
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that supporting Hawaii's
2 agriculture is imperative to increasing our economic base and
3 creating economic diversity. Eighty-five to ninety per cent of
4 Hawaii's food is imported. Additionally, an estimated
5 \$3,000,000,000 is spent annually on imported food in Hawaii.
6 Finally, Hawaii only has a seven-day supply of food in the event
7 of an emergency. The legislature finds that using existing
8 resources to invest in Hawaii's agriculture is the most prudent
9 course in these fiscally-challenging times.

10 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§235- Livestock feed tax credit. (a) There shall be
14 allowed to each qualified producer subject to the tax imposed by
15 this chapter a livestock feed tax credit which shall be applied
16 to the taxpayer's net income tax liability, if any, imposed by
17 this chapter.



1 For each taxable year, a qualified producer may claim a tax
2 credit of the lesser of:

3 (1) Fifteen per cent of livestock feed costs incurred by
4 the qualified producer; or

5 (2) \$200,000.

6 (b) No other credit may be claimed under this chapter for
7 qualified livestock feed costs for which a credit is claimed
8 under this section for the taxable year.

9 (c) The cost upon which the tax credit is computed shall
10 be determined at the entity level. In the case of a
11 partnership, S corporation, estate, trust, or other pass through
12 entity, distribution and share of the credit shall be determined
13 pursuant to section 704(b) of the Internal Revenue Code.

14 If a deduction is taken under section 179 (with respect to
15 election expense depreciable business assets) of the Internal
16 Revenue Code, no tax credit shall be allowed for that portion of
17 the qualified livestock feed cost for which a deduction was
18 taken.

19 The basis of eligible property for depreciation or
20 accelerated cost recovery system purposes for state income taxes
21 shall be reduced by the amount of credit allowable and claimed
22 under this section. No deduction shall be allowed for that



1 portion of otherwise deductible qualified livestock feed costs
2 on which a credit is claimed under this section.

3 (d) If the credit under this section exceeds the
4 taxpayer's net income tax liability for the taxable year, the
5 excess of the credit over liability shall be refunded to the
6 taxpayer; provided that no refunds or payments on account of the
7 credits allowed by this section shall be made for amounts less
8 than \$1.

9 All claims for a tax credit under this section, including
10 amended claims, shall be filed on or before the end of the
11 twelfth month following the close of the taxable year for which
12 the credit is claimed. Failure to comply with the foregoing
13 provision shall constitute a waiver of the right to claim the
14 credit.

15 (e) The director of taxation:

16 (1) Shall prepare any forms that may be necessary to claim
17 a credit under this section;

18 (2) May require the taxpayer to furnish information to
19 ascertain the validity of the claim for credit made
20 under this section; and

21 (3) May adopt rules pursuant to chapter 91 to effectuate
22 this section.



- 1 (f) The department of agriculture shall:
- 2 (1) Maintain records of the total amount of qualified
3 livestock feed costs for each taxpayer claiming a
4 credit;
- 5 (2) Verify the amount of the livestock feed costs claimed
6 by each taxpayer claiming the tax credit for each
7 taxable year;
- 8 (3) Calculate the total livestock feed costs claimed by
9 all taxpayers claiming the tax credit in each taxable
10 year; and
- 11 (4) Certify the total amount of the tax credit claimed for
12 each taxpayer and for all taxpayers claiming the
13 credit in each taxable year.

14 The department of agriculture shall issue a certificate to
15 the taxpayer verifying the taxpayer's qualifying producer
16 status, the amount of qualified livestock feed costs claimed by
17 the taxpayer, and the credit amount certified for the taxpayer
18 for each taxable year, upon such determination.

19 Notwithstanding any other law to the contrary, the
20 information required by this subsection shall be available for
21 public inspection and dissemination under chapter 92F.



1 (g) The taxpayer shall file the certificate with the
2 taxpayer's tax return filed with the department of taxation.
3 Notwithstanding the department of agriculture's certification
4 authority under this section, the director of taxation may audit
5 and adjust the certification for accuracy.

6 (h) If in the taxable year beginning after December 31,
7 2011, the annual amount of certified credits claimed under this
8 section reaches \$1,500,000 in the aggregate, the department of
9 agriculture shall immediately discontinue certifying credits and
10 shall notify the department of taxation of the discontinuation.
11 In no instance shall the department of agriculture certify a
12 total amount of livestock feed tax credits exceeding \$1,500,000
13 in the taxable year beginning after December 31, 2011. To
14 comply with this restriction, the department of agriculture
15 shall certify livestock feed tax credits on a first come, first
16 served basis.

17 (i) As used in this section:

18 "Livestock feed costs" means the purchase amount of all
19 edible materials consumed by cows, goats, poultry, sows, and
20 beef cattle, which contribute energy or nutrients to the
21 animal's diet, and which are distributed or imported.



1 "Qualified producer" means any person that at the time of
2 application for and receipt of the tax credit under this section
3 is in the business of producing:

4 (1) Milk from a herd, located in Hawaii, of not fewer than
5 three hundred fifty cows or one hundred lactating
6 milking goats;

7 (2) Poultry products from a flock, raised and located in
8 Hawaii, of not fewer than three hundred birds;

9 (3) Pork from a herd, raised and located in Hawaii, of not
10 fewer than fifty sows; or

11 (4) Beef that is grown, slaughtered, processed, and
12 marketed in Hawaii; provided that producers who finish
13 at least one hundred head of beef cattle annually
14 shall be eligible for this tax credit."

15 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 **§235- Livestock feed development tax credit program.**

19 (a) There shall be allowed to each qualified producer subject
20 to the tax imposed by this chapter a livestock feed development
21 tax credit which shall be applied to the taxpayer's net income
22 tax liability, if any, imposed by this chapter.



1 (1) A qualified producer may claim a tax credit of the
2 lesser of:

3 (A) Ten per cent of livestock feed development costs
4 incurred by the qualified producer; or

5 (B) \$225,000; for livestock feed development costs
6 incurred by the qualified producer during the
7 taxable year ending before January 1, 2014.

8 (2) A qualified producer may claim a tax credit of the
9 lesser of:

10 (A) Five per cent of livestock feed development
11 costs; or

12 (B) \$225,000 for livestock feed development costs
13 incurred by the qualified producer during the
14 taxable year ending before January 1, 2015.

15 (b) The department of agriculture shall:

16 (1) Maintain records of the total amount of qualified
17 agriculture expenditures for livestock feed
18 development for each taxpayer claiming a credit;

19 (2) Verify the amount of the livestock feed development
20 costs claimed by each taxpayer claiming the tax credit
21 for each taxable year;



- 1 (3) Calculate the total livestock feed development costs
2 claimed by all taxpayers claiming the tax credit for
3 each taxable year; and
- 4 (4) Certify the total amount of the tax credit claimed for
5 each taxpayer and for all taxpayers claiming the
6 credit in each taxable year.

7 The department of agriculture shall issue a certificate to
8 the taxpayer verifying the taxpayer's qualifying producer
9 status, the amount of qualified livestock feed development costs
10 claimed by the taxpayer, and the credit amount certified for the
11 taxpayer each taxable year, upon such determination.

12 Notwithstanding any other law to the contrary, this information
13 shall be available for public inspection and dissemination under
14 chapter 92F.

15 (c) The taxpayer shall file the certificate with the
16 taxpayer's tax return filed with the department of taxation.

17 Notwithstanding the department of agriculture's certification
18 authority under this section, the director of taxation may audit
19 and adjust certification for accuracy.

20 (d) If in any year, the annual amount of certified credits
21 claimed under this section reaches \$500,000 in the aggregate,
22 the department of agriculture shall immediately discontinue



1 certifying livestock feed development tax credits and shall
2 notify the department of taxation of the discontinuation. In no
3 instance shall the total amount of certified livestock feed
4 development tax credits exceed \$500,000 per year.

