
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 that shall be applied
16 to the taxpayer's net income tax liability, if any, imposed by
17 this chapter for the taxable year for which the credit is
18 properly claimed.



1 For each taxable year, a qualified producer may claim a tax
2 credit in the amount of 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 livestock feed costs for which a credit is claimed under this
8 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 to expense certain depreciable business assets) of the
16 Internal Revenue Code, no tax credit shall be allowed for that
17 portion of the livestock feed costs 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 No deduction shall be allowed for that portion of otherwise



1 deductible livestock feed costs on which a credit is claimed
2 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 livestock feed
- 3 costs for each taxpayer claiming a credit;
- 4 (2) Verify the amount of the livestock feed costs claimed
- 5 by each taxpayer claiming the tax credit for each
- 6 taxable year;
- 7 (3) Calculate the total livestock feed costs claimed by
- 8 all taxpayers claiming the tax credit in each taxable
- 9 year; and
- 10 (4) Certify the total amount of the tax credit claimed for
- 11 each taxpayer and for all taxpayers claiming the
- 12 credit in each taxable year.

13 Upon each determination, the department of agriculture

14 shall issue a certificate to the taxpayer verifying the

15 taxpayer's qualified producer status, the amount of livestock

16 feed costs claimed by the taxpayer, and the credit amount

17 certified for the taxpayer for each taxable year.

18 Notwithstanding any other law to the contrary, the

19 information required by this subsection shall be available for

20 public inspection and dissemination under chapter 92F.

21 (g) The taxpayer shall file the certificate with the

22 taxpayer's tax return with the department of taxation.



1 Notwithstanding the department of agriculture's certification
2 authority under this section, the director of taxation may audit
3 and adjust the certification to conform to the facts.

4 (h) If in the taxable year beginning after December 31,
5 2011, the annual amount of certified credits reaches \$1,500,000
6 in the aggregate, the department of agriculture shall
7 immediately discontinue certifying credits and notify the
8 department of taxation. In no instance shall the department of
9 agriculture certify a total amount of credits exceeding
10 \$1,500,000 in the taxable year beginning after December 31,
11 2011. To comply with this restriction, the department of
12 agriculture shall certify credits on a first come, first served
13 basis.

14 (i) As used in this section:

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

19 "Qualified producer" means any person that, at the time of
20 application for and receipt of the tax credit under this
21 section, is in the business of producing:



- 1 (1) Milk from a herd, located in the State, of not fewer
- 2 than three hundred fifty cows or one hundred lactating
- 3 milking goats;
- 4 (2) Poultry products from a flock, raised and located in
- 5 the State, of not fewer than three hundred birds;
- 6 (3) Pork from a herd, raised and located in the State, of
- 7 not fewer than fifty sows; or
- 8 (4) Beef that is grown, slaughtered, processed, and
- 9 marketed in the State; provided that producers who
- 10 finish at least one hundred head of beef cattle
- 11 annually shall be eligible for this tax credit."

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

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

- 20 (1) A qualified producer may claim a tax credit of the
- 21 lesser of:



- 1 (A) Ten per cent of livestock feed development costs
- 2 incurred by the qualified producer; or
- 3 (B) \$225,000 for livestock feed development costs
- 4 incurred by the qualified producer during the
- 5 taxable year ending before January 1, 2014.

- 6 (2) A qualified producer may claim a tax credit of the
- 7 lesser of:
- 8 (A) Five per cent of livestock feed development
- 9 costs; or
- 10 (B) \$225,000 for livestock feed development costs
- 11 incurred by the qualified producer during the
- 12 taxable year ending before January 1, 2015.

- 13 (b) The department of agriculture shall:
- 14 (1) Maintain records of the total amount of livestock feed
- 15 development costs for each taxpayer claiming a credit;
- 16 (2) Verify the amount of the livestock feed development
- 17 costs claimed by each taxpayer claiming the tax credit
- 18 for each taxable year;
- 19 (3) Calculate the total livestock feed development costs
- 20 claimed by all taxpayers claiming the tax credit for
- 21 each taxable year; and



1 (4) Certify the total amount of the tax credit claimed for
2 each taxpayer and for all taxpayers claiming the
3 credit in each taxable year.

4 Upon each determination, the department of agriculture
5 shall issue a certificate to the taxpayer verifying the
6 taxpayer's qualified producer status, the amount of livestock
7 feed development costs claimed by the taxpayer, and the credit
8 amount certified for the taxpayer for each taxable year.
9 Notwithstanding any other law to the contrary, this information
10 shall be available for public inspection and dissemination under
11 chapter 92F.

12 (c) The taxpayer shall file the certificate with the
13 taxpayer's tax return with the department of taxation.
14 Notwithstanding the department of agriculture's certification
15 authority under this section, the director of taxation may audit
16 and adjust certification to conform to the facts.

