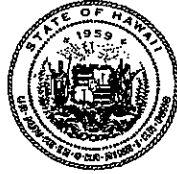


NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR



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LATE TESTIMONY

To: The Honorable Clift Tsuji, Chair  
And Members of the House Committee on Agriculture

Date: Friday, February 3, 2012  
Time: 8:00 A.M.  
Place: Conference Room 312, State Capitol

From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. No. 2668, Relating to Agriculture

The Department of Taxation (Department) appreciates the intent of H.B. 2668 and provides the following information and comments for your consideration.

H.B. 2668 creates an additional tax credit for drought mitigation, and changes the aggregate tax credit cap for the 2012 tax year and subsequent years. It also creates a livestock feed tax credit for 2012 and a feed development tax credit for tax years 2013 to 2014.

Livestock feed tax credit: While the Department recognizes the desire to control the amount of tax credit available by instituting a cap on the total amount of tax credit to be issued, the Department notes that aggregate caps are difficult to administer and result in uncertainty for taxpayers.

The Department also notes that the Department cannot make any tax return information, and related attached documents, available for public inspection as set forth under subsection (g).

Important agricultural lands tax credit: The existing language in Section 235-110.93, Hawaii Revised Statutes (HRS), is confusing and difficult to implement. The Department interprets subsection (a)(1) as limiting taxpayers, in the first year that the tax credit is claimed, to a maximum possible tax credit of twenty-five percent of \$625,000, or \$156,250. The Department interprets the calculation of the tax credit under subsections (a)(2) and (a)(3) in a similar fashion.

Additionally, the language in subsections (a)(2) and (a)(3), make it difficult to determine how to calculate the tax credits that may be claimed in the second and third years. The wording states that taxpayers are entitled to claim expenses from previous years in the second and third year in which this tax credit is claimed, and that taxpayers can claim these expenses in any taxable year. These provisions are inconsistent with how tax credits are claimed in general, and as a result, are problematic for the Department to administer. The Department recommends that the language be adjusted such that the tax credit is applied year-by-year.

Lastly, the Department believes that the language in subsection (f) of Section 235-1109.93, HRS, which states that a claim for tax credit must be filed within twelve months of the close of the taxable year in which the credit is claimed, appears to be mutually exclusive with the above-listed provisions in subsection (a).

Thank you for the opportunity to provide comments.



State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

LATE TESTIMONY

TESTIMONY OF RUSSELL S. KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON  
AGRICULTURE

FEBRUARY 3, 2012, 8:00 AM

HOUSE BILL NO. 2668  
RELATING TO AGRICULTURE

Chairperson Tsuji and Members of the Committee:

Thank you for the opportunity to comment on House Bill No. 2668. The purpose of this bill is to amend the Important Agricultural Land (IAL) tax credit to allow an additional fifteen percent 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. It also creates a livestock fee tax credit for 2013 and creates a feed development tax credit program from January 1, 2013 to December 31, 2015. The department supports the intent of this bill but respectfully offers comments and concerns regarding the feasibility of implementation of this bill.

The 2007 legislature passed the Livestock Revitalization Program which appropriated \$3 million for each fiscal year, 2008 and 2009, to reimburse qualified livestock producers for applicable feed expenses. Due to the requirements of this program, an accounting firm was retained by the department to review the applications to ensure that all requirements of Act 221, Session Laws of 2007, were met and recommend payment by the department. Funding for the accounting firm and other administrative costs were also allowed in the Act.

This bill (HB 2668) differs from Act 221 in that Act 221 was a grant program to reimburse direct costs and HB 2668 provides only tax credits. Additionally, no allowance for administrative costs are included in this bill and new tax credit programs for livestock feed development and drought mitigation were added.

Regarding drought mitigation projects, a clear definition of what qualifies as a legitimate project must be included. The type of projects, as well as the scope of the project, will be necessary in order for the department to determine applicability. When



TESTIMONY OF RUSSELL S. KOKUBUN  
BEFORE THE HOUSE COMMITTEE ON AGRICULTURE  
FEBRUARY 3, 2012, 8:00 AM  
HOUSE BILL NO. 2668  
PAGE 2

reference to "... comply with the requirements of this section;" is made, reference to the exact section or subsection numbers are needed. Certification and compliance certificates for these projects are not feasible given current staffing resources. Furthermore, to ensure a consistent qualification determination, rulemaking may be necessary. This would further exacerbate the department's limited staffing resources.

