

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 HOUSE COMMITTEE ON AGRICULTURE**

Friday, February 4, 2022  
VIA VIDEOCONFERENCE  
10:00 A.M.

**HOUSE BILL NO. 2306  
RELATING TO INVASIVE SPECIES**

Chairperson Hashem and Members of the Committees:

Thank you for the opportunity to testify on House Bill 2306, relating to invasive species. The bill amends HRS Chapter 150A to clarify the implementation of the inspection, quarantine, and eradication service fee by establishing a separate fee and charge for the inspection, quarantine, and eradication of invasive species contained, specific to air freight brought into the State, to be used for the program at the airports; to establish a fund for the revenues to be deposited into; and appropriates funds.

The Department appreciates the intent of the measure and defers to the Office of the Attorney General. It is well documented that preventing the entry of invasive species, as opposed to control or management, is an excellent investment of resources. Programs such as the Department's Brown Tree Snake Interdiction program have been successful in this regard.

Based on previous experience, it is highly likely that the U.S. Department of Transportation (USDOT) will not allow the proposed fee collection. The DOA already assesses a fee on cargo freight per HRS Chapter 150A-5.3, which includes a reference to air freight. While this fee has been collected on sea cargo, the fee has not been



collected on air freight. This is due to a declaratory order issued by the USDOT on January 23, 2012, stating that the inspection fee statute as applied to air carriers is preempted by the federal Airline Deregulation Act (ADA). The order finds that the ADA preempts HRS 150A-5.3 because it directly regulates air carriers by commanding air carriers to conform their service of shipping freight and is related to air carrier prices. The USDOT also declared that the HRS 150A-5.3 was preempted by the federal Anti-Head Tax Act because the state was applying a direct charge on the sale of “air transportation,” for which the federal definition includes transportation of “property.” Additionally, even if there was an ability to collect funds, there would be confusion on how to determine the difference in funds allocated to this fund or the Pest inspection, Quarantine, and Eradication fund, as both funds have identical language for “Federal funds received for biosecurity, pest inspection, control, management, quarantine, and eradication programs”.

Should this measure move forward, the Department respectfully suggests that the bill be amended by:

- 1) Clarifying that the proposed HRS sections §150A-B(2) and §150A-B(3) include language specifying charges, fees, penalties at airports, to differentiate the monies from the existing Pest Inspection, Quarantine and Eradication Fund, pursuant to HRS §150A-4.5;
- 2) Amending HRS §150A-5.3 to exclude air freight;
- 3) Amending HRS §150A-5.4 to include penalties for failure to remit the Air Freight Pest Inspection, Quarantine, and Eradication Fund, and ensure that those penalties are deposited into the Air Freight Pest Inspection, Quarantine, and Eradication Fund;
- 4) Removing the reference to facilitating permit processing and monitoring of permitted organisms since this function is already covered in HRS §150A-5.3, and;

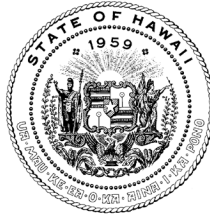
- 5) Clarifying whether this measure only applies to non-passenger freight, which currently consists of only one air cargo airline.

The Department notes, however, most airfreight, and most airfreight with risks of introducing invasives, is being brought in by passenger planes.

The Department believes that these changes would be necessary to ensure there is no preemption by the federal Airline Deregulation Act and Anti-Head Tax Act, and clearly earmark use of the funds by the Department for allowable purposes at airports statewide only.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
SUZANNE D. CASE  
Chairperson

Before the House Committee on  
AGRICULTURE

Friday, February 4, 2022

10:00 AM

State Capitol, Via Videoconference, Conference Room 325

In consideration of  
HOUSE BILL 2306  
RELATING TO INVASIVE SPECIES

House Bill 2306 proposes to establish a separate fee and charge for inspection, quarantine, and eradication of invasive species contained in air freight. This separate fee will provide funding for the Hawai'i Department of Agriculture (HDOA) to conduct inspections of imported air freight, prevent the introduction of invasive species, and for the airport facilities necessary to conduct such inspections and establish a fund for the revenues to be deposited into. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department and the HDOA work collaboratively to address invasive species issues through their respective mandates as co-chairs of the Hawai'i Invasive Species Council. The development and release of the Hawai'i Interagency Biosecurity Plan in 2017 was largely a response to the economic recession in 2008 that resulted in the loss of capacity at key agencies like HDOA. We are now facing another economic downturn due to the ongoing pandemic and vital programs that HDOA provides are at risk. The Biosecurity Plan is comprehensive in scope and identifies over 100 actions to improve biosecurity in Hawai'i that include building capacity at HDOA Plant Quarantine Branch.

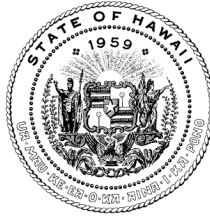
Staff shortages can hinder HDOA's ability to provide systematic inspections of high-risk pathways to prevent the introduction of harmful pests and additional needed actions such as interdiction programs for the brown tree snake. Adding state staff capacity is essential if HDOA is expected to fully meet its obligations to protect Hawai'i from invasive species. The Hawai'i Interagency Biosecurity Plan identifies needed increases in staffing to accomplish these responsibilities, as well as additional implementation tasks identified in this plan.

See the link to the full Hawai'i Interagency Biosecurity Plan:

<https://dlnr.hawaii.gov/hisc/files/2017/02/Hawaii-Interagency-Biosecurity-Plan.pdf>

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



SUZANNE D. CASE  
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STATE OF HAWAII  
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POST OFFICE BOX 621  
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SUZANNE D. CASE  
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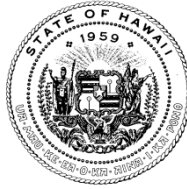
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See the link to the full Hawai'i Interagency Biosecurity Plan:

<https://dlnr.hawaii.gov/hisc/files/2017/02/Hawaii-Interagency-Biosecurity-Plan.pdf>

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR



**TESTIMONY BY:**

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
ROSS M. HIGASHI  
EDUARDO P. MANGLALLAN  
PATRICK H. MCCAIN  
EDWIN H. SNIFFEN

**STATE OF HAWAII**  
**DEPARTMENT OF TRANSPORTATION**  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

February 4, 2022  
10:00 a.m.  
State Capitol, Teleconference

**H.B. 2306**  
**RELATING TO INVASIVE SPECIES**

House Committee on Agriculture

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The Department of Transportation (DOT) **opposes** H.B. 2306, which establishes a separate fee and charge for the inspection, quarantine, and eradication of invasive species contained in air freight brought into the State, to be used for the program at Hawaii's airports.

Based on the proposed service fee and charge, this cost will be too expensive for individuals to be able to pay instead of the air carriers. The amount of work and space needed to complete the processing of such fees, is far greater than what the airport is currently able to handle. Therefore, employing this new service fee will directly burden those who wish to bring air freight through Hawaii's airports and cause a logistical and administrative problem.

Thank you for the opportunity to provide testimony.



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: ADMINISTRATION, Tax Expenditure Accountability

BILL NUMBER: HB 2178, SB 3146

INTRODUCED BY: HB by SAIKI by request, SB by KOUCHI by request (Governor's Package)

EXECUTIVE SUMMARY: Requires laws that enact, modify, or extend the availability of a tax expenditure to contain specific information, revenue estimates, and analyses before becoming law. Allows the public disclosure of certain tax credit information.

SYNOPSIS: Adds a new section to chapter 231, HRS, requiring that all laws that enact, modify, or extend the availability of a tax expenditure shall include: (1) An explanation of the intent in enacting each tax expenditure, including the expected economic and employment benefit to the State; (2) An analysis of whether the economic or employment benefit to the State provided by the tax expenditure, if any, outweighs its cost; (3) A repeal date that makes the tax expenditure available for no more than thirty-six months; (4) A static revenue estimate of the tax expenditure for each of the fiscal years in the State's financial plan; [and] (5) For tax expenditures that are modified or extended: (A) The total cost of the tax expenditure over the previous three fiscal years; (B) A static revenue estimate for each of the fiscal years in the State's financial plan if the tax expenditure were repealed; (C) An analysis describing the extent to which the tax expenditure is fulfilling its desired purpose, including whether the State has realized the anticipated economic benefit and increase in tax revenue. The analysis should also include the number of jobs created in the State and whether the cost of the tax expenditure is outweighed by its benefits.