17 (d) If in any year, the annual amount of certified credits
18 reaches \$500,000 in the aggregate, the department of agriculture
19 shall immediately discontinue certifying credits and shall
20 notify the department of taxation. In no instance shall the
21 total amount of credits exceed \$500,000 per year.



1 (e) No other credit may be claimed under this chapter for
2 livestock feed development costs for which a credit is claimed
3 by the taxpayer under this section for the taxable year.

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

9 If a deduction is taken under section 179 (with respect to
10 election to expense certain depreciable business assets) of the
11 Internal Revenue Code, no tax credit shall be allowed for that
12 portion of the livestock feed development costs for which a
13 deduction was taken.

14 The basis of eligible property for depreciation or
15 accelerated cost recovery system purposes for state income taxes
16 shall be reduced by the amount of credit allowable and claimed.
17 No deduction shall be allowed for that portion of otherwise
18 deductible livestock feed development costs on which a credit is
19 claimed under this section.

20 (g) If the credit under this section exceeds the
21 taxpayer's net income tax liability for the taxable year, the
22 excess of the credit over liability shall be refunded to the



1 taxpayer; provided that no refunds or payments on account of the
2 credits allowed by this section shall be made for amounts less
3 than \$1.

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

10 (h) The director of taxation:

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

13 (2) May require the taxpayer to furnish information to
14 ascertain the validity of the claim for credit made
15 under this section; and

16 (3) May adopt rules pursuant to chapter 91 to effectuate
17 this section.

18 (i) As used in this section:

19 "Qualified producer" means any person that, at the time of
20 application for and receipt of the tax credit under this
21 section, is in the business of producing:



- 1 (1) Milk from a herd, located in the State, of not fewer
2 than three hundred fifty cows or one hundred lactating
3 milking goats;
- 4 (2) Poultry products from a flock, raised and located in
5 the State, of not fewer than three hundred birds;
- 6 (3) Pork from a herd, raised and located in the State, of
7 not fewer than fifty sows; or
- 8 (4) Beef that is grown, slaughtered, processed, and
9 marketed in the State; provided that producers who
10 finish at least one hundred head of beef cattle
11 annually shall be eligible for this tax credit.

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

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

20 "~~§~~**235-110.93**~~§~~ **Important agricultural land qualified**
21 **agricultural cost tax credit.** (a) There shall be allowed to
22 each taxpayer an important agricultural land qualified



1 agricultural cost tax credit that may be claimed in taxable
 2 years beginning after the taxable year during which the tax
 3 credit under section 235-110.46 is repealed, exhausted, or
 4 expired. The credit shall be deductible from the taxpayer's net
 5 income tax liability, if any, imposed by this chapter for the
 6 taxable year in which the credit is properly claimed. For
 7 qualified agricultural costs incurred after July 1, 2008, the
 8 ~~[The]~~ tax credit amount shall be determined as follows:

9 (1) In the first year in which the credit is claimed, the
 10 tax credit shall equal the lesser of twenty-five per
 11 cent of ~~[the lesser of the following]:~~

12 ~~(A) The] the aggregate qualified agricultural costs~~
 13 ~~incurred by the taxpayer ~~[after July 1, 2008,]~~ or~~
 14 ~~[(B)] \$625,000;~~

15 (2) In the second year in which the credit is claimed, the
 16 tax credit shall equal the lesser of fifteen per cent
 17 of ~~[the lesser of the following]:~~

18 ~~(A) The] the aggregate qualified agricultural costs~~
 19 ~~incurred by the taxpayer ~~[after July 1, 2008,]~~ or~~
 20 ~~[(B)] \$250,000; and~~



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

4 ~~(A)~~ The] the aggregate qualified agricultural costs
5 incurred by the taxpayer after July 1, 2008; or
6 ~~[(B)]~~ \$125,000.

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

15 (b) Each taxpayer claiming a credit under subsection (a)
16 may receive an additional tax credit for expenditures for
17 drought mitigation projects providing water for lands, the
18 majority of which, excluding lands classified as conservation
19 lands, are important agricultural lands. The amount of the
20 additional tax credit shall not exceed fifteen per cent of the
21 credit amount received pursuant to subsection (a).



1 [~~(b)~~] (c) No other credit may be claimed under this chapter
2 for qualified agricultural costs or drought mitigation project
3 expenditures for which a credit is claimed under this section
4 for the taxable year.

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

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

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

21 The basis of eligible property for depreciation or
22 accelerated cost recovery system purposes for state income taxes



1 shall be reduced by the amount of credit allowable and claimed.
2 No deduction shall be allowed for that portion of otherwise
3 deductible qualified agricultural costs on which a credit is
4 claimed under this section.

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

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

17 (f) The director of taxation:

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

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



1 (3) May adopt rules pursuant to chapter 91 to effectuate
2 this section.

