SB 975

Testimony

NEIL ABERCROMBIE
Governor

RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

SCOTT E. ENRIGHT
Deputy to the Chairperson

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

TESTIMONY OF RUSSELL KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE
Tuesday, February 5, 2013
Room 229
2:50 p.m.

SENATE BILL NO. 975
RELATING TO AGRICULTURE

Chairperson Nishihara, Vice Chair Kouchi and Members of the Committee:

Thank you for the opportunity to provide testimony on Senate Bill No. 975. The three purposes of this bill are to:

1. Create a livestock feed tax credit of 15 percent or $200,000, whichever is less, of livestock feed costs for the 2013 tax year; and
2. Create a livestock feed development tax credit of ten and five percent or $225,000, whichever is less, of livestock feed development costs for the 2014-2015 tax years, respectively.
3. Amend the Important Agricultural Land Qualified Agricultural Cost Tax Credit by reducing the total amount of annual tax credits to $6 million for the 2013 tax year, $7 million for the 2014 tax year, and $7.5 million for all tax years thereafter.

The Department supports this measure but has concerns. This measure provides for two appropriations, both of which are for unspecified amounts for FY13-14 to the Department. One appropriation is for staff and other expenses and the other appropriation is for staff and consultant expenses both for the purpose of implementing the tax credits established by the bill. Both appropriations are necessary to fully implement the mandates of the bill.

Regarding the two livestock tax credits, the Department will have to determine the most cost-effective means of certifying a taxpayer's qualification status at the time either credit is requested. We understand that the Department of Taxation will be the final arbiter on our certifications.

We thank you for this opportunity to present our testimony on this measure.

Hawaii Cattlemen's Council, Inc.

P O Box 437199 Kamuela HI 96743
Phone (808) 885-5599 • Fax (808) 887-1607
e-mail: HICattlemens@hawaii.rr.com

SENATE COMMITTEE ON AGRICULTURE
Tuesday February 5, 2013 2:50 pm Room 229

SB 975 RELATING TO AGRICULTURE

Amends the important agricultural land qualified agricultural cost tax credit by changing the tax credit cap to $6,000,000 per year for the 2013 tax year and $7,000,000 per year for the 2014 and 2015 tax years, and $7,500,000 per year thereafter.
Creates a livestock feed tax credit from 1/1/2013 to 12/31/2013.
Creates livestock feed development tax credit from 1/1/2014 to 12/31/2015.
Appropriates funds for staffing and consulting expenses.

Chair Nishihara, Vice Chair Kouchi and Members of the Committees:

My name is Alex Franco; I'm a beef processer on Maui and President of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is a statewide organization comprised of five county level Cattlemen's Associations that occupy approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council strongly supports SB 975

Feed cost has gotten out of control for Hawaii's Livestock industry. On going drought conditions over the last eight years in Hawaii has forced many producers to supplement feed animals with high feed cost associated with the devastating Mid West drought. This has acted as a double edge sword for Hawaii's livestock industry in controlling cost, which according to USDA it will continue into 2013.

In order for Hawaii's livestock producers to meet these much higher-than-normal feed costs, a feed tax credit, as provided for in Section 1 of this bill, is needed.

Furthermore, Section 2 deals with a Livestock Feed Development Tax Credit, which we strongly support, as it will go a long ways in making Hawaii's livestock industry self sufficient.

HCC also supports extending Section 1 and Section 2 grant program to include goats, sheep and aquaculture/aquaponics farmers.

Thank you for allowing me to submit this testimony.

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Appropriates funds for staffing and consulting expenses.

Chair Nishihara, Vice Chair Kouchi and Members of the Committees:

My name is Alan Gottlieb, and I am the Government Affairs Chairperson of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council strongly supports SB 975.

The cost of livestock feed has been devastating for Hawaii's Livestock Producers. In addition to the 8 years on-going drought we have had in Hawaii, a devastating drought has decimated this year's grain harvests in at least four Midwestern states resulting in rapid increases in grain and livestock feed prices. Livestock producers dependent on such imported feeds are experiencing significant feed price increases and such increases are projected by the USDA Farm Service Agency to continue for the rest of 2013 until the next successful grain harvest. In the meantime, farmers and ranchers can expect to pay premium prices for imported grains and feeds.

In order for Hawaii's livestock producers to meet these much higher-than-normal feed costs, a feed tax credit, as provided for in Section 1 of this bill, is needed.

Furthermore, Section 2 deals with a Livestock Feed Development Tax Credit, which we strongly support. Grants, tax credits and subsidies cannot go on forever, and developing our own local feed sources are an integral part of making Hawaii's livestock industries more self sufficient.

Furthermore, we would support extending Section 1 and Section 2 grant programs to goat, sheep and aquaculture/aquaponics producers.

We appreciate this opportunity to provide testimony on this matter.

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Amends the important agricultural land qualified agricultural cost tax credit by changing the tax credit cap to $6,000,000 per year for the 2013 tax year and $7,000,000 per year for the 2014 and 2015 tax years, and $7,500,000 per year thereafter.

Creates a livestock feed tax credit from 1/1/2013 to 12/31/2013.

Creates livestock feed development tax credit from 1/1/2014 to 12/31/2015.

Appropriates funds for staffing and consulting expenses.

Chair Nishihara, Vice Chair Kouchi and Members of the Committees:

My name is Karin Carswell Guest, I am a rancher and the secretary/treasurer for the Kauai Cattlemen's Association. Kauai Cattlemen's Association (KCA) is part of The Hawaii Cattlemen'sCouncil (HCC) which is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Kauai Cattlemen's Association <u>strongly supports</u> SB 757.

The cost of livestock feed has been devastating for Hawaii's Livestock Producers. In addition to the 8 years on-going drought we have had in Hawaii, a devastating drought has decimated this year's grain harvests in at least four Midwestern states resulting in rapid increases in grain and livestock feed prices. Livestock producers dependent on such imported feeds are experiencing significant feed price increases and such increases are projected by the USDA Farm Service Agency to continue for the rest of 2013 until the next successful grain harvest. In the meantime, farmers and ranchers can expect to pay premium prices for imported grains and feeds. In order for Hawaii's livestock producers to meet these much higher-than-normal feed costs, a feed grant is needed.

Furthermore, we would support extending this grant program to goat, sheep and aquaculture/aquaponics producers.
We appreciate this opportunity to provide testimony on this matter.

Karin Carswell Guest

Kauai Cattlemen's Association

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Livestock feed tax credits

BILL NUMBER: SB 975; HB 1384 (Identical)

INTRODUCED BY: SB by Nishihara and Chun Oakland; HB by Onishi, Cheape, Hanohano, Morikawa, Wooley

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a qualified producer to claim a **livestock feed income tax credit** equal to the lesser of 15% of the livestock feed costs incurred by the producer or $200,000. Defines "livestock feed costs" as the purchase amount of all edible materials consumed by cows, goats, poultry, sows, and beef cattle which contribute energy or nutrients to the animal's diet and which are distributed or imported.

No other income tax credit may be claimed for qualified livestock feed costs for which a credit is claimed under this section for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. In the case of a partnership, S corporation, estate, trust, or other pass through entity, distribution and share of the credit shall be determined pursuant to section 704(b) of the Internal Revenue Code. If a deduction is taken under section 179 (with respect to election expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the qualified livestock feed cost for which a deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed under this section. No deduction shall be allowed for that portion of otherwise deductible qualified livestock feed costs on which a credit is claimed under this section.

Credits in excess of a taxpayer's income tax liability shall be refunded provided such amounts are in excess of $1. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit. Claims for the credit shall be on forms provided by the department of taxation.

Requires the department of agriculture to: (1) maintain records of the total amount of qualified livestock feed costs for each taxpayer claiming a credit; (2) verify the amount of the qualified livestock feed costs claimed; (3) calculate all livestock feed costs claimed; and (4) certify the total amount of the tax credit for each taxable year. The department shall issue a certificate to the taxpayer verifying the livestock feed costs and the credit amount certified for each taxable year. Requires the taxpayer to file the certificate with the taxpayer's tax return with the department of taxation. This information shall be available for public inspection and dissemination under HRS chapter 92F.

The department of agriculture shall certify no more than $1,500,000 in tax credits in the aggregate beginning after tax years beginning after December 31, 2012 and ending before January 1, 2014.

Defines "qualified producer" as any person in the business of producing: (1) milk from a herd, located in Hawaii, of not fewer than 350 cows or 100 lactating milking goats; (2) poultry products from a flock, raised and located in Hawaii of at least 50 birds; (3) pork from a herd, raised and located in Hawaii of at least 50 sows; (4) beef that is grown, slaughtered, processed, and marketed in Hawaii provided that producers who finish at least 100 head of beef cattle annually shall be eligible for this tax credit; (5) sheep that are raised in the state; provided that producers with current annual sales of at least 30 sheep or lambs shall be eligible for this tax credit; or (6) fish and crustaceans, raised in the state; provided that producers with current annual sales of at least 2,000 pounds of fish, or crustaceans, or both shall be eligible for this tax credit.

This section shall take effect on January 1, 2013 and be applicable to tax years beginning after December 31, 2012 and ending before January 1, 2014.

Adds a new section to HRS chapter 235 to allow each qualified producer to claim a **livestock feed development tax credit** equal to the lesser of: (1) 10% of livestock feed development costs incurred by the qualified producer, or $225,000 for the taxable year beginning after December 31, 2013 and ending before January 1, 2015; and (2) the lesser of 5% of livestock feed development costs, or $225,000, for the taxable year beginning after December 31, 2014 and ending before January 1, 2016. Defines "feed development costs" as the purchase amount of materials or equipment needed to produce edible materials consumed by cows, goats, poultry, sows, and beef cattle, which contribute energy or nutrients to the animal's diet, including seeds, fertilizers, insecticides, and fungicides used for the purposes of producing feed.

Requires the department of agriculture to: (1) maintain records of the total amount of qualified agriculture expenditures for livestock feed development for each taxpayer claiming a credit; (2) verify the amount of the livestock feed development costs claimed; (3) calculate all livestock feed development costs claimed; and (4) certify the total amount of the tax credit for each taxable year. The department shall issue a certificate to the taxpayer verifying the taxpayer's qualifying producer status, the amount of qualified livestock feed development costs claimed and the credit amount certified for each taxable year. Requires the taxpayer to file the certificate with the taxpayer's tax return with the department of taxation. This information shall be available for public inspection and dissemination under HRS chapter 92F.

The department of agriculture shall not certify more than $500,000 in credits in the aggregate for all taxpayers for each taxable year. The department of taxation shall not allow the aggregate amount of tax credits claimed to exceed $500,000 in any taxable year.

No other income tax credit may be claimed for qualified livestock feed development costs for which a credit is claimed under this section for the taxable year. The cost upon which the tax credit is computed shall be determined at the entity level. In the case of a partnership, S corporation, estate, trust, or other pass through entity, distribution and share of the credit shall be determined pursuant to section 704(b) of the Internal Revenue Code. If a deduction is taken under section 179 (with respect to election expense depreciable business assets) of the Internal Revenue Code, no tax credit shall be allowed for that portion of the qualified livestock feed cost for which a deduction was taken. The basis of eligible property for depreciation or accelerated cost recovery system purposes for state income taxes shall be reduced by the amount of credit allowable and claimed under this section. No deduction shall be allowed for that portion of otherwise deductible qualified livestock feed development costs on which a credit is claimed under this section.

Credits in excess of a taxpayer's income tax liability shall be refunded provided such amounts are in excess of $1. The director of taxation may adopt rules pursuant to HRS chapter 91 and prepare the necessary forms to claim the credit and may require proof of the claim for the credit. Claims for the credit shall be on forms provided by the department of taxation.

This section shall take effect on January 1, 2014, and be applicable to tax years beginning after December 31, 2013 and ending before January 1, 2016.

Amends HRS section 235-110.93(h) to provide that the aggregate annual amount of certified important agricultural land qualified agricultural cost tax credits shall not exceed: (1) $6,000,000 for the taxable year beginning after December 31, 2012, and ending before January 1, 2014; (2) $7,000,000 per taxable year for the taxable years beginning after December 31, 2013, and ending before January 1, 2016; and (3) $7,500,000 per taxable year for all other successive taxable years.

Appropriates $_______ in general funds for fiscal 2014 to the department of agriculture for staffing or other expenses necessary to implement the tax credits established or amended by this act.

Appropriates $_______ in general funds for fiscal 2014 to the department of taxation for staffing and consultant expenses necessary to implement the tax credits established or amended by this act.

EFFECTIVE DATE: July 1, 2013 and as noted in the measure

STAFF COMMENTS: This measure proposes income tax credits which may be used to: (1) offset costs of livestock feed in the amount of 15% or $200,000, whichever is less; and (2) offset costs incurred by a qualified producer for livestock feed development costs incurred in the amount of 10%, 5% or $225,000 whichever is less. Since these credits would be granted without regard to the taxpayer's need for tax relief, the adoption would merely result in a payout of state funds for these feed costs, it would do so at the expense of other taxpayers who do not qualify for any of the credits. It should be remembered that tax credits generally are designed to alleviate an undue burden on those who are unable to carry that burden, largely the poor and low income. If the intent of the legislature is to subsidize such operations, then an appropriation of general funds would be much more accountable and transparent. Taxpayers would know how much is being spent on the program and compare it with other public services and programs with respect to importance to the health and safety of the community.

Rather than merely handing out a tax preference where there is no indicator of financial or economic need for that tax break, state government should explore ways to support farmers in not only making important agricultural lands available for rent at reasonable costs, but also insure that the crops produced command a reasonable rate of return with such skills as marketing, packaging and distribution.

While Act 233, SLH 2008, adopted various incentives to encourage the agricultural use of lands which qualify as important agricultural lands, it should be remembered that the tax system is not an efficient method to accomplish such social goals. Since the proposed measure would grant preferential treatment to an even more select group of taxpayers at the expense of other taxpayers who are ineligible for the exemption, its enactment cannot be justified.

If the ultimate goal is to perpetuate agricultural activity, then the problem needs to be approached from the opposite end, that is, what can state government do to support and encourage agricultural activity so that farmers can earn a profitable living farming the land? To date, all state government has done is to stand in the way of successful farming enterprises by burdening farmers with regulation upon regulation. The state has to be a part of the solution and not a part of the problem. Enacting tax incentives, as this measure proposes, does not address the problems faced by farmers today and in the future.

From a planning point of view, because the designation of important agricultural lands is being left up to the landowner who happens to be engaged in agricultural activity basically on a commercial scale, it precludes taking a holistic approach to the future of Hawaii. Instead of being able to step back and decide what the current and future needs of the people of Hawaii are and will be, there will be a willy-nilly approach to land use planning. Instead of policymakers setting directions for the future, they are throwing out carrots of tax incentives so they can abdicate their responsibility for setting land use planning priorities. Even the Final Report on Incentives for Important Agricultural Land would have preferred that important agricultural lands been designated but acknowledges that no policymaking body has had the will, if not the courage, to undertake the task in the more than 30 years since that amendment was added to the constitution. Thus, this proposal is not only fiscally irresponsible, but it is a demonstration of how elected officials shrink from their responsibility to make a decision.

Instead of just handing out a credit to livestock producers for the purchase of feedstock that is probably imported into the state for their animals, why not explore the possibility of encouraging farmers of crops to grow feedstock by providing non-financial incentives such as low cost leases in agricultural parks, provision of irrigation from the state water system, and other resources readily available at the state's finger tips that would reduce the cost of growing the feedstock and, therefore, the cost of the feedstock to producers of livestock. What a novel idea, but it certainly makes sense to the overall agricultural situation in Hawaii, leading to a more sustainable food chain for Hawaii residents.

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Cc: jasonmoniz73@gmail.com
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SB975

Submitted on: 2/2/2013
Testimony for AGL on Feb 5, 2013 14:50PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Jason & Jeri Ann Moniz, KK Ranch	Individual	Support	No

Comments: We support SB975

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SB975

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