Defines a "tax expenditure" as any credit, deduction, exclusion, exemption, or any other tax benefit that provides a preferential rate of tax or deferral of tax liability, authorized under title 14 for the purpose of incentivizing economic activity. The term "tax expenditure" does not include tax measures enacted as a result of conformity with the Internal Revenue Code, nor any modifications to tax measures required by the United States or state constitutions.

Adds another new section to chapter 231, HRS, providing that for tax expenditures that encourage certain economic activities, the claimant taxpayer's identity and the amount of tax expenditure claimed shall be subject to public disclosure under chapter 92F (the state Uniform Information Practices Act).

EFFECTIVE DATE: Upon Approval

STAFF COMMENTS: This is an Administration bill sponsored by the department of taxation and designated TAX-04 (22).

At present, the availability of estimated revenue impact information on bills wending their way through the legislature is spotty at best. Even when the Department of Taxation testifies on tax bills, some testifiers share revenue impact information with the legislature; others don't; others share information with the legislative committees and leave the public in the dark; and still others share information with the committees and the public only in response to questions asked at a hearing. Having the information would be a great step toward openness and transparency in important legislative decisions.

Is the current bill a way to make that happen? Probably not. No consequence is provided in the bill for noncompliance with its provisions, so lawmakers who really want discussion to proceed on a particular tax expenditure matter can just bulldoze ahead.

We note that the State Auditor is required to review existing income tax credits under HRS sections 23-91 to 23-96 on a five-year rolling basis, and the reports issued by the Auditor are supposed to trigger legislative review. New credits are supposed to be added to the list in those sections of chapter 23, but none of these sections were amended after 2017.

Regarding the provision of the bill requiring disclosure of tax expenditure recipients, current law, including sections 235-116 and 237-34, HRS, prohibits the disclosure of tax return information by any person or any officer or employee of the State. Violation of the law is punishable as a class C felony. If the Legislature decides, as a policy matter, that it is better to make such a public disclosure, then appropriate amendments need to be made to the tax return confidentiality statutes to allow for the disclosure contemplated.

Digested: 2/2/2022

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 HOUSE COMMITTEE ON AGRICULTURE  
ON  
HOUSE BILL NO. 2306

**February 4, 2022**  
**10:00 a.m.**  
**Room 325 and Videoconference**

**RELATING TO INVASIVE SPECIES**

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

House Bill (H.B.) No. 2306 amends Chapter 150A, HRS, by: adding a new section to establish a fee of \$1.25 per thousand pounds of air freight for the inspection, quarantine, and eradication of invasive species; adding a new section to establish the Air Freight Pest Inspection, Quarantine, and Eradication Special Fund (AFPIQESF) to deposit the aforementioned fee and fund expenditures related to the operation of biosecurity programs at airports; and amending Section 150A-5.3, HRS, to remove air freight from the list of duties under the existing inspection, quarantine and eradication fee for freight brought into the State. This bill also appropriates an unspecified amount of general funds in FY 23 for deposit into the AFPIQESF and appropriates an unspecified amount of special funds out of the AFPIQESF in FY 23 to fund biosecurity operations at airports.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an

explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 2306, it is difficult to determine whether the AFPIQESF would be self-sustaining.

B&F also notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are 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 these ESSER MOE requirements.

Thank you for your consideration of our comments.



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

February 4, 2022

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE

**TESTIMONY ON HB 2306**  
RELATING TO INVASIVE SPECIES

Conference Room 325 & Videoconference  
10:00 AM

Aloha Chair Hashem, Vice-Chair Perruso, 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 provides comments on HB 2306**, which establishes a separate fee and charge for the inspection, quarantine, and eradication of invasive species contained in air freight brought into the State, to be used for the program at the airports.

