

DAVID Y. IGE  
Governor

JOSH GREEN  
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER  
Chairperson, Board of Agriculture

GLENN K. MURANAKA  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE**

**MARCH 20, 2019  
9:00 A.M.  
CONFERENCE ROOM 312**

**SENATE BILL NO. 760 SD2  
RELATING TO AGRICULTURE**

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 760 SD2 that amends the Important Agricultural Land Qualified Agricultural Cost Tax Credit (Section 235-110.93) by extending to 2029 the Department of Agriculture's responsibility to certify IAL qualified agricultural cost tax credits and adding a new qualified agricultural cost item. The Department of Agriculture supports the continuation of the IAL tax credit beyond the 2021 tax year and offers comments on the new qualified agricultural cost item.

The continuation of the IAL tax credit beyond the 2021 tax year (page 5, line 20) is important as the counties have yet to complete the mapping of their potential IAL pursuant to Section 205-47. We strongly believe that all of the IAL incentives enacted in 2008, of which the tax credit is one component, should be available to all qualified landowners/farmers affected by the county identification process.

The proposed additional qualified agricultural cost item limited to the grubbing of former sugarcane and pineapple plantation lands that have been out of agricultural use for more than 5 years may exclude this cost to county-identified IAL properties unless the landowners can prove their lands were former plantation fields. We estimate that approximately one-third (about 46,900 acres) of the 134,330 acres of agricultural land designated as IAL are former sugarcane and/or pineapple plantation land. We are



unable to determine how many acres of the former sugarcane and pineapple plantation lands that are designated as IAL have been out of agricultural use for more than five years. Further, there is no guidance as to what would constitute reasonable soil restoration activities. Clarity in the definition as to what is allowed as a qualified agricultural cost will help to ensure we are consistent in the manner we review and assess each application and cost item for the tax credit.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA  
DIRECTOR

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

**STATE OF HAWAII  
DEPARTMENT OF TAXATION**

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To: The Honorable Richard P. Creagan, Chair  
and Members of the House Committee on Agriculture

Date: Wednesday, March 20, 2019  
Time: 9:00 A.M.  
Place: Conference Room 312, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: S.B. 760, S.D. 2, Relating to Agriculture

The Department of Taxation (Department) appreciates the intent of S.B. 760, S.D. 2, and offers the following comments for the Committee's consideration.

S.B. 760, S.D. 2, amends the important agricultural lands qualified agricultural cost tax credit by adding language to the definition of "qualified agricultural costs" in Hawaii Revised Statutes (HRS) section 235-110.93(k) to include costs related to tree and debris removal and soil restoration on former sugar and pineapple plantation lands, provided that those restored soils are to be used solely for agricultural uses and activities. The bill also extends the date on which the Department of Agriculture (DOA) shall cease certifying these credits from December 31, 2021, to December 31, 2029. The bill has a defective effective date of July 1, 2050 and otherwise applies to taxable years beginning after December 31, 2019.

The Department notes that the Senate Committee on Ways and Means amended the previous version of this measure by specifying that soils restored under the new provision must be used solely for agricultural uses and activities. The Committee also defected the effective date to July 1, 2050.

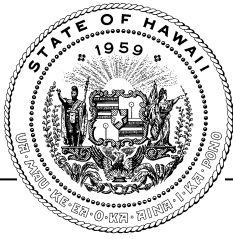
While the Department appreciates the effort to strengthen and clarify limits to the tax credit, the Department notes that as currently written, the new category of "qualified agricultural costs" would still not need to be expended for land designated as "important agricultural land" under Chapter 205 of the HRS. If this is not the intent of the Legislature, the Department suggests further clarifying which land is eligible for the credit under this new category of qualified agricultural costs.

Additionally, there may be an issue with new language that specifically requires soils to be used solely for agricultural uses and activities. Explicitly referencing only "soils that are restored subject to this paragraph" as "to be used solely for agricultural uses and activities"

without attaching similar conditions to the other new qualified costs might be interpreted as indirectly allowing the credit for the clearing/removal of trees and debris for any purpose, agricultural or otherwise. If this is not the intent of the Legislature, the Department recommends restoring the language previously used in S.D. 1. This will help to avoid taxpayer confusion and promote administrative efficiency.

