



**STATE OF HAWAII
OFFICE OF PLANNING
& SUSTAINABLE DEVELOPMENT**

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Statement of
SCOTT GLENN, Director

before the
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, February 15, 2023, 2:00 PM
State Capitol, Conference Room 325

in consideration of
HB 611, HD1
RELATING TO AGRICULTURE

Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on Judiciary and Hawaiian Affairs:

The Office of Planning and Sustainable Development (OPSD) supports the intent and offers an amendment to HB 611, HD1, which clarifies that customary and traditional subsistence farming conducted by a Native Hawaiian cultural practitioner is included as a protected activity under the Hawaii Right to Farm Act; clarifies that cultivation of crops, activities related to game, fish, and livestock in the State Agricultural District may be for economic use or customary and traditional subsistence farming; and amends Chapter 226, the Hawaii State Planning Act, to add an objective to assure the right of customary and traditional subsistence farming.

OPSD offers the following comment with a suggested amendment. The Hawaii State Planning Act is comprised of goals, objectives and priorities and is not a self-enforcing statute. If the Legislature's intent is to create an enforceable entitlement, a different statute with an enforcement mechanism would be more effective. However, if the intent is to encourage perpetuation of the practice of traditional and customary subsistence farming, then OPSD suggests that page 24, line 20, be amended by deleting "Assure the right..." to read, "Perpetuate the practice...".

OPSD defers to other agencies on other sections of the bill that impact other statutes.

Thank you for the opportunity to testify on this measure.



HB611 HD1
RELATING TO AGRICULTURE
House Committee on Judiciary & Hawaiian Affairs

February 15, 2023

2:00 PM

Room 325

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees, **SUPPORT WITH AMENDMENTS** for HB611 HD1, which would establish Native Hawaiian traditional and customary subsistence farming as a protected activity under the Hawai'i Right to Farm Act. **OHA asks that the Legislature amend this measure to ensure equitable opportunities for Native Hawaiian traditional and customary food producer practitioners by removing the housing restrictions on the definition to read:**

“Customary and traditional subsistence farming” means customary and traditional subsistence farming conducted by a Native Hawaiian cultural practitioner that is used for direct personal, family, and community consumption.”

OHA wishes to emphasize that the stated purpose of Hawai'i's Right to Farm Act is to declare that the preservation and promotion of farming is a public purpose and deserving of public support.¹ Native Hawaiians have been farming the Hawaiian Islands for millennia as the first and only indigenous, aboriginal, and maoli people of Hawai'i.² Native Hawaiians lived on the lands that they farmed and these lands were made abundant with food through the sustainable principles that they developed in their culturally-grounded farming and ranching practices. The Native Hawaiian population was nearly annihilated by introduced diseases and then forcefully removed from their ancestral lands through a series of historical injustices that led to imposed systems of oppressions designed to destroy Native Hawaiian identity.³ **Native Hawaiians endure inequity and face disparities as a result of ongoing systemic harm.**

¹ Haw. Rev. Stat. §165-3.

² Haw. Rev. Stat. §10H-1.

³ “If we are ever to have peace and annexation the first thing to do is to obliterate the past,” ua ha'i 'o Samuel Mills Damon, kēlā Hope Pelekikena no ka 'Aupuni Hewa (Provisional Government) a me Hui Ho'okō no ka 'Aupuni Hewa Loa (Republic of Hawai'i), Council of State (Provisional Government of the Hawaiian Islands, 1895). 26 November 1895. Hawaii State Archives Series 424 Vol. 4.



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I. Native Hawaiian Hānai ‘Ai Have A Right To Farm That Should Be Protected By Hawai‘i’s Right To Farm Act

Native Hawaiian hānai ‘ai (food producer-practitioners) have a right to farm and their farming practices and operations, rooted in tradition and custom, should be recognized as a “farming operation” and protected under the Hawai‘i Right to Farm Act. OHA affirms that traditional and customary subsistence practices frequently involved commerce. I ka wā kahiko (In the time long before), subsistence included bartering and the trade of goods. Ko koā uka, ko koā kai (those of the upland, those of the shore) is an ‘ōlelo no‘eau (proverb/traditional saying) that aptly and succinctly describes one of the oldest systems of commerce among Native Hawaiians: the trading of goods between inhabitants of the uplands and inhabitants of the coasts. Be that as it may, the theft of Native Hawaiian sovereignty – and agency – has forcefully altered the evolution of Native Hawaiian practices in their adaptation to socio-political-economic-environmental change. As Native Hawaiians become more adept at navigating these currents, we are more aware of when it become appropriate to furl or unfurl our sails. **The wayward idea that Native Hawaiian traditional and customary subsistence practices cannot include a facet of commerce is NOT by Native Hawaiian design – it is a vestigial remnant of a system designed to suppress Native Hawaiian advancement.**