5 (e) No other credit may be claimed under this chapter for
6 qualified livestock feed development costs for which a credit is
7 claimed by the taxpayer under this section for the taxable year.

8 (f) The cost upon which the tax credit is computed shall
9 be determined at the entity level. In the case of a
10 partnership, S corporation, estate, trust, or other pass through
11 entity, distribution and share of the credit shall be determined
12 pursuant to section 704(b) of the Internal Revenue Code.

13 If a deduction is taken under section 179 (with respect to
14 election expense depreciable business assets) of the Internal
15 Revenue Code, no tax credit shall be allowed for that portion of
16 the qualified livestock feed development cost for which a
17 deduction was taken.

18 The basis of eligible property for depreciation or
19 accelerated cost recovery system purposes for state income taxes
20 shall be reduced by the amount of credit allowable and claimed.
21 No deduction shall be allowed for that portion of otherwise



1 deductible qualified livestock feed development costs on which a
2 credit is claimed under this section.

3 (g) If the credit under this section exceeds the
4 taxpayer's net income tax liability for the taxable year, the
5 excess of the credit over liability shall be refunded to the
6 taxpayer; provided that no refunds or payments on account of the
7 credits allowed by this section shall be made for amounts less
8 than \$1.

9 All claims for a tax credit under this section, including
10 amended claims, shall be filed on or before the end of the
11 twelfth month following the close of the taxable year for which
12 the credit is claimed. Failure to comply with the foregoing
13 provision shall constitute a waiver of the right to claim the
14 credit.

15 (h) The director of taxation:

16 (1) Shall prepare any forms that may be necessary to claim
17 a credit under this section;

18 (2) May require the taxpayer to furnish information to
19 ascertain the validity of the claim for credit made
20 under this section; and

21 (3) May adopt rules pursuant to chapter 91 to effectuate
22 this section.



1 (i) As used in this section:

2 "Qualified producer" means any person that at the time of
3 application for and receipt of the tax credit under this section
4 is in the business of producing:

5 (1) Milk from a herd, located in Hawaii, of not fewer than
6 three hundred fifty cows or one hundred lactating
7 milking goats;

8 (2) Poultry products from a flock, raised and located in
9 Hawaii, of not fewer than three hundred birds;

10 (3) Pork from a herd, raised and located in Hawaii, of not
11 fewer than fifty sows; or

12 (4) Beef that is grown, slaughtered, processed, and
13 marketed in Hawaii; provided that producers who finish
14 at least one hundred head of beef cattle annually
15 shall be eligible for this tax credit.

16 "Feed development costs" means the purchase amount of
17 materials or equipment needed to produce edible materials
18 consumed by cows, goats, poultry, sows, and beef cattle, which
19 contribute energy or nutrients to the animal's diet, including
20 seeds, fertilizer, insecticides, and fungicides used for the
21 purposes of producing feed."



1 SECTION 4. Section 235-110.93, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~[+]~~§235-110.93~~[+]~~ **Important agricultural land qualified**
4 **agricultural cost tax credit.** (a) There shall be allowed to
5 each taxpayer an important agricultural land qualified
6 agricultural cost tax credit that may be claimed in taxable
7 years beginning after the taxable year during which the tax
8 credit under section 235-110.46 is repealed, exhausted, or
9 expired. The credit shall be deductible from the taxpayer's net
10 income tax liability, if any, imposed by this chapter for the
11 taxable year in which the credit is properly claimed. The tax
12 credit amount shall be determined as follows:

- 13 (1) In the first year in which the credit is claimed,
- 14 twenty-five per cent of the lesser of the following:
 - 15 (A) The qualified agricultural costs incurred by the
 - 16 taxpayer after July 1, 2008; or
 - 17 (B) \$625,000;
- 18 (2) In the second year in which the credit is claimed,
- 19 fifteen per cent of the lesser of the following:
 - 20 (A) The qualified agricultural costs incurred by the
 - 21 taxpayer after July 1, 2008; or
 - 22 (B) \$250,000; and



1 (3) In the third year in which the credit is claimed, ten
2 per cent of the lesser of the following:

3 (A) The qualified agricultural costs incurred by the
4 taxpayer after July 1, 2008; or

5 (B) \$125,000.

6 The taxpayer may incur qualified agricultural costs during a
7 taxable year in anticipation of claiming the credit in future
8 taxable years during which the credit is available. The
9 taxpayer may claim the credit in any taxable year after the
10 taxable year during which the taxpayer incurred the qualified
11 agricultural costs upon which the credit is claimed. The
12 taxpayer also may claim the credit in consecutive or
13 inconsecutive taxable years until exhausted.

14 (b) Each taxpayer claiming a credit under subsection (a)
15 may receive an additional refundable tax credit of fifteen per
16 cent of the qualified credit amount received pursuant to
17 subsection (a) for expenditures for drought mitigation projects
18 providing water for lands, the majority of which, excluding
19 lands classified as conservation lands, are important
20 agricultural lands.

21 [~~(b)~~] (c) No other credit may be claimed under this chapter
22 for qualified agricultural costs or drought mitigation project



1 expenditures for which a credit is claimed under this section
2 for the taxable year.

3 ~~[(c) The amount of the qualified agricultural costs~~
4 ~~eligible to be claimed under this section shall be reduced by~~
5 ~~the amount of funds received by the taxpayer during the taxable~~
6 ~~year from the irrigation repair and maintenance special fund~~
7 ~~under section 167-24.]~~

8 (d) The cost upon which the tax credit is computed shall
9 be determined at the entity level. In the case of a
10 partnership, S corporation, estate, trust, or other pass through
11 entity, distribution and share of the credit shall be determined
12 pursuant to section ~~[235-110.7(a).]~~ 704(b) of the Internal
13 Revenue Code.

14 If a deduction is taken under section 179 (with respect to
15 election to expense depreciable business assets) of the Internal
16 Revenue Code, no tax credit shall be allowed for that portion of
17 the qualified agricultural cost for which a deduction was taken.

18 The basis of eligible property for depreciation or
19 accelerated cost recovery system purposes for state income taxes
20 shall be reduced by the amount of credit allowable and claimed.
21 No deduction shall be allowed for that portion of otherwise



1 deductible qualified agricultural costs on which a credit is
2 claimed under this section.

3 (e) If the credit under this section exceeds the
4 taxpayer's net income tax liability for the taxable year, the
5 excess of the credit over liability shall be refunded to the
6 taxpayer; provided that no refunds or payments on account of the
7 credits allowed by this section shall be made for amounts less
8 than \$1.

9 ~~[All claims for a tax credit under this section, including~~
10 ~~amended claims, shall be filed on or before the end of the~~
11 ~~twelfth month following the close of the taxable year for which~~
12 ~~the credit is claimed. Failure to comply with the foregoing~~
13 ~~provision shall constitute a waiver of the right to claim the~~
14 ~~credit.]~~

15 (f) The director of taxation:

16 (1) Shall prepare any forms that may be necessary to claim
17 a credit under this section;

18 (2) May require the taxpayer to furnish information to
19 ascertain the validity of the claim for credit made
20 under this section; and

21 (3) May adopt rules pursuant to chapter 91 to effectuate
22 this section.



- 1 (g) The department of agriculture shall:
- 2 (1) Maintain records of the total amount of qualified
- 3 agricultural costs and drought mitigation project
- 4 expenditures for each taxpayer claiming a credit;
- 5 (2) Verify the amount of the qualified agricultural costs
- 6 claimed;
- 7 (3) Verify that drought mitigation project expenditures
- 8 comply with the requirements of this section;
- 9 [~~3~~] (4) Total all qualified agricultural costs claimed;
- 10 and
- 11 [~~4~~] (5) Certify the total amount of the tax credit for
- 12 each taxable year.

