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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

**PART I**

1  
2 SECTION 1. The cost of feed for livestock production in  
3 Hawaii can constitute up to seventy per cent of total production  
4 costs, whereas feed costs for mainland producers amount to  
5 nearly fifty per cent of total production costs. In 2007, there  
6 were five dairies and six egg farms of significant size in  
7 Hawaii, with combined gross annual revenues of \$26,400,000.  
8 Currently, there are only two dairies and four egg farms of  
9 significant size, with combined gross annual revenues of  
10 \$16,250,000. Since 2007, two dairies and four egg farms have  
11 gone out of business, primarily due to the rising cost of feed  
12 for livestock animals and the resulting increases in production  
13 costs. Since October 2010, the cost of poultry feed alone has  
14 increased approximately \$60 per ton and is expected to rise even  
15 further.

16 Currently, one dairy and the four remaining egg farms are  
17 threatened by closure. Such closures heighten the State's  
18 dependence on imported foods and threaten the State's food



1 security and ability to achieve adequate levels of agricultural  
2 self-sufficiency. Self-sufficiency is critical to Hawaii's food  
3 security and its ability to respond effectively in the event of  
4 natural disasters or disruptions in transportation.

5 The closure of local dairies and poultry farms also means  
6 that children and adults throughout the State will no longer  
7 have the option of selecting fresh, locally produced milk and  
8 eggs. Consumers have often expressed interest in obtaining  
9 locally produced milk but, unfortunately, the dairies do not  
10 produce enough milk to meet consumer demand. The public has  
11 expressed a similar interest in island-fresh beef, pork, sheep,  
12 lamb, chicken, eggs, and seafood.

13 Locally produced fresh beef, milk, pork, lamb, chicken,  
14 eggs, and seafood provide essential nutrition to consumers.  
15 Transport times from offshore farms to Hawaii consumers create a  
16 greater risk of food spoilage and resultant food-borne illnesses  
17 due to the highly perishable nature of these products. Without  
18 these local agricultural businesses, all beef, milk, pork, lamb,  
19 chicken, and eggs would have to be imported into the State,  
20 requiring up to ten days of shipping before being sold to  
21 consumers. This increased shipping time reduces the expected  
22 shelf life of fresh milk and eggs in particular.



1           The purpose of this part is to provide funds to allow  
2 qualified beef cattle, dairy, hog, poultry, goat, sheep, fish,  
3 and crustacean producers to apply for and receive a  
4 reimbursement for a percentage of each farm's feed expenses and  
5 to provide funds to allow qualified feed developers to receive  
6 reimbursement for a percentage of the farm's feed development  
7 expenses. With financial support, the livestock industry will  
8 be able to continue to make investments in modern equipment,  
9 expand and improve herds and flocks, and develop new markets and  
10 products. This financial support will serve a public purpose by  
11 enabling the livestock industry to stabilize its operations,  
12 thereby contributing to food security and increasing the  
13 competitiveness of the local livestock industry with mainland  
14 suppliers.

15           SECTION 2. Chapter 155D, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18           "§155D-       Grants; qualified feed developer. (a)  
19 Applications for grants by qualified feed developers shall be  
20 submitted on a form furnished by the department and shall be  
21 filed with accompanying documentation of feed development costs;  
22 provided that:



- 1        (1) The applicant shall comply with applicable federal and  
2        state laws prohibiting discrimination against any  
3        person on the basis of race, color, national origin,  
4        religion, creed, sex, age, sexual orientation, or  
5        disability;
- 6        (2) The applicant shall have applied for or received all  
7        applicable licenses or permits;
- 8        (3) The applicant shall indemnify and hold harmless the  
9        State and its officers, agents, and employees from all  
10       claims arising out of or resulting from the feed sold;
- 11       (4) The grant shall not exceed a total of \$225,000 per  
12       qualified feed developer per year; and
- 13       (5) The department may request an applicant to provide  
14       necessary information for the purposes of verifying  
15       actual sales to qualified producers.
- 16       (b) Documentation of animal feed development costs, as  
17       requested by the department, shall be filed for feed developed  
18       within the immediate preceding fiscal quarter of filing and  
19       shall be effective for feed development costs incurred after  
20       July 1, 2013.
- 21       (c) The applicant shall submit a quarterly financial  
22       statement of farm revenues and expenses along with other



