOCONFERENCE

SENATE BILL NO. 496 S.D. 1 RELATING TO AGRICULTURE

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 496 S.D. 1 to establish an 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 and to establish an income tax credit to incentivize the effort.

The Department appreciates the intent of this measure so long as it does not adversely impact priorities in our Executive budget but defers to the Department of Taxation with respect to establishing a new income tax credit. Additionally, the Department would like to offer two comments with respect to this measure as follows:

- 1. On page 4, lines 3 through 21, and on page 5, line 1, the Department is asked to maintain records, verify qualified expenses, total all qualified and cumulative expenses, and certify the amount of tax credits for qualified taxpayers.
 - While this bill allows the Department to assess and collect fees to offset the costs of certifying tax credits claims, we are facing a challenging deficit in resources and personnel. To administer this program, the department will require a special fund account be established to receive and expend funds relating to tasks mentioned above. Additionally, we will require an initial appropriation of \$75,000 to be deposited in the special fund to finance setup and initial outlays relating to the program.
- The Department suggests other food imports with strong demand beyond fruits and vegetables such as crayfish and lobster (aquaculture products) be included for consideration.

Thank you for the opportunity to testify on this bill.





1050 Bishop St. PMB 235 | Honolulu, HI 96813 P: 808-533-1292 | e: info@hawaiifood.com

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TO:

Committee on Ways and Means Senator Donovan M. Dela Cruz, Chair Senator Gilbert S.C. Keith-Agaran, Vice Chair

FROM: HAWAII FOOD INDUSTRY ASSOCIATION

Lauren Zirbel, Executive Director

DATE: March 2, 2021

TIME: 9:30am

PLACE: Via Videoconference

RE: SB496 SD1 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.

Our local agriculture sector has tremendous potential for growth. Increasing local food production has been a goal for a wide range of stakeholders for a long time but making significant progress has proved challenging. By researching and identifying which products can be successfully produced locally, the task force will help focus efforts to increase local food production. The tax credit will incentivize growers to prioritize these fruits and vegetables. This system will maximize these products' potential to be successfully produced in quantities that can minimize or eliminate the need to import them.

LEGISLATIVE TAX BILL SERVICE

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Income Tax Credit for Agricultural Imports Replacement

BILL NUMBER: SB 496, SD1

INTRODUCED BY: Senate Committee on Agriculture and Environment

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, 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.

Re: SB 496, SD1

Page 2

EFFECTIVE DATE: Applies to taxable years beginning after December 31, 2022.

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 2/25/2021



Email: communications@ulupono.com

SENATE COMMITTEE ON WAYS & MEANS Tuesday, March 2, 2021 — 9:30 a.m.

Ulupono Initiative supports the intent of SB 496 SD 1, Relating to Agriculture.

Dear Chair Dela Cruz 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 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 <u>supports the intent</u> of SB 496 SD 1, which establishes a task force to identify the top ten fruits or vegetables that are imported into the State that can be commercially grown in the State; and creates an income tax credit to incentivize the production of those fruits and 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 incentivizes 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 representatives from each county's economic development department.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs



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

March 2, 2021

HEARING BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SB 496, SD1RELATING TO AGRICULTURE

Conference Room 211 9:30 AM

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, 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 496, SD1, 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. 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 Hawaii's food is imported which makes it particularly vulnerable to disruptions in shipping and the food supply. The "Economic Impacts of Increasing Hawaii's Food Self-Sufficiency".report by Dr, Mathew Loke of HDOA and Dr. PingSung 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 Hawaii'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 Hawaii-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 produce they can grow to replace that being brought into Hawaii, and the proposed tax credit will encourage them to undertake the shift to growing these crops.

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

<u>SB-496-SD-1</u> Submitted on: 2/25/2021 9:58:24 AM

Testimony for WAM on 3/2/2021 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Individual	Support	No

Comments:

Support the intent of this bill that may eventually result in more support for local farmers.

Submitted on: 2/28/2021 9:05:14 PM

Testimony for WAM on 3/2/2021 9:30:00 AM

Subm	nitted By	Organization	Testifier Position	Present at Hearing
Ted	Bohlen	Testifying for Climate Protectors Hawaii	Support	No

Comments:

To: The Honorable Donovan Dela Cruz, Chair, The Honorable Gilbert Keith-Agaran, Vice Chair, and members of the Senate Committee on Ways and Means

From: Climate Protectors Hawaii (by Ted Bohlen)

Re: Hearing SB496 SD1 RELATING TO AGRICULTURE.

Hearing: Tuesday, March 2, 2021, 9:30 a.m., Rm. 211 and by videoconference

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Committee on Ways and Means:

The Climate Protectors Hawaii is a group focused on reversing the climate crisis. As a tropical island State, Hawaii will be among the first places harmed by the global climate crisis, with more intense storms, loss of protective coral reefs, food insecurity, and rising sea levels destroying our shorelines. We must do all we can to reduce our carbon footprint and become carbon negative as soon as possible. Growing more food locally is one way to reduce greenhouse gas emissions.

This bill would establish an agricultural import replacement 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 would create the agricultural import replacement income tax credit to incentivize the production of those fruits or vegetables to obviate the need to import them into the State.

This bill appears to be likely to reduce greenhouse gas emissions while producing more healthy local fruits and vegetables, increasing food security.

Please pass this bill! Mahalo!

Climate Protectors Hawaii (by Ted Bohlen)

Submitted on: 3/1/2021 9:17:03 AM

Testimony for WAM on 3/2/2021 9:30:00 AM

	Submitted By	Organization	Testifier Position	Present at Hearing	
Ī	Hunter Heaivilin	Individual	Support	No	

Comments:

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

The considerable economic opportunity for import substitution has long held allure as a rationale to increase local productivity and food self-sufficiency. I support the intent of SB496 and offer the following comments: During 2016, HDOA produced reports on top imports by weight (http://hdoa.hawaii.gov/add/main/top10imports/) which provide a ready means to understand viable crops for import substitution. Of the 23 crops appearing in top monthly imports (apple, avocado, banana, bell pepper, berries, broccoli, cabbage, carrot, cherries, cucumber, grape, lettuce, mango, melon, mushrooms, onion, orange, peppers, potato, roots, spinach, squash, and tomato) most are already produced in the islands, while some others are not well suited to our climate. This listing may somewhat obviate the need for a task force.

Finally, this form of subsidy should not be a blanket for any organization that produces a heavily imported good, instead it should be targeted to diversify beneficiaries of state subsidy and facilitate more agricultural livelihoods by bringing producers at the margins of the marketplace into greater production. As written this bill would provide a considerable subsidy for large agribuiness as well as small family farms. However, as expenses of large operations and their capacity to engage with state reimbursement programs, the likely outcome is that the majority of the total funds would be utulized by large agribusiness operations. These large firms are the minority in overal farms across the state, yet this bill as written will do little to address inequities in access and use of state programs by larger firms.

Without careful targeting the state risks subsidizing well capitalized operations just because of the crop they happen to produce. In doing so, the state will be complicit in making it further difficult for smallholders to participate meaningfully in the state economy.

Mahalo for the opportunity to testify.

-Hunter Heaivilin

Submitted on: 3/1/2021 9:27:29 AM

Testimony for WAM on 3/2/2021 9:30:00 AM

Sub	mitted By	Organization	Testifier Position	Present at Hearing
Jef	f Mcknight	Testifying for DPH Environmental Caucus	Support	No

Comments:

As a tropical island State, Hawaii will be among the first places harmed by the global climate crisis, with more intense storms, loss of protective coral reefs, food insecurity, and rising sea levels destroying our shorelines. We must do all we can to reduce our carbon footprint and become carbon negative as soon as possible. Growing more food locally is one way to reduce greenhouse gas emissions.

This bill would establish an agricultural import replacement 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 would create the agricultural import replacement income tax credit to incentivize the production of those fruits or vegetables to obviate the need to import them into the State.

This bill appears to be likely to reduce greenhouse gas emissions while producing more healthy local fruits and vegetables, increasing food security.

Please pass this bill! Mahalo!

Submitted on: 3/1/2021 12:15:28 PM Testimony for WAM on 3/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Jones	Individual	Support	No

Comments:

3/2/2021: Testimony Supporting SB 496, SD1 / Relating to Agriculture

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and Committee Members:

As the manager of a family farm in Wai`anae, I write in support of SB 496 /SD 1, in order to establish a task force identifying the 10 ten fruits or vegetables imported into the State but may be commercially grown in Hawai`i. This bill would also create an income tax credit to incentivize the production of those fruits or vegetables.

My husband and his family have been growing vegetables commercially since the early 1970s in greenhouses -- first in Florida and then in Hawai'i. Our primary focus has been tomatoes as well as leafy greens -- both crops, which are imported to the State on a large scale. Our extensive market research has indicated from 2016 through 2020 that tomatoes remain one of the top imports into the Hawai'i -- despite large growers like Sugarland Farms and Kawamata Farms. Since 2016, we have been TRYING to obtain a permit to finish our 20,400 square foot greenhouse that we designed to grow tomatoes specifically. However, we NEVER dreamed that it would take us from approximately 2016 until now to obtain a permit from the City and County of Honolulu for this 20,400 square foot greenhouse. We purposely chose a greenhouse/packing house manufacturer from South Florida, that engineers structures to withstand hurricane wind-loads. This Florida company, a member of the American Society of Steel Fabricators, provided Structural Calculations certifying our structures could withstand - a minimum of 110 MPH. Yet, the Florida and U.S. certification was not sufficient for Hawaii and we had to pay a HAWAII plan-reviewer/architect to restamp our plans AND the structural calculations at a cost of \$10,000 before submitting everything to the City where we have incurred costs for numerous re-drawings, re-printings, AND resubmittals – sometimes for simple things like misspelled words. Yet, we STILL – to this day - have received NO approval from the City of Honolulu so we can complete the electrical installation on our greenhouse structure, install the roof structure, AND actually produce a crop of tomatoes to replace those that so MANY Honolulu wholesalers import from Mexico or California! Meanwhile, BILLIONAIRE Larry Ellison seems to have had ZERO problems with Maui County in erecting his structures and producing crops on Lana'i. In addition, the interest on our loan is now astronomical! "Frustrated" does not even begin to describe our feelings about trying to farm within the stranglehold of the City of Honolulu's Permit Office.