Finally, the Department is able to administer the bill as written and defers to the DOA on the substance of the measure and its ability to continue certification of the tax credit through 2029. The Department requests that the certification requirement for this credit be maintained, as it does not have the knowledge and expertise necessary to certify this credit.

Thank you for the opportunity to provide comments.



# OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE  
GOVERNOR

DIRECTOR  
OFFICE OF PLANNING

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Statement of  
**RODNEY FUNAKOSHI**  
Planning Program Administrator, Office of Planning  
before the  
**HOUSE COMMITTEE ON AGRICULTURE**  
Wednesday, March 20, 2019  
9:00 AM  
State Capitol, Conference Room 312

in consideration of  
**SB 760, SD 2**  
**RELATING TO AGRICULTURE**

Chair Creagan, Vice Chair DeCoite, and Members of the House Committee on Agriculture.

The Office of Planning (OP) **supports** SB 760, SD 2, which would amend Hawaii Revised Statutes (HRS) § 235-110.93 to: (1) extend the availability of the Important Agricultural Lands (IAL) tax credit for qualified agricultural costs until December 31, 2029, and (2) amend “qualified agricultural costs” to include the cost for clearing and removal of trees and debris and soil restoration of former plantation lands.

OP strongly supports the renewal and extension of the qualified agricultural cost tax credit to ensure continued availability of the tax credit to help farmers manage the cost of investments in their farming operations. The Agricultural Working Group convened in 2003, which crafted the foundations for the passage of the IAL legislation and subsequent IAL incentives package—believed that successful farming is the most cost-effective way to protect farmland. The incentives package, including this tax credit, was always intended to be a long term commitment to providing permanent tools and services that would promote and grow Hawaii’s agricultural industry.

OP believes the amendment to the proposed new qualified agricultural cost in the measure could be further clarified to ensure use of the credit for the restoration of important agricultural lands for subsequent bona fide agricultural use and production. We respectfully offer the following revision to the new subsection (5) for your consideration (replacement text is underlined):

“(5) The clearing of, removal of trees and debris from, and soil restoration to correct any nutrient deficiency on former sugar and pineapple plantation lands designated as important agricultural lands that have been out of agricultural use for more than five years; provided that the costs are incurred for operations or facilities specified in the definition of “agricultural business” in this section.”

Thank you for this opportunity to testify.



**DAVID Y. IGE**  
Governor

**JOSH GREEN**  
Lieutenant Governor

**MIKE MCCARTNEY**  
Director

**LAND USE COMMISSION**  
Department of Business, Economic Development & Tourism  
State of Hawai'i

**DANIEL ORODENKER**  
Executive Officer

**Bert K. Saruwatari**  
Planner

**SCOTT A.K. DERRICKSON AICP**  
Planner

**RILEY K. HAKODA**  
Chief Clerk/Planner

**RASMI AGRAHARI**  
Planner

**FRED A. TALON**  
Drafting Technician

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Statement of  
**Daniel E. Orodener**  
**Executive Officer**  
Land Use Commission  
Before the  
**House Committee on Agriculture**

Wednesday March 20, 2019  
9:00 AM  
State Capitol, Conference Room 312

In consideration of  
**SB 760 SD2**  
**RELATING TO AGRICULTURE**

Chair Creagan; Vice Chair DeCoite; and members of the House Committee on Agriculture:

The Land Use Commission supports SB 760 SD2 that would extend the agricultural cost tax credits incentive for important agricultural lands (IAL). We defer to the State Department of Agriculture on any expansion in “qualified agricultural costs.”

Thank you for the opportunity to testify on this matter.