1 supporting documents as deemed necessary by the department, and  
2 filed with the documentation of the feed development costs. An  
3 annual financial statement shall be filed with the department  
4 within ninety days following the close of the business' fiscal  
5 year after June 28, 2013, for final reconciliation of any  
6 reimbursement paid during the previous three quarters within the  
7 fiscal year. The financial statements shall be certified as  
8 accurate by the applicant and the preparer of the financial  
9 statement on forms prepared by the department.

10 (d) Funds shall be disbursed upon approval by the  
11 department to the qualifying feed developer for up to fifty per  
12 cent of the feed development costs incurred.

13 (e) Feed development costs shall be limited to only the  
14 feed developed for qualifying producers and shall not include  
15 the feed developed for resale or gift, or the cost of  
16 transportation to Hawaii. In no case shall costs be reimbursed  
17 to a qualified feed developer when, after evaluation and  
18 verification by the department, the department determines that  
19 the amount of reimbursement will result in an annual profit of  
20 more than ten per cent.



1        (f) The department shall aggregate the total grant claims,  
2 pursuant to this section and section 155D-2, and divide and  
3 distribute the available grant funds on a pro rata basis."

4        SECTION 3. Section 155D-1, Hawaii Revised Statutes, is  
5 amended as follows:

6        1. By adding a new definition to be appropriately inserted  
7 and to read:

8        "Qualified feed developer" means any person that at the  
9 time of application of and disbursement of funds under this  
10 chapter is in the business of cultivating feed crops to be sold  
11 to qualified producers."

12        2. By amending the definition of "milk" to read:

13        "Milk" means the lacteal secretion, practically free from  
14 colostrums, obtained by the milking of healthy cows or goats  
15 normally produced or marketed through the channels of the fluid  
16 milk trade[-] or for further processing into milk products."

17        3. By amending the definition of "qualified producer" to  
18 read:

19        "'Qualified producer" means any person that at the time of  
20 application for and disbursement of funds under this chapter is  
21 in the business of producing:



- 1 (1) Milk from a herd, located in Hawaii, of not less than  
2 [~~three hundred fifty~~] ten cows[+] or twenty-five  
3 lactating milking goats;
- 4 (2) Poultry products from a flock, raised and located in  
5 Hawaii, of not less than [~~three thousand~~] thirty  
6 birds;
- 7 (3) Pork from a herd, raised and located in Hawaii, of not  
8 less than [~~fifty~~] ten sows; [~~or~~]
- 9 (4) Beef[+] that is grown, slaughtered, processed, and  
10 marketed in Hawaii. Producers who finish at least  
11 [~~one hundred~~] twenty head of beef cattle annually  
12 shall be eligible for this program[-];
- 13 (5) Sheep or lamb that are grown, slaughtered, processed,  
14 and marketed in Hawaii, with current annual sales of  
15 not fewer than thirty sheep or lambs; or
- 16 (6) Fish or crustaceans, with current annual sales of not  
17 less than two thousand pounds."

18 SECTION 4. Section 155D-2, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[+]§155D-2[+] **Grants[-]; qualified producer.** (a)

21 Applications for grants by qualified producers shall be  
22 submitted [+]on[+] a form furnished by the department and shall



1 be filed with accompanying documentation of animal feed costs;  
2 provided that:

3 (1) The applicant shall comply with applicable federal and  
4 state laws prohibiting discrimination against any  
5 person on the basis of race, color, national origin,  
6 religion, creed, sex, age, sexual orientation, or  
7 disability;

8 (2) The applicant shall have applied for or received all  
9 applicable licenses or permits;