3 (g) The department of agriculture shall:

4 (1) Maintain records of the total amount of qualified
5 agricultural costs and drought mitigation project
6 expenditures for each taxpayer claiming a credit;

7 (2) Verify the amount of the qualified agricultural costs
8 claimed;

9 (3) Verify that drought mitigation project expenditures
10 comply with the requirements of subsection (b);

11 [~~3~~] (4) Total all qualified agricultural costs claimed;
12 and

13 [~~4~~] (5) Certify the total amount of the tax credit for
14 each taxable year.

15 Upon each determination, the department of agriculture
16 shall issue a certificate to the taxpayer verifying the
17 qualifying agricultural costs, the drought mitigation project
18 compliance, and the credit amount certified for each taxable
19 year. For a taxable year, the department of agriculture may
20 certify a credit for a taxpayer who could have claimed the
21 credit in a previous taxable year, but chose not to because the



1 maximum annual credit amount under subsection (h) was reached in
2 that taxable year.

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

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

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

15 (1) \$5,000,000 for the taxable year ending before January
16 1, 2013;

17 (2) \$7,000,000 per taxable year for the taxable years
18 beginning after December 31, 2012, and ending before
19 January 1, 2016; and

20 (3) \$7,500,000 per taxable year for all other successive
21 taxable years.



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

11 The department of taxation shall not allow the aggregate
12 amount of credits claimed to exceed that amount per taxable
13 year.

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

18 Every taxpayer, no later than the last day of the taxable
19 year following the close of the taxpayer's taxable year in which
20 the credit is claimed, shall submit a certified written
21 statement to the department of agriculture. Failure to provide
22 the information shall result in ineligibility and a recapture of



1 any credit already claimed for that taxable year. The amount of
2 the recaptured tax credit shall be added to the taxpayer's tax
3 liability for the taxable year in which the recapture occurs.

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

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

12 (k) As used in this section:

13 "Agricultural business" means any person with a commercial
14 agricultural, silvicultural, or aquacultural facility or
15 operation, including:

16 (1) The care and production of livestock and livestock
17 products, poultry and poultry products, apiary
18 products, and plant and animal production for nonfood
19 uses;

20 (2) The planting, cultivating, harvesting, and processing
21 of crops; and



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

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

8 "Important agricultural lands" means lands identified and
9 designated as important agricultural lands pursuant to part III
10 of chapter 205.

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

13 "Qualified agricultural costs" means expenditures for:

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

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

21 (B) Agricultural processing facilities in the State,
22 primarily for agricultural purposes, where the



1 majority of the crops or livestock processed,
2 harvested, treated, washed, handled, or packaged
3 are from agricultural businesses;

4 (C) Water wells, reservoirs, dams, water storage
5 facilities, water pipelines, ditches, or
6 irrigation systems in the State, primarily for
7 agricultural purposes, providing water for lands,
8 the majority of which[7] excluding lands
9 classified as conservation lands, are important
10 agricultural lands; and

11 (D) Agricultural housing in the State[7] exclusively
12 for agricultural purposes; provided that:

13 (i) The housing units are occupied solely by
14 farmers or employees for agricultural
15 businesses and their immediate family
16 members;

17 (ii) The housing units are owned by the
18 agricultural business;

19 (iii) The housing units are in the general
20 vicinity, as determined by the department of
21 agriculture, of agricultural lands owned or
22 leased by the agricultural business; and



1 (iv) The housing units conform to any other
2 conditions that may be required by the
3 department of agriculture;

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

7 (3) Equipment, primarily for agricultural purposes, used
8 to cultivate, grow, harvest, or process agricultural
9 products by an agricultural business; and

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

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

21 [+] (m) [+] The department of taxation, in consultation with
22 the department of agriculture, shall submit to the legislature



1 an annual report, no later than twenty days prior to the
2 convening of each regular session, beginning with the regular
3 session of 2010, regarding the quantitative and qualitative
4 assessment of the impact of the important agricultural land
5 qualified agricultural cost tax credit."

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

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

10 (1) Section 2 shall take effect on January 1, 2012, and
11 shall apply to the taxable year beginning after
12 December 31, 2011, and ending before January 1, 2013;

13 (2) Section 3 take effect on January 1, 2013, and shall
14 apply to the taxable years beginning after December
15 31, 2012, and ending before January 1, 2015; and

16 (3) Section 4 shall:

17 (A) Shall apply to the taxable years beginning after
18 December 31, 2011, and ending before January 1,
19 2021; and



1 (B) Be repealed on January 1, 2021; provided that
2 section 235-110.93, Hawaii Revised Statutes,
3 shall be reenacted in the form in which it read
4 on the day prior to the effective date of this
5 Act.



Report Title:

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

Description:

Amends the important agricultural land qualified agricultural cost 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 livestock feed development tax credit program from January 1, 2013, to December 31, 2014. (HB2668 HD2)

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