This measure also proposes a reduction in the annual cap for accumulated IAL qualified agricultural cost tax credits and the addition of qualified drought mitigation projects that provide irrigation water to agricultural land the majority of which is designated as IAL. Furthermore qualified drought mitigation projects will receive a fifteen percent higher credit than what presently allowed for other qualified costs. This reduces the amount available for those many other qualified agricultural costs incurred on designated IAL lands that are not related to drought mitigation. While no taxpayer has sought to claim the tax credit to date, the legislature will need to determine whether setting aside a significant portion of the tax credit for drought mitigation is in consonance with the purpose and intent of this IAL incentive.

Thank you for this opportunity to testify.

**LATE TESTIMONY**

**NOTES TO TESTIFIER:**

Funding was withheld by the previous administration for the second fiscal year, only allowing approximately half of the funds to be expended. If funding had been available for both years, the department is certain that all of the moneys would have been expended.

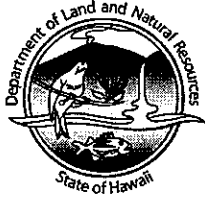
This bill could allow tax credits for cock fighters because poultry products are not defined and the qualifying threshold was lowered from 3,000 to 300 birds.

Drought mitigation compliance would mean that DOA has to be in on the project from the very beginning in order to ensure that what is being claimed was what was built, in the manner it was supposed to be built. The department does not have staffing for this and would need to hire a third party construction management firm.

As written, the bill does not exclude transportation costs which some suppliers include in the price per ton from the total feed costs (the 2007 act did).

Act 221 specifically prohibited the resale or gifting of feed if the farmer was going to use the feed cost as a requested reimbursement.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committees on  
AGRICULTURE  
and  
ECONOMIC REVITALIZATION & BUSINESS**

**Friday, February 3, 2012  
8:00 AM  
State Capitol, Conference Room 312**

**In Consideration of  
HOUSE BILL 2668  
RELATING TO AGRICULTURE**

House Bill 2668 proposes to provide assistance to the agricultural industry by way of tax credits. The Department of Land and Natural Resources (Department) testimony is limited to SECTION 4 of House Bill 2668. The Department appreciates the intent of this measure, but defers to the State Department of Taxation to determine the impact on State tax revenues should the measure become enacted into law. Because this proposal was not part of the Governor's supplemental budget, the bill could also adversely impact existing programs

The purpose of SECTION 4 is to provide a tax credit for expenditures for drought mitigation projects providing water for lands the majority of which is designated important agricultural lands. The Department is very conscious of the need to mitigate the effects of drought and the associated financial costs to agricultural operators to implement water supply projects for drought mitigation. Droughts have severely affected Hawaii in the past, and as part of a natural climate cycle, droughts will impact the State in the future.

However, the Legislature should evaluate whether tax credits to a particular set of lands is the most effective way to target and use of public subsidies when drought impacts different lands in different ways.

Thank you for the opportunity to comment on this measure.

WILLIAM J. AILA, JR.  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

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

**LATE TESTIMONY  
LATE TESTIMONY**



**Hawaii Farm Bureau**  
F E D E R A T I O N

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**LATE TESTIMONY**

FEBRUARY 3, 2012

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 2668  
RELATING TO AGRICULTURE

Room 312  
8:00 AM

Chair Tsuji, Vice Chair Hashem, and Members of the Committee:

I am Brian Miyamoto, Chief Operating Officer and Government Affairs Liaison for the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF is in **strong support** of HB 2668, expanding the use of the refundable tax credits for drought mitigation and livestock assistance.

This measure addresses two major areas of concern related to agriculture in Hawaii.

Affordable feed has been a major challenge for the livestock industry and has resulted in the loss of livestock operations across the state. Ranches suffer during the summer as forage decreases and their livestock continue to need feed. Poultry farmers are totally dependent on imported feed and are at the mercy of grain and oil prices. We therefore strongly support the use of tax credits to assist in this area. Providing credits to develop local feedstock is important to reduce our dependence on imports.

Weather predictions indicate increased longer periods of drought in Hawaii. Further incentivizing private investments in drought mitigation projects for IAL lands is critical.

Thank you for this opportunity to comment on this critical bill and we respectfully request your strong support in passage. I can be reached at (808) 848-2074 if you have any questions.

# LATE TESTIMONY

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 03, 2012 8:36 AM  
**To:** AGRtestimony  
**Cc:** farmfreshhawaii@gmail.com  
**Subject:** Testimony for HB2668 on 2/3/2012 8:00:00 AM

Testimony for AGR 2/3/2012 8:00:00 AM HB2668

Conference room: 312  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Juanita Kawamoto Brown  
Organization: Environmental Caucus of the Democratic Party of Hi  
E-mail: [farmfreshhawaii@gmail.com](mailto:farmfreshhawaii@gmail.com)  
Submitted on: 2/3/2012

**Comments:**

We will submit further written testimony and strongly support this bill as it will provide the much needed revenue to support the small family farmers.