10 (3) The applicant shall indemnify and hold harmless the  
11 State and its officers, agents, and employees from all  
12 claims arising out of or resulting from the feed  
13 purchased;

14 (4) The subsidy shall not be allowed within a fiscal  
15 quarter if the flock or herd size or, in the case of  
16 fish or crustaceans, sale weight, falls five per cent  
17 or more below the required minimum of:

18 (A) [~~Three thousand~~] Thirty birds;

19 (B) [~~Three hundred fifty~~] Ten cows;

20 (C) [~~Fifty~~] Ten sows in any two months of the  
21 applicable fiscal quarter; [€]





- 1 (D) [~~One hundred~~] Twenty finished beef cattle  
2 annually;
- 3 (E) Twenty-five lactating milking goats; or  
4 (F) Sales of five hundred pounds of fish or  
5 crustaceans in the applicable fiscal quarter;
- 6 (5) The grant shall not exceed a total of \$250,000 per  
7 qualified producer per year; and
- 8 (6) The department may request an applicant to provide  
9 necessary information for the purposes of verifying  
10 flock or herd size or sale weight, as applicable, and  
11 feed purchases.
- 12 (b) Documentation of animal feed costs, as requested by  
13 the department, shall be filed for feed purchased within the  
14 immediate preceding fiscal quarter of filing and shall be  
15 effective for feed costs incurred after July 1, [~~2007-~~] 2013.
- 16 (c) The applicant shall submit a quarterly financial  
17 statement of farm revenues and expenses along with other  
18 supporting documents as deemed necessary by the department, and  
19 filed with the documentation of the feed costs. An annual  
20 financial statement shall be filed with the department within  
21 ninety days following the close of the business' fiscal year  
22 after June 28, [~~2007~~] 2013, for final reconciliation of any



1 reimbursement paid during the previous three quarters within the  
2 fiscal year. The financial statements shall be certified as  
3 accurate by the applicant and the preparer of the financial  
4 statement on forms prepared by the department.

5 (d) Funds shall be disbursed upon approval by the  
6 department to the qualifying producer for up to:

- 7 (1) Sixty per cent of the feed costs incurred for  
8 production of poultry products;
- 9 (2) Forty per cent of the feed costs incurred for milk  
10 production;
- 11 (3) Fifty per cent of the feed costs incurred for pigs  
12 raised in Hawaii and slaughtered for local  
13 consumption; or
- 14 (4) Fifty per cent of the feed costs for beef cattle  
15 raised in Hawaii and slaughtered in Hawaii for local  
16 consumption.

17 (e) Feed costs shall be limited to only the feed fed to  
18 the qualifying flock or herd and shall not include the feed  
19 purchases for resale or gift, or the cost of transportation to  
20 Hawaii. In no case shall costs be reimbursed to a qualified  
21 producer when, after evaluation and verification by the



1 department, the department determines that the amount of  
2 reimbursement will result in an annual profit of more than:

3 (1) Twelve per cent for milk producers;

4 (2) Eight per cent for poultry producers;

5 (3) Eight per cent for pork producers; or

6 (4) Eight per cent for beef producers.

7 (f) The department shall aggregate the total grant claims,  
8 pursuant to this section and section 155D- , and divide and  
9 distribute the available grant funds on a pro rata basis."

10 SECTION 5. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$ or so much  
12 thereof as may be necessary for fiscal year 2013-2014 and the  
13 same sum or so much thereof as may be necessary for fiscal year  
14 2014-2015 for the agricultural development division of the  
15 department of agriculture to:

16 (1) Reimburse qualified producers of milk, pork, eggs,  
17 poultry, beef, sheep, lamb, and seafood, for the cost  
18 of feed for beef cattle, dairy cows or goats, sheep,  
19 lamb, hogs, fish, crustaceans, and birds;

20 (2) Reimburse qualified feed developers for the costs of  
21 development of feed for sale to qualified producers;  
22 and



1 (3) Provide funding for the administrative costs of the  
2 livestock revitalization program.

