

JOSH GREEN, M.D.
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SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson
Board of Agriculture & Biosecurity

DEAN M. MATSUKAWA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE & BIOSECURITY
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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE AND BIOSECURITY**

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

**FEBRUARY 13, 2026
3:10 PM
CONFERENCE ROOM 224 & VIDEOCONFERENCE**

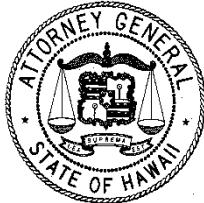
**SENATE BILL NO. 2741
RELATING TO GENERAL EXCISE TAX**

Chair Gabbard, Vice Chair Richards, and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2741. This bill phases in exemptions of locally produced food from the general excise tax. The Department supports the intent and defers to the Department of Taxation.

The general excise tax exemption will help lower food costs for food insecure households throughout the state and makes locally produced produce and unprocessed local proteins more competitive with imported agricultural products.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:
S.B. NO. 2741, RELATING TO THE GENERAL EXCISE TAX.

BEFORE THE:
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

DATE: Friday, February 13, 2026 **TIME:** 3:10 p.m.

LOCATION: State Capitol, Room 224

TESTIFER(S): Anne E. Lopez, Attorney General, or
Mei-Mui Hayley Callahan, Deputy Attorney General

Chair Gabbard and Members of the Committee:

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

The purpose of this bill is to "phase in a general excise tax exemption for locally grown food." (Page 3, lines 3-4). Based on this preferential wording, this bill creates a general excise tax (GET) exemption that favors: (1) unprocessed local produce and unprocessed local proteins (page 3, line 12, to page 4, line 3, page 5, lines 15-17, page 6, lines 2 to 6); and (2) locally produced food (page 4, lines 4-19).

This bill may be challenged as violating the Commerce Clause of the United States Constitution because it discriminates against interstate commerce.

The Commerce Clause provides that Congress shall have the power to "regulate Commerce . . . among the several States." U.S. Const. art I, § 8, cl. 3. "Though phrased as a grant of regulatory power to Congress, the clause has long been understood to have a 'negative' aspect that denies the States the power unjustifiably to discriminate against or burden the interstate flow of articles in commerce." Oregon Waste Systems, Inc. v. Dep't of Envtl. Quality, 511 U.S. 93, 98, 114 S. Ct. 1345, 1349 (1994). This implicit constitutional restriction upon the states has become known as the "negative" or "dormant" Commerce Clause doctrine. See Rocky Mountain Farmers Union v. Corey, 730 F.3d 1070, 1087 (9th Cir. 2013). The doctrine prohibits states from "advancing their own commercial interests by curtailing the movement of articles of

Testimony of the Department of the Attorney General

Thirty-Third Legislature, 2026

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commerce, either into or out of the state," Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dep't of Natural Resources, 504 U.S. 353, 112 S. Ct. 2019 (1992) (internal brackets omitted), upon concern about "economic protectionism," i.e., "regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors." Dep't of Revenue of Ky. v. Davis, 553 U.S. 328, 337, 128 S. Ct. 1801, 1808 (2008). For example, in Bacchus Imports Ltd. v. Dias, 468 U.S. 263 (1984), the United States Supreme Court struck down an exemption from the liquor tax for locally produced alcoholic beverages upon finding that the exemption bestowed a commercial advantage on locally produced products.

This bill proposes a GET exemption for unprocessed local produce, unprocessed local proteins, and locally produced food. However, the exemption would not be available to out-of-state unprocessed produce and proteins or out-of-state produced food. Similar to the situation in Bacchus, the proposed exemption may be challenged as unconstitutional because it bestows a commercial advantage on unprocessed produce and proteins and locally produced products in the form of lower taxes, while burdening out-of-state competitors who would not be eligible for the same tax exemption.

Based on the foregoing, we suggest the exemptions apply to all fresh unprocessed produce and protein by deleting references to locally grown products, locally grown foods, locally produced foods, local proteins, locally produced proteins, local food, local content products, and similar terms throughout the bill.

If the intent of this bill is to favor locally grown food only, we respectfully recommend this bill be held.

Thank you for the opportunity to provide testimony.



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February 13, 2026

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 2741
RELATING TO THE GENERAL EXCISE TAX

Conference Room 224 & Videoconference
3:01 PM

Aloha Chair Gabbard, Vice-Chair Richards, 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 supports SB 2741, which phases in exemptions of locally produced food from the general excise tax.

One of the most persistent challenges facing local agriculture is the high cost of doing business in Hawai'i. Land, water, labor, transportation, energy, food safety compliance, and input costs all contribute to higher production expenses. If we are serious about lowering the cost of food in Hawai'i, we must first reduce the cost of production. SB 2741 directly addresses one of the structural cost drivers impacting locally produced food.

Hawai'i's General Excise Tax applies at multiple levels of the supply chain, resulting in tax pyramiding that increases the effective tax burden on locally produced food. Unlike imported products that may avoid multiple layers of taxation before reaching retail shelves, locally grown and processed products often incur the GET at the producer, processor, distributor, and retail levels. This compounds costs and places Hawai'i farmers and food producers at a competitive disadvantage.

SB 2741 provides meaningful relief by exempting locally produced food from the General Excise Tax in a phased and thoughtful manner. By addressing both fresh, unprocessed agricultural products and value-added local food products, the measure supports farmers, ranchers, processors, distributors, and retailers across the food supply chain.

Reducing GET burdens on locally produced food strengthens Hawai'i's food security, encourages value-added production, and improves the competitiveness of Hawai'i-grown products in the marketplace. This measure represents structural reform that aligns tax policy with the State's long-standing goal of increasing local food production.

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Natalie Urminska
Kaua'i



Aloha Chair Gabbard, Vice Chair Richards, and Members of the Senate Agriculture and Environment Committee,

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. **HFU supports SB2741.**

The current "pyramiding" effect of the General Excise Tax (GET) on agricultural inputs, processing, and retail sales makes locally produced food artificially more expensive than imported commodities. When GET was first implemented, local product analyses (eggs, papayas, etc) found pyramiding would indeed increase costs and make Hawaii products less competitive.

However, as currently drafted, the "locally produced" language in SB2741 faces a significant constitutional challenge under the Dormant Commerce Clause of the U.S. Constitution. Affirmed in *Bacchus Imports, Ltd. v. Dias*, the State cannot provide tax exemptions that facially discriminate against out-of-state products in favor of local ones. To ensure this bill is constitutionally allowable and protected from legal challenges, the current language could be amended to focus on a "class" of food—specifically fresh and minimally processed items.

A more robust approach is to modify Hawaii's GET tax exemptions for inputs. Currently, Hawaii's family farmers operate at a severe competitive disadvantage because nearly all other U.S. states provide full sales tax exemptions for agricultural inputs such as seeds, fertilizer, livestock feed, and machinery. In contrast, Hawaii's GET pyramids" at every stage of production. By the time a local head of lettuce reaches a consumer, the farmer has paid GET on the seeds, the fertilizer, the irrigation equipment, and the wholesale transaction. This hidden tax burden makes local food artificially more expensive than mainland imports.

Previous measures sought to establish similar exemptions while shaping agricultural markets. For example, HB311 (2023) proposed GET exemption for machinery, fuel, chemicals, seed, huli, animals, or feed to a qualified kalo farmer. The intent was to use this tax structure to shape crop markets by exempting all farm inputs should a producer meaningfully engage in specific crop production. Such a tool could be tailored to target specific import reductions and local procurement needs.

A GET exemption on agricultural inputs is necessary and long overdue. If a purely local benefit is desired, it should be structured as a tax credit or a grant program rather than a GET exemption for local products. The U.S. Supreme Court generally allows states more leeway to subsidize local industry through direct spending (as a market participant) than through discriminatory tax structures.