13 Upon each determination, the department of agriculture

14 shall issue a certificate to the taxpayer verifying the

15 qualifying agricultural costs, the drought mitigation project

16 compliance, and the credit amount certified for each taxable

17 year. For a taxable year, the department of agriculture may

18 certify a credit for a taxpayer who could have claimed the

19 credit in a previous taxable year, but chose not to because the

20 maximum annual credit amount under subsection (h) was reached in

21 that taxable year.



1 The taxpayer shall file the certificate with the taxpayer's
2 tax return with the department of taxation. Notwithstanding the
3 department of agriculture's certification authority under this
4 section, the director of taxation may audit and adjust
5 certification to conform to the facts.

6 Notwithstanding any other law to the contrary, the
7 information required by this subsection shall be available for
8 public inspection and dissemination under chapter 92F.

9 (h) [~~If in any taxable year the~~] The aggregate annual
10 amount of certified important agricultural land qualified
11 agricultural cost tax credits [~~reaches \$7,500,000 in the~~
12 ~~aggregate,~~] in any taxable year shall be:

- 13 (1) \$5,000,000 for the taxable year ending before January
14 1, 2013;
15 (2) \$7,000,000 per taxable year for the taxable years
16 beginning after December 31, 2012, and ending before
17 January 1, 2016; and
18 (3) \$7,500,000 per taxable year for all other successive
19 taxable years.

20 If in any taxable year the annual amount of certified
21 credits reaches the limit provided by this subsection, the
22 department of agriculture shall immediately discontinue



1 certifying credits and notify the department of taxation. In no
2 instance shall the department of agriculture certify a total
3 amount of credits exceeding [~~\$7,500,000 per taxable year.~~] the
4 annual aggregate amount limit of certified credits per taxable
5 year provided by this subsection. To comply with this
6 restriction, the department of agriculture shall certify credits
7 on a first come, first served basis.

8 The department of taxation shall not allow the aggregate
9 amount of credits claimed to exceed that amount per taxable
10 year.

11 (i) The department of agriculture, in consultation with
12 the department of taxation, shall annually determine the
13 information necessary to provide a quantitative and qualitative
14 assessment of the outcomes of the tax credit.

15 Every taxpayer, no later than the last day of the taxable
16 year following the close of the taxpayer's taxable year in which
17 the credit is claimed, shall submit a certified written
18 statement to the department of agriculture. Failure to provide
19 the information shall result in ineligibility and a recapture of
20 any credit already claimed for that taxable year. The amount of
21 the recaptured tax credit shall be added to the taxpayer's tax
22 liability for the taxable year in which the recapture occurs.



1 Notwithstanding any law to the contrary, a statement
2 submitted under this subsection shall be a public document.

3 (j) The department of agriculture, in consultation with
4 the department of taxation, shall annually submit a report
5 evaluating the effectiveness of the tax credit. The report
6 shall include but not be limited to findings and recommendations
7 to improve the effectiveness of the tax credit to further
8 encourage the development of agricultural businesses.

9 (k) As used in this section:

10 "Agricultural business" means any person with a commercial
11 agricultural, silvicultural, or aquacultural facility or
12 operation, including:

13 (1) The care and production of livestock and livestock
14 products, poultry and poultry products, apiary
15 products, and plant and animal production for nonfood
16 uses;

17 (2) The planting, cultivating, harvesting, and processing
18 of crops; and

19 (3) The farming or ranching of any plant or animal species
20 in a controlled salt, brackish, or freshwater
21 environment;



1 provided that the principal place of the agricultural business
2 is maintained in the State and more than fifty per cent of the
3 land the agricultural business owns or leases, excluding land
4 classified as conservation land, is important agricultural land.

5 "Important agricultural lands" means lands identified and
6 designated as important agricultural lands pursuant to part III
7 of chapter 205.

8 "Net income tax liability" means income tax liability
9 reduced by all other credits allowed under this chapter.

10 "Qualified agricultural costs" means expenditures for:

11 (1) The plans, design, engineering, construction,
12 renovation, repair, maintenance, and equipment for:

13 (A) Roads or utilities, primarily for agricultural
14 purposes, where the majority of the lands
15 serviced by the roads or utilities, excluding
16 lands classified as conservation lands, are
17 important agricultural lands;

18 (B) Agricultural processing facilities in the State,
19 primarily for agricultural purposes, where the
20 majority of the crops or livestock processed,
21 harvested, treated, washed, handled, or packaged
22 are from agricultural businesses;



- 1 (C) Water wells, reservoirs, dams, water storage
2 facilities, water pipelines, ditches, or
3 irrigation systems in the State, primarily for
4 agricultural purposes, providing water for lands,
5 the majority of which[7] excluding lands
6 classified as conservation lands, are important
7 agricultural lands; and
- 8 (D) Agricultural housing in the State[7] exclusively
9 for agricultural purposes; provided that:
- 10 (i) The housing units are occupied solely by
11 farmers or employees for agricultural
12 businesses and their immediate family
13 members;
- 14 (ii) The housing units are owned by the
15 agricultural business;
- 16 (iii) The housing units are in the general
17 vicinity, as determined by the department of
18 agriculture, of agricultural lands owned or
19 leased by the agricultural business; and
- 20 (iv) The housing units conform to any other
21 conditions that may be required by the
22 department of agriculture;



1 (2) Feasibility studies, regulatory processing, and legal
2 and accounting services related to the items under
3 paragraph (1);

4 (3) Equipment, primarily for agricultural purposes, used
5 to cultivate, grow, harvest, or process agricultural
6 products by an agricultural business; and

7 (4) Regulatory processing, studies, and legal and other
8 consultant services related to obtaining or retaining
9 sufficient water for agricultural activities and
10 retaining the right to farm on lands identified as
11 important agricultural lands.

12 (1) The department of agriculture shall cease certifying
13 credits pursuant to this section after the fourth taxable year
14 following the taxable year during which the credits are first
15 claimed; provided that a taxpayer with accumulated, but
16 unclaimed, certified credits may continue claiming the credits
17 in subsequent taxable years until exhausted.

18 (m) The department of taxation, in consultation with the
19 department of agriculture, shall submit to the legislature an
20 annual report, no later than twenty days prior to the convening
21 of each regular session, beginning with the regular session of
22 2010, regarding the quantitative and qualitative assessment of



1 the impact of the important agricultural land qualified
2 agricultural cost tax credit."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval;
6 provided that:

7 (1) Section 2 shall be effective on January 1, 2012, and
8 shall apply to the taxable year beginning after
9 December 31, 2011, and ending before January 1, 2013;

10 (2) Section 3 shall be effective on January 1, 2013, and
11 shall apply to the taxable years beginning after
12 December 31, 2012, and ending before January 1, 2015;
13 and

14 (3) Section 4 shall take effect upon approval and shall
15 apply to the taxable years beginning after December
16 31, 2011, and ending before January 1, 2021; provided
17 that on January 1, 2021, section 4 shall be repealed
18 and section 235-110.93, Hawaii Revised Statutes, shall
19 be reenacted in the form in which it read on the day
20 prior to the effective date of this Act.



Report Title:

Agriculture; Livestock Feed; livestock Feed Development; Drought Mitigation; Tax Credit

Description:

Amends important agricultural land tax credit to allow an additional fifteen per cent credit for drought mitigation and change the tax credit cap from \$7,500,000 per year to \$5,000,000 per year for the 2012 tax year and \$7,000,000 per year for the 2013, 2014, and 2015 tax years. Creates a livestock feed tax credit for 2012. Creates feed development tax credit program from January 1, 2013, to December 31, 2014.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