We support the language changes to S.D.1 that includes proposed Task Force members from the University of Hawai`i College of Tropical Agriculture, the Hawai`i Farmers' Union, and others. We also support the tax credit limitation of \$5,000,000 AND the reporting requirement to the Hawai`i Department of Agriculture.

Accordingly, for all of the above reasons, I respectfully request that you please **PASS SB496/SD1 out of your committee**. Many thanks for this opportunity to present this testimony in the interest of supporting all of Hawai's growers through SB496/SD 1.

Nancy Jones, PO Box 1462, Wai`anae, HI 96792

Submitted on: 3/1/2021 12:31:13 PM
Testimony for WAM on 3/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Zeb Jones	Individual	Support	No

Comments:

3/2/2021: Testimony Supporting SB 496, SD1 / Relating to Agriculture

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and Committee Members:

As a long-time Wai`anae growers, I submit this testimony supporting SB 496 /SD 1, that establish a task force identifying the 10 ten fruits or vegetables imported into the State but may be commercially grown in Hawai`i. I also support this bill's creation of an income tax credit to incentivize the production of those fruits or vegetables that would otherwise be imported.

I have grown vegetables commercially since the early 1970s in greenhouses -- first in Florida and then in Hawai'i. My primary focus has been tomatoes as well as leafy greens-- both of which are imported to the State on a large scale. My family's extensive market research from 2012 until today indicates that tomatoes remain one of the top imports into the Hawai'i -- despite large growers like Sugarland Farms and Kawamata Farms. Since 2016, we have been TRYING to obtain a permit to finish our 20,400 square foot greenhouse that we designed to grow tomatoes specifically. However, we NEVER dreamed that it would take us from approximately 2016 until now to obtain a permit from the City and County of Honolulu for this 20,400 square foot greenhouse. We purposely chose a greenhouse/packing house manufacturer from South Florida, that engineers structures to withstand hurricane wind-loads. This Florida company, a member of the American Society of Steel Fabricators, provided Structural Calculations certifying our structures could withstand – a minimum of 110 MPH. Yet, the Florida and U.S. certification was not sufficient for Hawaii and we had to pay a HAWAII planreviewer/architect to restamp our plans AND the structural calculations at a cost of \$10,000 before submitting everything to the City where we have incurred costs for numerous re-drawings, re-printings, AND resubmittals – sometimes for simple things like misspelled words. Sadly, we STILL – to this day – have received NO approval from the City of Honolulu so we can complete the electrical installation on our greenhouse structure, install the roof structure, AND actually produce a crop of tomatoes to replace those that so MANY Honolulu wholesalers import from Mexico or California! Meanwhile, BILLIONAIRE Larry Ellison seems to have had ZERO problems with Maui County in erecting his structures and producing crops on Lana'i. In addition, the interest on our

loan is now astronomical! "Frustrated" does not even begin to describe our feelings about trying to farm within the stranglehold of the City of Honolulu's Permit Office.

I support the language changes to S.D.1 that includes proposed Task Force members from the University of Hawai`i College of Tropical Agriculture, the Hawai`i Farmers' Union, and others. I also agree with the tax credit limitation of \$5,000,000 AND the reporting requirement to the Hawai`i Department of Agriculture.

Given all of the above reasons, I respectfully urge you to please **PASS SB496/SD1 out of your committee**. *Mahalo* for this opportunity to present this testimony in the interest of all of Hawai`i's growers by supporting SB496/SD 1.

ZEBUEL "ZEB" JONES, PO Box 1462, Wai`anae, HI 96792

Submitted on: 3/1/2021 4:33:33 PM
Testimony for WAM on 3/2/2021 9:30:00 AM



Submitted By	Organization	Testifier Position	Present at Hearing
Janet Pappas	Individual	Support	No

Comments:

Dear Chair Dela Cruz, Vice Chair Keith-Agaran and WAM Committee members,

I strongly support SB496 SD1.

It is a worthwhile endeavor to determine the top 10 fruits or vegetables imported to Hawaii and then incentivize local farmers to grow what people most want to buy. Local produce will be fresher and therefore more eye-appealing and healthier than imported produce. Fewer food imports mean greater food sustainability for Hawaii and fewer greenhouse gases emitted because less food is delivered to our state.

I also support the financial incentive (an income tax credit) for farmers who choose to grow the most popular produce.

One caveat: The success of this measure (SB496) may be greatly dependent on passage of the food hub bill (SD338) as the bills taken together should help exacerbate any food distribution issues that currently exist.

Please pass this bill.

Thank you for the opportunity to testify.

Sincerely,

Jan Pappas - Aiea, Hawaii