Agriculture in Hawaii has been hard-hit by the spread of invasive species. Coffee Berry Borer, Two-Lined Spittle Bugs, Little Fire Ants, Macadamia Felted Coccid, fireweed, gorse, fruit flies, parakeets, Coffee Leaf Rust, and varroa mites are only a few of the species that have made local farmers' lives and livelihoods that much more difficult. While efforts are being made to double food production to boost Hawaii's self-sufficiency, these destructive invaders are causing some to give up their farms. Can you imagine working on a farm where dozens of nearly invisible ants drop from trees, get inside your clothing, and bite into your flesh, causing welts that last for days? Or dreading the sight and potential consequences of an encounter with a venomous snake as you toil in your field of crops, should snakes not be prevented from entering and becoming rampant throughout the islands.

Air Freight is currently included in the inspection, quarantine, and eradication of invasive species fee. We are unsure of the need to establish a separate fee and fund specifically for Air Freight.

Thank you for your continued support for Hawaii farmers and ranchers.



HOUSE OF REPRESENTATIVES  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2022

COMMITTEE ON AGRICULTURE

Rep. Mark J. Hashem, Chair  
Rep. Amy A. Perruso, Vice Chair

NOTICE OF HEARING

Wednesday, February 2, 2022 10:00 a.m.  
VIA VIDEOCONFERENCE  
Conference Room 325  
State Capitol  
415 South Beretania Street

**HB 1726 RELATING TO AGRICULTURAL BUILDINGS.**

My name is Eric S. Tanouye and I am the President for the Hawaii Floriculture and Nursery Association. HFNA is a statewide umbrella organization with approximately 300 members. Our membership is made up with breeders, hybridizers, propagators, growers, shippers, wholesalers, retailers, educators, and the allied industry, which supports our efforts in agriculture.

The Hawaii Floriculture and Nursery Association (HFNA) **SUPPORTS House Bill 1726**

This bill will help the agriculture industry in Hawaii. We all know our climate is changing and we will need to take appropriate measures to be able to continue to farm. One of these measures is being able to create an environment that will protect our crops from dangerous weather such as new greenhouses and other compliant structures. With a more controlled environment and protection, we can also increase yield.

We would like to ask you to consider including the following language into Section 1(a)(3):



Notwithstanding the one thousand square foot floor area restriction, agricultural shade cloth structures, cold frames, or greenhouses not exceeding sixty thousand square feet in area per structure;

The increase in size of agriculture structures will help future business plan models for commercial growers. The current size may not be an efficient use of land. Multiple greenhouses need the required 15 feet between structure. With larger greenhouses you will need less structures and there will be less land loss due to restriction of land between structures.

With a reduced cost to greenhouses, new growers will be able to make the investment into farming using current technology and cultural practices. Furthermore, established growers may consider making the transition from outdoor or shade houses to covered greenhouses. This allows our nurserymen and women to be more sustainable and efficient.

If you have any questions at this time, I would be happy to discuss them and can be reached by phone at 808-959-3535 ext 22, cell 960-1433 and email [eric@greenpointnursery.com](mailto:eric@greenpointnursery.com).

Supporting Agriculture and Hawaii,



Eric S. Tanouye  
President

Hawaii Floriculture and Nursery Association



**HB-2306**

Submitted on: 2/3/2022 9:31:21 AM

Testimony for AGR on 2/4/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Nathan Dube	Individual	Support	No

Comments:

Aloha Chair Hashem, Vice Chair Perruso, & Esteemed Representatives-

I strongly support any increase in effort for managing invasive species, especially at ports of entry. Invasive species are one of the biggest threats to Hawaii and any increase in the state's biosecurity measures will help stop the spread of these detrimental species before they have a chance to establish and become a more costly problem in the future. Invasive species can be devastatingly harmful to our economy, agricultural & tourism industries, watershed health, fresh-water availability, and human health. Early detection at our ports is a key component in a robust biosecurity program for our state, and while it won't solve all of the issues surrounding invasive species management, it is a vital component in protecting our state from the threats posed by invasive species.

**HB-2306**

Submitted on: 2/1/2022 8:29:33 PM

Testimony for AGR on 2/4/2022 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Gerard Silva	Individual	Oppose	No

Comments:

This is the State Job if they cannot do the Job then it is time to get ride of this Division. Witch will save the Tax payers alot of Money. Get ride of Usless Depatments that do not do there jobs and stop try to make the people pay for the problems you creat.