II. Native Hawaiian Hānai ‘Ai Engage In Commerce and Feed Their Family and Their Communities As Part of Their Traditional and Customary Subsistence Practices

Over a decade ago, the Taro Security and Purity Task Force, tasked with seeking solutions to challenges faced by kalo farmers, in its 2010 report to the Legislature (“report”), addressed a significant number of issues facing traditional and customary subsistence practitioners engaged in commercial farming operations and called for the State to change its perspectives on the hard line that is often drawn between traditional and customary subsistence and commerce. The report stated:

“Subsistence agriculture can be synonymous with self-sufficiency, crop diversity and the ability to feed one’s family and community. Farms are managed for long term sustainability rather than market or export crop production cycles or fluctuations in market prices. The term subsistence; however, has too frequently been politicized to indicate low-income farmers who fail to contribute to Gross National Product (GNP) or state revenues; something outside of or “below” the mainstream market. The small



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family farms that contribute to commercial taro production statewide clearly demonstrate otherwise...

“Community, family, generational and school-to-farm learning and sharing occur daily. Community relationships create a high degree of self-sufficiency and resiliency. Taro farmers donate a high percentage of their “income” and resources in the form of fresh produce, labor, equipment use and time to charity, including local fundraising efforts that support education, families in need, non-profits, churches and community revitalization.”⁴

The report made it clear that traditional and customary subsistence food production practices included self, family, and community as integral components to the practices. The report also addressed the role that farm homes play in offsetting the high costs leading to the many disparities that Native Hawaiians face in food production, stating, *“A lot of farmers are part time because they can’t make enough income to support their families solely by growing taro. Being able to live on the farm is what makes it affordable.”*⁵

OHA, again, wishes to emphasize, echo, and amplify the voices of Hawai‘i’s food producers, spoken thirteen years ago, in asking the State to abolish its restrictions on Native Hawaiian hānai ‘ai as viable contributors to our economy.

III. Native Hawaiian Farmers and Ranchers Are Recognized Socially Disadvantaged Farmers and Ranchers Who Face Inequity and Disparities Especially In Hawai‘i That Should Be Addressed By Hawai‘i’s Agricultural Laws

As the principal public agency in the State responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians, OHA asks this legislature to ensure that Native Hawaiian farmers and ranchers are provided equitable opportunities attached to their farming operations – opportunities like being able to live where they farm, which would be a significant move toward addressing the inequities and disparities faced by Native Hawaiians.

⁴ Taro Security and Purity Task Force, 2010 Legislative Report, p.22, available at https://www.oha.org/wp-content/uploads/2014/09/NRLC_REPORT_FINAL-web.pdf.

⁵ Id. at 16.



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The majority of Native Hawaiian families, in Hawai‘i, are unable to make ends meet,⁶ with 63% of Native Hawaiians reporting that they are finding it difficult to get by.⁷ Native Hawaiians have the lowest household income.⁸ Native Hawaiians have the highest poverty rates for individuals and families.⁹ Native Hawaiians make less money,¹⁰ with lower average earnings for both men and women.¹¹ Native Hawaiians have the highest rate of using public assistance and homeless services.¹² Native Hawaiians are overrepresented among the homeless in Hawai‘i.¹³ OHA is deeply concerned with Native Hawaiians being driven out of Hawai‘i by economic instability stemming from socio-political-economic upheaval, which has largely disconnected Native Hawaiians from their ‘āina for more than a century. Today, more Native Hawaiians live outside of the Hawaiian Islands, far beyond the boundaries of their own homeland.¹⁴

The United States Department of Agriculture (USDA) defines socially disadvantaged farmers and ranchers (SDFR) “as those belonging to groups that have been subject to racial, ethnic, or gender prejudice.”¹⁵ The USDA has affirmed that Native Hawaiians are recognized under the SDFR characterization¹⁶ and a number of financial support instruments exist

⁶ Aloha United Way / United for ALICE, *ALICE in Hawai‘i: 2022 Facts and Figures*, Nov. 2022, p.6.

⁷ *Id.* at 9.

⁸ Dept. of Business, Economic Development and Tourism, *Demographic, Social, Economic, and Housing Characteristics for Selected Race Groups in Hawaii*, Mar. 2018, p.3.

⁹ *Id.* at 13.

¹⁰ OHA Report, *Affordable Housing for Hawai‘i and Native Hawaiians: Exploring Ideas and Innovation*, Aug. 2020, p.10.

¹¹ Dept. of Native Hawaiian Health, John A. Burns School of Medicine, *Assessment and Priorities for the Health and Well-Being in Native Hawaiians and Pacific Islanders*, 2020, p.12.

¹² *Id.*

¹³ Partners In Care, *2022 Point In Time Count*, p.7.

¹⁴ “Estimates from the American Community Survey showed that in 2011, there were about 296,400 Native Hawaiians in Hawai‘i and about 221,600 on the continental U.S. Just a decade later, those numbers flipped. In 2021, there were about 309,800 Native Hawaiians in Hawai‘i and about 370,000 in other states,” Hawaii Public Radio, *More Native Hawaiians Flock to mainland cities and leave Hawai‘i*, Jan. 23, 2023, *citing high costs*, citing the US Census Bureau’s American Community Survey 2021.

¹⁵ USDA Economic Research Service, *Socially Disadvantaged, Beginning, Limited Resource, and Female Farmers and Ranchers*, available at <https://www.ers.usda.gov/topics/farm-economy/socially-disadvantaged-beginning-limited-resource-and-female-farmers-and-ranchers/#:~:text=The%20USDA%20defines%20socially%20disadvantaged,and%20Asian%20or%20Pacific%20I>slander.

¹⁶ USDA Farm Service Agency, *Minority and Women Farmers and Ranchers*, available at <https://www.fsa.usda.gov/programs-and-services/farm-loan-programs/minority-and-women-farmers-and-ranchers/index>.



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through the USDA for SDFRs.¹⁷ While this distinction and the needs of those within this designation exist at the federal level, the State of Hawai‘i has yet to adopt the necessary policies and mechanisms to address inequities and disparities faced by socially disadvantaged farmers and ranchers, like Native Hawaiian hānai ‘ai.

The underlying issue that this measure begins to address is one of equity for Native Hawaiian traditional and customary practitioners in the face of a system that tries to break free from deeply rooted institutionalized racism. This measure is headed in the right direction.

OHA appreciates this opportunity to offer its support with amendments on this measure and asks the Legislature to take into consideration OHA mana‘o for the betterment of conditions of Native Hawaiians. Mahalo nui loa.

¹⁷ USDA Farm Service Agency, Loans for Socially Disadvantaged Farmers and Ranchers Fact Sheet 2019, available at https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdfiles/FactSheets/2019/sda_loans-fact_sheet-aug_2019.pdf.



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February 15, 2023

HEARING BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TESTIMONY ON HB 611, HD1
RELATING TO AGRICULTURE

Conference Room 329 & Videoconference
2:00 PM

Aloha Chair Nakashima, Vice-Chair Sayama, 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 offers the following support with comments relating to HB 611, HD1, which would make changes to three statutes to include customary and traditional subsistence farming conducted by Native Hawaiian cultural practitioners.

HFB supports all types and sizes of agriculture, including customary and traditional subsistence farming conducted by Native Hawaiian cultural practitioners. While some of the proposed amendments may be duplicative of the current laws, some may conflict with current law.

Chapter 165 (the Hawaii Right-to-Farm Act) was enacted to protect the viability of commercial farming operations. The definition of a "farming operation" in the Act was intentionally limited to a commercial agricultural, silvicultural, or aquacultural facility or pursuit, to achieve that purpose. As written, this measure seeks to expand the activities covered by the Act to subsistence farming by a native Hawaiian cultural practitioner for personal or family consumption with commercial agricultural operations. If enacted, this amendment will diffuse the focus on commercial agriculture and its important role in Hawaii becoming more food self-sufficient. The Right-to-Farm is meant to protect those commercial agricultural operations by limiting the circumstances under which farming operations may be deemed to be a nuisance. Complaints typically arise from noises, odors, dust, and fumes common to commercial agricultural operations. The Right-to-Farm Act does not establish a right to commence or maintain a farming operation, the right to farm is already established and protected by our State Constitution.

The proposed amendments to Section 205-2(d)(1-3), Section 205-4.5(a)(1-2), and Section 226-7 (b) would not be valid if the proposed amendment to Chapter 165 is not accepted.

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



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Ray Maki
Kauai

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the House Judiciary & Hawaiian Affairs Committee,

The Hawaii Farmers Union United (HFUU) 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 HB611.**

HB611 clarifies the protected status of customary and traditional subsistence farming conducted by Native Hawaiian cultural practitioners. This type of farming is an integral part of our state's cultural heritage and it is crucial that it be protected and preserved for future generations. The bill's inclusion of customary and traditional subsistence farming as a protected activity under the Hawaii Right to Farm Act will help to ensure that these practices are not unduly burdened or restricted.

Furthermore, the bill's recognition of the cultivation of crops and activities related to game, fish, and livestock in the agricultural district as being for both economic use and customary and traditional subsistence farming is critical. This recognition acknowledges the importance of subsistence farming to our communities and will help to ensure that these practices are not overshadowed by other agricultural uses. The bill's inclusion of customary and traditional subsistence farming as one of the state's policies under the Hawaii State Planning Act's agricultural objectives is a clear signal of the state's commitment to preserving and supporting these important cultural practices.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF



Food+ Policy Internship 2023

food@purplemaia.org

February 14, 2023

To: Judiciary and Hawaiian Affairs Chair Tarnas, Vice Chair Takayama, Representatives Hamden, Hashimoto, Holy, Ichiyama, Ilagan, Long, Mizuno, and Souza

Subject: **HB611**, Relating to Agriculture

Food+ Policy strongly supports HB611, which clarifies that "customary and traditional subsistence farming" which is customary and traditional subsistence farming conducted by a Native Hawaiian cultural practitioner in certain situations, is included as a protected activity under the Hawaii Right to Farm Act.

It is important that subsistence farming is included in the Right to Farm Act because it protects customary and traditional farmers who may also produce odors, dust, noise, etc. while farming, and should have their right to farm protected, whether they are operating for commercial purposes or not. This inclusion would protect Hawaiian farmers from neighbors who may complain and try to shut down their operations.

Customary and traditional subsistence farming, alongside commercial farming, is an important part of achieving diversified local food production and food sustainability and security, and thus should be included.

Mahalo,
Kelsey Amos & 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.



House Bill No. 611 House Draft 1
Wednesday, February 15, 2023 - 2:00 PM
State Capitol, Conference Room 325

Aloha Chair Tarnas, Vice Chair Takayama, and Members of the House Committee on
Judiciary & Hawaiian Affairs:

‘Apoākea (literally meaning “Infinite Reach”) Native Hawaiian Innovation Institute [ANHII] is a Native Hawaiian-led 501(c)(3) non-profit organization founded with the purpose of providing strategic and tactical solutions to issues causing and contributing to the negative consequences of disproportionality and disparity as they are suffered by socially disadvantaged and underserved communities that include, but are not limited to, Native Hawaiians. Our work is heavily focused on community-based preservation and advancement of traditional and customary Native Hawaiian agricultural practices for food security, climate resilience, and socio-economic development. We represent a growing network of Hānai ‘Ai Hawai‘i (Native Hawaiian food producer-practitioners) who have a vested interest in the outcome of this legislation.

In our experience and expertise in working with Native Hawaiian traditional and customary practitioners, we feel a need to point out two relevant facts. Firstly, Native Hawaiian traditional and customary practices included commerce, through bartering prior to the introduction of coin and paper currency. There needs to be a shift away from the thinking that Native Hawaiian traditional and customary subsistence farming is separate from commercial farming. Secondly, Native Hawaiian traditional and customary practices have always included Native Hawaiians living on their farms. Considering these points, ‘Apoākea urges the Committee to amend the “subsistence” language.

‘Apoākea appreciates the opportunity to testify in SUPPORT WITH AMENDMENTS on HB611 HD1 on behalf of Hānai ‘Ai Hawai‘i (Native Hawaiian food producer-practitioners) and all who stand to benefit from the work that they do.

Me ka mahalo a me ke aloha ‘āina,

Brandi-Lynn Makalani Hyden
Executive Director

HB-611-HD-1

Submitted on: 2/13/2023 7:17:45 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB611 HD1.

HB-611-HD-1

Submitted on: 2/14/2023 3:43:35 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

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

Comments:

Strong support