Mahalo for the opportunity to testify.

Hunter Heavilin
Advocacy Director
Hawai'i Farmers Union



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Executive Officers

Kit Okimoto, Okimoto Corp., *Chair*
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Eddie Asato, Pint Size Hawaii, *Advisor*
Gary Okimoto, Safeway, *Advisor*
Maile Miyashiro, C&S Wholesale, *Immediate Past Chair*

TO: Committee on Agriculture and Environment
FROM: HAWAII FOOD INDUSTRY ASSOCIATION
Lauren Zirbel, Executive Director

DATE: February 13, 2026
TIME: 3:10pm

RE: SB2741 Relating to the General Excise Tax
Position: Support

The Hawaii Food Industry Association is comprised of two hundred member companies representing retailers, suppliers, producers, manufacturers and distributors of food and beverage related products in the State of Hawaii.

HFIA is in support of this measure. We also support the removal of the General Excise Tax (GET) on all grocery sales.

As the measure notes, food insecurity rates in our state are at alarmingly high levels. The high cost of food exacerbates this crisis.

Local agricultural producers face a range of challenges in getting their product to local markets. Lack of economy of scale; high costs of labor, fuel, machinery, real estate, power, and other necessary inputs; and the need to transport goods between islands are just a few of the biggest obstacles to getting healthy locally grown food to Hawaii consumers at affordable prices.

This measure can help make local food more competitive and affordable for local customers. This strengthens local agriculture, increases food sovereignty, helps fight hunger, and makes our economy more diverse and resilient.



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Gary Okimoto, Safeway, *Advisor*
Maile Miyashiro, C&S Wholesale, *Immediate Past Chair*

Another beneficial aspects of this measure is that it does not carry the administrative burden that other programs such as grants, tax credits, or subsidies might. It simply allows local agricultural producers to serve local customers without being encumbered by costly compounding taxes.

We urge the Committee to pass this measure and move towards eliminating the GET on all groceries. We thank you for the opportunity to testify.



COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Herbert M. "Tim" Richards, III, Vice Chair

SB2741

RELATING TO THE GENERAL EXCISE TAX

Friday, February 13, 2026, 3:10 PM
Conference Room 224 & Videoconference

Chair Gabbard, Vice Chair Richards, and Members of the Committee,

The Hawaii Cattlemen's Council **supports SB2741** which phases in exemptions of locally produced food from the general excise tax.

Exempting general excise tax from locally produced food helps to relieve the disadvantage of high costs required to produce food locally. Often, local food products are priced higher due to the higher cost of production. Relieving this tax burden will also make agriculture more attractive for younger generation farms and ranchers to enter the field at a commercial level. With the average age of farmers and ranchers in Hawaii at over 60, this is an important factor to consider in our endeavor to increase local food production. Exempting local food from general excise tax will also increase access to local food to more families, allowing them to keep their dollars circulating in Hawaii.

We appreciate the opportunity to testify on this measure. The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four county-level Cattlemen's Associations. Ranchers produce a high-quality protein and are the stewards of almost 750 thousand acres of land in Hawaii, or nearly 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director



TAX FOUNDATION OF HAWAII

735 Bishop Street, Suite 417

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: GENERAL EXCISE, Exemption for Locally Produced Food

BILL NUMBER: SB 2741

INTRODUCED BY: RICHARDS, HASHIMOTO, Wakai

EXECUTIVE SUMMARY: Phases in exemptions of locally produced food from the general excise tax.

SYNOPSIS: Adds a new section to chapter 237, HRS, providing that the following value or gross proceeds of the following are exempt from tax:

Beginning July 1, 2026:

- (1) The sale of fresh, unprocessed produce by farmers, ranchers, or agricultural producers;
- (2) The sale of fresh, unprocessed local proteins, including beef, pork, poultry, seafood, aquaculture products, eggs, and dairy products, by farmers, ranchers, fishers, aquaculture operations, or agricultural producers;
- (3) The sale of fresh, unprocessed produce and fresh, unprocessed local proteins by processors, wholesalers, and distributors; and
- (4) The retail sale for home consumption of fresh, unprocessed produce and fresh, unprocessed local proteins.

Beginning July 1, 2028:

- (1) All locally produced proteins, including beef, pork, poultry, seafood, aquaculture products, eggs, and dairy products, regardless of form or level of processing;
- (2) All locally grown fruits, vegetables, and staple crops;
- (3) Other foods grown, raised, caught, or produced within the State; and
- (4) Value-added local food products; provided that the majority of agricultural inputs by weight or volume are locally grown, raised, or caught.

Defines the following terms:

"Fresh, unprocessed local proteins" means locally produced beef, pork, poultry, seafood, aquaculture products, eggs, or dairy products that:

- (1) Contain no added salt, sugar, oils, fats, marinades, brines, or preservatives;
- (2) Have not been cooked, cured, smoked, canned, or otherwise processed; and

(3) Are in their raw, whole, or minimally handled state.

"Fresh, unprocessed produce" means whole fruits and vegetables grown in Hawaii that contain no added salt, sugar, oils, fats, or other additives and that have not been cooked, canned, pickled, preserved, or subjected to value-added processing. "Fresh, unprocessed produce" shall align with the standards described pursuant to section 141-13.

"Locally produced food" means any food or agricultural product grown, raised, caught, produced, or cultivated within the State, including but not limited to fruits, vegetables, staple crops, beef, pork, poultry, seafood, aquaculture products, eggs, and dairy products.

"Retail sale for home consumption" means the sale of food intended for off-premises consumption and does not include prepared foods taxed under section 237-13(2)(C).

"Value-added local food product" means a food item primarily composed of locally produced agricultural ingredients and processed, milled, packaged, or otherwise prepared within the State.

EFFECTIVE DATE: July 1, 2026.

STAFF COMMENTS: The bill exempts food products grown, raised, and harvested in Hawaii. This could be unconstitutional under the Commerce Clause of the Constitution because the same preferential tax treatment is not allowed for competing products from other States. See *In re Hawaiian Flour Mills, Inc.*, 76 Haw. 1, 868 P.2d 419 (1994); *Bacchus Imports, Inc. v. Dias*, 468 U.S. 263 (1984); Hawaii Tax Information Release No. 93-4.

In *Hawaiian Flour Mills*, the Hawaii Supreme Court determined that a general excise tax exclusion for locally grown, raised, or caught agricultural, meat, or fish products for consumption out-of-state violated the Commerce Clause of the United States Constitution. The Court found that appellant Hawaiian Flour Mills, Inc. was entitled to the exemption from the general excise tax on its sales of fresh food products to be consumed out-of-State by persons engaged in interstate or foreign commerce, whether or not the fresh food products were locally grown, raised, or caught.

Bacchus Imports involved a Hawaii liquor tax exemption for okolehao and fruit wine manufactured in the State. The U.S. Supreme Court held that the exemption was unconstitutional because it had the purpose and effect of discriminating in favor of local products.

These cases indicate that a tax exemption for local products probably will not survive a Commerce Clause challenge.

Digested: 2/11/2026



February 13, 2026

Subject: Hawai'i Foodbank in Support of SB 2741

Aloha Chair Gabbard and Vice Chair Richards,

On behalf of Hawai'i Foodbank, I express our support for SB2741, Relating to the General Excise Tax. This bill would phase in exemptions of locally produced food from the general excise tax.

Food insecurity is a growing crisis in Hawai'i, with one in three households—including families with children—struggling to access adequate food. One in five households have individuals who are skipping meals or going whole days without eating on a regular basis. In addition, an estimated 45% of Hawai'i's families are at the ALICE (asset-limited, income-constrained, employed) threshold or below—and nearly half of those below the ALICE threshold face food insecurity.

Taxing the sale of food disproportionately impacts our food insecure families, affecting not only the amount of food that these families can afford, but also the quality and diversity of their food choices. Food insecurity is inextricably linked to health, and food insecure individuals face higher rates of chronic disease, increased hospitalizations, and greater overall health care costs. Eliminating the general excise tax on locally produced food would both support our local food producers as well as our food insecure neighbors. We would also strongly support expanding the general excise tax exemption to all grocery items. This would make a much more significant, positive impact on food insecurity rates and the health and well-being of our community than removing the general excise tax on locally produced food alone.

For over 40 years, Hawai'i Foodbank has provided daily and emergency assistance to those facing food insecurity in Hawai'i, distributing food to families and individuals on O'ahu and Kaua'i through direct service programs as well as through our network of 266 agency partners and pantries. Last year, we served an average of over 160,000 people each month and distributed more than 22 million pounds of nutritious food, including more than 7.1 million pounds of fresh produce. In addition to addressing daily needs, our organization mobilizes during emergencies to provide immediate relief and aid long-term recovery efforts.

At Hawai'i Foodbank, we have seen first-hand the challenges that our food-insecure neighbors face on a daily basis, trying to put food on the table for their families and ensure their keiki and kūpuna have enough healthy food to eat. Reducing the amount of money families must spend to purchase healthy, adequate food is a critical step in the fight against hunger and we urge you to consider this important measure, as well as consider expanding the exemption to include all groceries.

With aloha,

Amy Miller

President and CEO, Hawai'i Foodbank



Date of Hearing: February 13, 2026

To: Chair Gabbard, Vice Chair Richards and the Senate Committee on Agriculture and Environment

Subject: **SB 2741**, Relating to General Excise Tax (GET)

Aloha Chair Gabbard, Vice Chair Richards, and Members of the Committee,

Hawai'i Food+ Policy **strongly supports SB 2741**. Hawai'i continues to experience one of the highest rates of food insecurity in the nation, with nearly 1 in 3 households (32%) struggling to access enough food(1). This crisis is associated with an estimated \$850 million in added annual health care costs(1). While we grow abundant food here at home, high production costs often make imported products cheaper to source. Our farmers already pay a 40% premium in input costs compared to mainland farms(2).

The current structure of the General Excise Tax (GET) worsens this disadvantage because the tax is "pyramided"—applied at multiple stages from seed to final sale. This results in an effective tax burden of 5% to 8% or more on locally grown products, a burden imported goods do not share. Research from UHERO shows that the real value of Hawai'i's agricultural products has declined by 72.9% over the last 40 years, leaving us dangerously dependent on imports(2).

SB 2741 is a practical step to restore agricultural resilience. By phasing in GET exemptions—starting with fresh produce and proteins in 2026 and expanding to all local food in 2028—this bill reduces cost burdens on farmers, improves price competitiveness, and helps lower grocery costs for families. We cannot value local agriculture while maintaining tax structures that disadvantage it.

For these reasons, Food+ Policy respectfully urges the committee to pass SB 2741.

Mahalo,
Brandon Kinard & the Food+ Policy Team
#fixourfoodsystem

[1] Hawai'i Foodbank, The State of Food Insecurity in Hawai'i 2024–2025.

[2] UHERO Brief, Reviving Agriculture to Diversify Hawai'i's Economy (2021).

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 2026, the cohort of interns are undergraduate and graduate students and young professionals working in the food 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.

SB-2741

Submitted on: 2/10/2026 5:09:56 PM
Testimony for AEN on 2/13/2026 3:10:00 PM

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

Comments:

In support of. Thank you.

SB-2741

Submitted on: 2/10/2026 3:38:26 PM
Testimony for AEN on 2/13/2026 3:10:00 PM

Submitted By	Organization	Testifier Position	Testify
penny levin	Individual	Support	Written Testimony Only

Comments:

In strong support.