3 The appropriations made for the purposes authorized under  
4 this section shall not lapse at the end of the fiscal year for  
5 which the appropriations are made; provided that any balance of  
6 any appropriation that is not encumbered as of June 30, 2016,  
7 shall lapse as of that date.

8 The sums appropriated shall be expended by the department  
9 of agriculture for the purposes of this part.

10 PART II

11 SECTION 6. Chapter 141, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14 "§141- Department of agriculture lands; disposition;  
15 agribusiness development corporation. The department of  
16 agriculture, as necessary, may lease or otherwise dispose of  
17 lands under its control to the agribusiness development  
18 corporation for the purposes of chapter 163D."

19 SECTION 7. Section 166E-8, Hawaii Revised Statutes, is  
20 amended to read as follows:



1           "~~+~~\$166E-8~~+~~ **Disposition.** (a) Any provision of this  
2 chapter to the contrary notwithstanding, the department may  
3 dispose of:

4           (1) Public lands and related facilities set aside and  
5           designated for use pursuant to this chapter; and

6           (2) Other lands and facilities under the jurisdiction of  
7           the department pursuant to section 166E-9 and  
8           notwithstanding chapter 171,

9 by negotiation, drawing of lot, conversion, or public auction.

10           Except as provided by subsection (d), the department shall  
11 dispose of public lands by lease.

12           (b) In all dispositions, the department shall be subject  
13 to the requirements set forth in rules adopted by the board  
14 consistent with section 166E-6 and subject to the following:

15           (1) All land and facilities shall be disposed of for  
16           purposes of agricultural or aquacultural activities  
17           only;

18           (2) Each lessee shall derive a major portion of the  
19           lessee's total annual income earned from the lessee's  
20           activities on the premises; provided that this  
21           restriction shall not apply if:



- 1 (A) Failure to meet the restriction results from
- 2 mental or physical disability or the loss of a
- 3 spouse; or
- 4 (B) The premises are fully used in the production of
- 5 crops or products for which the disposition was
- 6 granted;
- 7 (3) The lessee shall comply with all federal and state
- 8 laws regarding environmental quality control;
- 9 (4) The board shall:
- 10 (A) Determine the specific uses for which the
- 11 disposition is intended;
- 12 (B) Parcel the land into minimum size economic units
- 13 sufficient for the intended uses;
- 14 (C) Make, or require the lessee to make, improvements
- 15 that are required to achieve the intended uses;
- 16 (D) Set the upset price or lease rent based upon an
- 17 appraised evaluation of the property value,
- 18 adjustable to the specified use of the lot;
- 19 (E) Set the term of the lease that shall be not less
- 20 than fifteen years nor more than sixty-five
- 21 years, including any extension granted for
- 22 mortgage lending or guarantee purposes; and



1 (F) Establish other terms and conditions it deems  
2 necessary, including but not limited to  
3 restrictions against alienation and provisions  
4 for withdrawal by the board; and

5 (5) Any transferee, assignee, or sublessee of a non-  
6 agricultural park lease shall first qualify as an  
7 applicant under this chapter. For the purpose of this  
8 paragraph, any transfer, assignment, sale, or other  
9 disposition of any interest, excluding a security  
10 interest, by any legal entity that holds a non-  
11 agricultural park lease shall be treated as a transfer  
12 of the non-agricultural park lease and shall be  
13 subject to the approval of the board and to reasonable  
14 terms and conditions, consistent with this chapter or  
15 rules of the board that the board may deem necessary.  
16 No transfer shall be approved by the board if the  
17 disposition of the stock or assets or other interest  
18 of the legal entity would result in the failure of the  
19 entity to qualify for a non-agricultural park land  
20 lease.

21 (c) After notice of the breach or default as provided in  
22 rules adopted by the board consistent with section 166E-6, a



1 violation of any provision in this section shall be cause for  
2 the board to cancel the lease and take possession of the land.

3 (d) The board may issue easements, licenses, permits, and  
4 rights-of-entry for uses that are consistent with the purposes  
5 for which the lands were set aside or are otherwise subject to  
6 the authority of the department pursuant to section 166E-9.

7 (e) Subsection (b)(2) and (5) shall not apply to any  
8 disposition of non-agricultural park lands leased or otherwise  
9 disposed of by the department to the agribusiness development  
10 corporation; provided that:

11 (1) Any transfer, assignment, or other disposition of any  
12 interest of a non-agricultural park land lease,  
13 excluding a security interest, by the agribusiness  
14 development corporation shall be treated as a transfer  
15 of the non-agricultural park land lease and shall be  
16 subject to the approval of the board and to reasonable  
17 terms and conditions, consistent with this chapter or  
18 rules of the board that the board may deem necessary;

19 (2) Any disposition of lands or facilities to the  
20 agribusiness development corporation shall be for the  
21 purpose of agricultural or aquacultural activities or





1           shall otherwise promote the purpose established in  
2           chapter 163D; and  
3           (3) The agribusiness development corporation shall not  
4           sell any non-agricultural park land that the  
5           agribusiness development corporation leases from the  
6           department."

7           SECTION 8. Section 166E-11, Hawaii Revised Statutes, is  
8           amended to read as follows:

9           "~~§~~166E-11~~§~~ **Lease negotiation.** (a) The department  
10          may negotiate and enter into leases with any person who:

- 11           (1) Holds a revocable permit for agricultural purposes;
- 12           (2) Has formerly held an agricultural lease or a holdover  
13           lease of public land that expired within the last ten  
14           years and has continued to occupy the land; or
- 15           (3) Is determined by the department to have a beneficial  
16           impact on agriculture.

17           (b) Lands eligible for lease negotiations under this  
18          section are limited to lands that are:

- 19           (1) Zoned and used for agricultural purposes;
- 20           (2) Set aside for agricultural uses only, by the governor  
21           through an executive order to the department; and



1 (3) Not needed by any state or county agency for any other  
2 public purpose.

3 (c) In negotiating and executing a lease as authorized,  
4 the board shall:

5 (1) Require the appraisal of the parcel using standards of  
6 national appraiser organizations to determine the  
7 rental, including percentage rent;

8 (2) Require the payment of a premium, computed at twenty-  
9 five per cent of the annual lease rent, with the  
10 premium to be added to the annual lease rent for each  
11 year of the lease equal to the number of years the  
12 lessee has occupied the land, except that the premium  
13 period shall not exceed four years; and

14 (3) Recover from the lessee the costs of expenditures  
15 required by the department to convert the parcel into  
16 leasehold.

17 The department shall notify in writing those eligible for  
18 lease negotiations under this section and shall inform the  
19 applicants of the terms, conditions, and restrictions provided  
20 by this section. Any eligible person may apply for a lease by  
21 submitting a written application to the department within thirty  
22 days from the date of receipt of notification; provided that the



1 department may require documentary proof from any applicant to  
2 determine that the applicant meets eligibility and qualification  
3 requirements for a lease.

4 (d) Notwithstanding any provision of this chapter to the  
5 contrary, the department may negotiate and enter into leases  
6 with the agribusiness development corporation, which shall be  
7 exempt from any qualification requirements under this chapter."

8 **PART III**

9 SECTION 9. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect on July 1, 2050.

12



**Report Title:**

Livestock Feed Subsidy; Livestock Feed Developer Subsidy;  
Appropriation; Department of Agriculture; Disposition of Lands;  
Agribusiness Development Corporation

**Description:**

Expands livestock feed subsidy to include feed for goats, sheep, lambs, fish and crustaceans. Creates a subsidy for qualified feed developers. Appropriates funds. Authorizes the DOA to dispose of lands and negotiate and enter into leases with the ADC. Exempts non-agricultural park lands disposed of to the ADC from section 166E-8(b)(2) and (5), HRS. Effective July 1, 2050. (Proposed SD1)

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