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March 20, 2019

HEARING BEFORE THE  
HOUSE COMMITTEE ON AGRICULTURE

**TESTIMONY ON SB 760, SD2**  
RELATING TO AGRICULTURE

Room 312  
9:00 AM

Aloha Chair Creagan, Vice Chair DeCoite, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

**HFB is in strong support of SB 760, SD2**, which clarifies the definition of "qualified agricultural costs" and extends the period during which the HDOA may certify important agricultural lands qualified agricultural cost tax credits to 2029.

Hawaii is the first state in the country to have an Agricultural Land Preservation measure focused on agricultural viability. During the weeks of deliberation that created Hawaii's Important Agricultural Lands initiative, a review was conducted of ag land preservation measures across the nation. Initiatives that were passed many years ago were especially taken under close scrutiny to determine whether their intents were realized. What became obvious was payments for development rights, preserved land from agriculture but did not necessarily keep the land in agriculture -- it succeeded in keeping them in open space. Too often, the recipient of the benefit used it to pay off debt, passed the land to a successor who now had no benefits and reduced collateral to go to the bank for loans as the land was devalued.

Taking these lessons to heart, the move was made to create incentives to reward investments in infrastructure – improvements to irrigation system and other basic infrastructure, construction of value added facilities, or construction of irrigation water storage facilities were among the qualified agriculture expenditures that were deemed needed for viable operations. The structure of the incentive as a tax credit for only a percentage of costs forces serious investments vs. those that do it just to get a tax credit.



Also, being that it is a tax credit requires that the applicant is paying taxes so most likely a viable business endeavor.

Reports have been submitted by the Department of Agriculture reporting the amount of tax credits awarded by year. The highest-level activity was in 2015, reported to the Legislature in 2016.

The breakdown of costs applicants applied for in 2014 are listed as follows:

A \$98,915.58  
B \$605,814.04  
C \$2,452,699.27  
D \$51,486.60  
E \$742,979.67  
F \$2,500,223.39  
G 0

A. Roads or utilities, primarily for agricultural purposes, where most of the lands serviced by the roads or utilities, excluding lands classified as conservation lands, are important agricultural lands;

B. Agricultural processing facilities in the State, primarily for agricultural purposes, where the majority of the crops or livestock processed, harvested, treated, washed, handled, or packaged are from agricultural businesses;

C. Water wells, reservoirs, dams, water storage facilities, water pipelines, ditches, or irrigation systems in the State, primarily for agricultural purposes, providing water for lands, the majority of which, excluding lands classified as conservation lands, are important agricultural lands; and

D. Agricultural housing in the State, exclusively for agricultural purposes; provided that: housing units are occupied solely by farmers or employees for agricultural businesses and their immediate family members; the housing units are owned by the agricultural business; the housing units are in the general vicinity, as determined by the department of agriculture, of agricultural lands owned or leased by the agricultural business; and the housing units conform to any other conditions that may be required by the department of agriculture;

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

F. Equipment, primarily for agricultural purposes, used to cultivate, grow, harvest, or process agricultural products by an agricultural business; and

G. Regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands.

As you can see by the breakdown of use, majority of funds were associated with improvements/modification of irrigation systems or equipment associated with agricultural production. Both of these investments are critical for agricultural viability.

There appears to be a priority to keep lands in agriculture as seen by numerous measures to purchase lands by the State. The IAL program encourages VOLUNTARY designation of the lands in exchange for the incentives a cost-effective way to preserve ag operations – not just lands, for future generations.

We therefore respectfully request your strong support of this measure as an investment to agriculture's future in the State of Hawaii.

Thank you for this opportunity to testify on this important matter.



## KAMEHAMEHA SCHOOLS®

### House Committee on Agriculture

Time: 9:00a.m.

Date: March 20, 2019

Where: State Capitol Room 312

#### TESTIMONY

By Kamuela Cobb-Adams  
O‘ahu Senior Director of Regional Strategies

RE: **SB 760 S.D. 2 Relating to Agriculture**

E ka Luna Ho‘omalū Creagan, ka Hope Luna Ho‘omalū DeCoite, a me nā Lālā o kēia Kōmike, aloha.

We are writing in **support of Senate Bill 760 S.D. 2 (“SB 760 SD2”)**, expanding the definition of "qualified agricultural costs" for the important agricultural land qualified agricultural cost tax credit and extending through the 2029 taxable year the time in which the Department of Agriculture may certify important agricultural lands qualified agricultural cost tax credits.

Kamehameha Schools supports the proper use of the Important Agricultural Lands (IAL) tax credit for the re-inventing and re-investing in an agricultural economy. In particular, IAL Tax Credits incentivize landowners and lessees to invest in improving and upgrading decades-old infrastructure and, maybe more importantly, to invest in new facilities essential to a modern agricultural economy, lowering (at least in part) the economic barriers that have historically dissuaded needed investments.

The policy and purpose of the IAL laws are bearing fruit in long-term investments in agricultural-supportive infrastructure and improvements. Realizing the full potential of such investments and the policy underlying the IAL laws, however, takes time, commitment, and patience. We support the expansion of this bill to include expenditures for the improvement and restoration of former plantation lands that are primarily used for agricultural purposes.

Extending the IAL Tax Credit through 2029 will give mahi‘ai (*farmers*), our pae‘āina, and our Lāhui the time and opportunity to realize a vision of Hawai‘i that is fully invested in the future of its agricultural economy.

Founded in 1887, Kamehameha Schools is an educational organization striving to restore our people through education and advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.

‘A‘ohe hana nui ke alu ‘ia. No task is too large when we all work together! Mahalo nui.

**SB-760-SD-2**

Submitted on: 3/18/2019 2:53:54 PM

Testimony for AGR on 3/20/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale Sandlin	Hawaii Cattlemens Council	Support	No

Comments:

Testimony of  
**Jon Okudara**  
on  
**S.B. No. 760, S.D.2**  
**Relating to Agriculture**  
Committee on Agriculture  
Wednesday, March 20, 2019, 9:00 a.m.  
Conference Room 312

I would like to testify in support of S.B. No. 760, S.D.2 which includes in the definition of “qualified agricultural costs,” the costs associated with the preparation of land for the growing of crops, including clearing, removal of trees and debris, and soil restoration, and extends the period the Department of Agriculture may certify the tax credits to December 31, 2029.

Many former plantation lands are now over-grown with brush, albizia and Christmas berry trees, which may cost over \$6,000/acre to clear and prepare for cultivation. In addition, after plantation crops have been harvested, many of the mineral nutrients required by crops are deficient and have to be restored. Soil restoration activities,” include the remediation of the soil, such liming to correct the acidity of the soil and adding micronutrients to adjust deficiencies in manganese, zinc, copper, boron, or other nutrients that are important to plant functions including the chlorophyll synthesis, protein synthesis, water uptake, and nitrogen fixation.

The “qualified agricultural costs” listed in section 235-110.93, includes:

1. Feasibility studies, plans, design, engineering, construction, renovation, repair, maintenance, and equipment for roads or utilities, processing facilities, water and irrigation infrastructure, and agricultural housing;
2. Equipment for agricultural purposes; and
3. Regulatory processing, studies, and legal and consulting services.

The “qualified tax credits” was part of the incentive program directed by the important agricultural lands law to protect and conserve agricultural lands, although it does not provide for the protection of agricultural lands, as directed by Article XI, section 3 of the Hawaii Constitution.

S.B. No. 760, S.D.2, also extends the deadline for the certifying of tax credits to December 31, 2019. The county process for the designation of important agricultural lands is unlikely to be completed by the current deadline of December 31, 2021.

For these reasons, I strongly support S.B. No. 760, S.D.2, and recommend its passage; provided the effective date is changed to July 1, 2019.

Thank you for the opportunities to offer these comment.

**SB-760-SD-2**

Submitted on: 3/19/2019 9:00:59 AM

Testimony for AGR on 3/20/2019 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
J Ashman	Individual	Support	No

Comments: