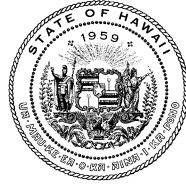


DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
Phone: (808) 587-1540 / Fax: (808) 587-1560
Email: Tax.Directors.Office@hawaii.gov

RONA M. SUZUKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Donovan M. Dela Cruz, Chair;
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair;
and Members of the Senate Committee on Ways and Means

From: Rona M. Suzuki, Director
Department of Taxation

Re: S.B. 2094, Relating to Taxation

Date: Tuesday, February 4, 2020

Time: 10:30 A.M.

Place: Conference Room 211, State Capitol

The Department of Taxation (Department) appreciates the intent of S.B. 2094 and offers the following comments.

S.B. 2094 amends the important agricultural land qualified agricultural cost tax credit by changing the date the Department of Agriculture (DOA) shall cease certifying credits under section 235-110.93(l), Hawaii Revised Statutes (HRS), from December 31, 2021 to December 31, 2030. It also repeals the credit's cap amounts. The measure is effective upon approval and applies to taxable years beginning after December 31, 2019.

The Department defers to the DOA on the substance of the measure and its ability to continue certification of the tax credit through 2030. 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.

The Department notes that this credit is unique in that it does not restrict taxpayers to only claiming their expenses that were incurred in a particular tax year. Instead, it allows taxpayers to build up their expenses over time and then claim the resulting credits over a period of three consecutive or nonconsecutive years, without distinguishing which expenses occurred in which years. If the Legislature wishes to remove the cap from the tax credit, the Department suggests it also add some limits on the expenses for which the credit may be claimed. This may help avoid unexpected losses in revenue. In order to resolve this issue, the Department suggests deleting language at end of subsection (a).

Finally, the Department is able to administer the measure with its current effective date. Thank you for the opportunity to provide comments.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
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 PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

**FEBRUARY 4, 2020
10:30 A.M.
CONFERENCE ROOM 211**

**SENATE BILL NO. 2094
RELATING TO TAXATION**

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2094. This measure amends the Important Agricultural Land (IAL) Qualified Agricultural Cost tax credit under Section 235-110.93, by: (1) eliminating the yearly tax credit cap a single applicant is eligible for over the three years claiming the IAL tax credit; and (2), extends the time that the Department of Agriculture may certify IAL qualified agricultural costs from 2021 to 2030. The Department of Agriculture offers comments.

Regarding the proposed tax credit cap elimination:

The Department is responsible for verifying the amount of qualified agricultural costs claimed by each applicant and certifying the total amount of tax credits each year for every applicant. Each applicant may currently claim up to \$1,000,000 in tax credits, spread out over three years (\$625,000 first year, \$250,000 second year, \$125,000 third year). There is also an annual aggregate cap between all applicants of \$7,500,000, and IAL tax credit applications are processed by the Department on a first come, first served basis.

Elimination of the yearly caps for each applicant would potentially allow a handful of applicants to claim up to the entire annual \$7,500,000 aggregate program cap in a tax year, preventing any other applicants from receiving IAL tax credits for that tax year. The tables below provide examples of how the existing yearly caps work and a potential scenario if the yearly caps were eliminated.



Existing IAL tax credit law for applicants claiming the credit for the first year.

The lesser of the following: (A) Twenty-five percent of the qualified agricultural costs incurred by the taxpayer; or (B), \$625,000.

Order in which Tax Credit Applications were received.	Qualified agricultural costs.	First year claiming credit.
Applicant 1	\$20,000,000	\$625,000
Applicant 2	\$10,000,000	\$625,000
Applicant 3	\$1,000,000	\$250,000
Total amount certified		\$1,500,000

Proposed IAL tax credit law with no caps.

Twenty-five percent of the qualified agricultural costs incurred by the taxpayer.

Order in which Tax Credit Applications were received.	Qualified agricultural costs.	First year claiming credit without caps.
Applicant 1	\$20,000,000	\$5,000,000
Applicant 2	\$10,000,000	\$2,500,000
Applicant 3	\$1,000,000	\$0 (annual cap maxed out by 1 st and 2 nd Applicants)
Total amount certified		\$7,500,000

While the above scenario with no cap is currently unlikely, reaching the cap becomes more likely if any of the counties complete their county IAL designation process pursuant to Sections 205-47, 48, and 49 and the landowners with designated IAL submit qualified agricultural costs for the tax credit. The Department notes that the City and County of Honolulu (C&CH)'s Department of Planning and Permitting submitted their proposed IAL maps and documentation to the City Council, where the City Council adopted the proposed maps on June 5, 2019, by resolution. The resolution was then transmitted to the Land Use Commission for further action pursuant to Section 205-48. According to the adopted resolution, approximately 41,000 acres spread across 1,781 unique tax map keys are being recommended for IAL designation by the C&CH.

In order to allow as many land owners and farmers a fair opportunity to apply for and receive IAL tax credits, the annual \$7,500,000 aggregate program cap tax may need to be increased in the future.

Regarding the proposed tax credit extension from 2021 to 2030:

It is very important for the Department to continue certifying IAL qualified costs for the tax credits. Affected landowners and farmers will expect access to all the IAL incentives enacted in 2008, of which the tax credit is one component. Further, IAL has a significant role in increasing local food self-sufficiency which is a priority for both the Legislature and the Administration.

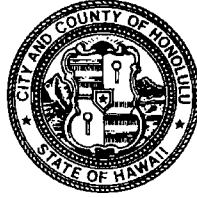
Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honoluluodpp.org • CITY WEB SITE: www.honolulu.gov

LATE

KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 4, 2020

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Ways and Means
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Dela Cruz and Committee Members:

**SUBJECT: Senate Bill 2094
Relating to Important Agricultural Land
Qualified Agricultural Cost Tax Credit**

The Department of Planning and Permitting **supports** Senate Bill No. 2094, which repeals the cap amount of the qualified agricultural tax credit, and extends through December 31, 2030 the time that the State Department of Agriculture may certify tax credits for farmers and landowners, pursuant to Section 253-110.93, Hawaii Revised Statutes.

Extending the tax credit will allow owners of land designated as important agricultural land (IAL) to receive credit for costs such as roads and utilities, agricultural processing facilities, water wells, reservoirs, dams, pipelines, agricultural housing, feasibility studies, and equipment. This extension, in combination with repealing the cap on the amount of the tax credit, is a much-needed incentive to encourage farmers to continue to work the land and help to obtain the ultimate goal of food self-sufficiency.

The Department of Planning and Permitting completed its IAL Mapping Project and transmitted its report and maps showing lands recommended for IAL designation to the Honolulu City Council on August 31, 2018. The City Council adopted the maps, with amendments, and transmitted its recommendations in Resolution No. 18-233 to the State Land Use Commission on June 5, 2019.

Thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in black ink that reads "Kathy K. Sokugawa".

Kathy K. Sokugawa
Acting Director

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TAXATION; Extend and Uncap Important Agricultural Land Qualified Agricultural Cost Tax Credit

BILL NUMBER: SB 2094

INTRODUCED BY: KOUCHI by request

EXECUTIVE SUMMARY: Amends the important agricultural land qualified agricultural cost tax credit by repealing the cap amount of the tax credit. Extends by 9 years the time period that the Department of Agriculture may certify important agricultural lands qualified agricultural costs.

SYNOPSIS: Amends HRS section 235-110.93 to provide that the department of agriculture shall cease certifying credits for taxable years beginning after December 31, 2030. It previously required cessation of certification after December 31, 2021.

EFFECTIVE DATE: July 1, 2020.

STAFF COMMENTS: The legislature by Act 233, SLH 2008, enacted the important agricultural land qualified agricultural cost tax credit. The law was amended by Act 101, SLH 2014, and by Act 87, SLH 2018.

In the department of agriculture's 2019 report on the credit (<http://hdoa.hawaii.gov/wp-content/uploads/2019/01/DOA-IAL-Tax-Credit-Report-2019.pdf>), representing activity for the 2018 tax year, the department reported that it certified \$375,000 in credits for two applicants. There were only two applicants in the 2017 tax year.

The department in its report recommended an extension of the sunset date of the credit, which otherwise expires at the end of 2021.

The department also stated that none of the counties have submitted their approved plans and maps identifying potential important agricultural lands (IAL) to the Land Use Commission for IAL designation as required under Section 205-47, HRS. In testimony on a similar bill in 2017, some of the counties complained that the process of drawing up such maps was unduly expensive.

Given that the amount of credits certified was negligible, the applicant base was extremely small, and the counties have not cooperated in the past decade, one must ask whether the objectives of the original legislation are being met, and whether there is any prospect of return on our investment of public dollars.

Digested 1/30/2020



January 29, 2020

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Ways and Means

Support of SB 2094, Relating to the Taxation - Important Agricultural Land [IAL] Qualified Agricultural Cost Tax Credit (Amends the IAL Qualified Agricultural Cost Tax Credit by repealing the cap amount of the Tax Credit; extends by nine years the time period that the Department of Agriculture [DOA] may certify important agricultural lands qualified agricultural cost tax credits.)

Tuesday, February 4, 2020, at 10:30 a.m., in Conference Room 211

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and utility companies. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to express its **support of SB 2094** and of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture, including IAL in Hawaii.

SB 2094. The purpose of this bill is to amend the IAL Qualified Agricultural Cost Tax Credit (the "Tax Credit") by 1) removing the cap amount on the Tax Credit that may be claimed by a taxpayer in the first, second and third year of a project's existence; and 2) extending the period of time during which the DOA may certify important agricultural land qualified agricultural cost tax credits for nine years, from 2021 to 2030.

LURF's Position. LURF members include farmers and ranchers who own, maintain, and engage in agricultural enterprises, and who consider incentives such as the subject tax credits very helpful, if not critical to the agriculture industry and conduct of their operations. The Tax Credit assists by offsetting costs related to establishing and sustaining viable agricultural operations; helps to sustain agricultural businesses;

promotes local food production; and increases the State's ability to achieve its food self-sufficiency goals.

The purpose of this bill is consistent with the underlying intent and objectives of the IAL laws (Hawaii Revised Statutes [HRS], Sections 205-41 to 52), which were enacted to fulfill the mandate in Article XI, Section 3, of the Hawaii State Constitution, "to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." The IAL laws established a new paradigm which avoids requirements and mandates, and instead focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, and to build necessary infrastructure. This bill is thus an effort to expand the existing IAL program by continuing incentives for landowners to preserve and maintain IAL.

As noted in HRS Section 205-41, the intent of Act 183 (2005) was to develop agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use in Hawaii concurrently with the process of identifying important agricultural lands as required under the Act. Such incentives and programs are expressly identified in HRS 205-41, and specifically include assistance in identifying federal, state and private grant resources for agricultural business planning and operations; as well as incentives such as tax credits that promote investment in agricultural businesses or value-added agricultural development, and other agricultural financing mechanisms.

The DOA, however, will currently cease certifying Tax Credits for taxable years beginning after December 31, 2021. Moreover, the counties have not provided IAL incentives to date. Passage of the long-awaited IAL legislation would be meaningless without incentives such as the subject measure which help sustain agricultural enterprises and encourage cooperation with, and support of the business and economic communities. By recognizing the significance of, and need to assist the local agriculture industry, and to uphold incentives which help to support the growth and maintenance of agriculture in the State, this measure significantly helps to promote economically viable agriculture and food self-sufficiency in Hawaii.

For the reasons set forth above, LURF is **in support of SB 2094**, and respectfully urges your favorable consideration of this bill.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 4, 2020

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 2094
RELATING TO TAXATION

Room 211
10:30 AM

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, 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 1,800 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.

The Hawaii Farm Bureau supports SB 2094, which Amends the important agricultural land qualified agricultural cost tax credit by repealing the cap amount of the tax credit and extends by 9 years the time period that the Department of Agriculture may certify important agricultural lands qualified agricultural costs.

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 systems 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, since the tax credit requires that the applicant is paying taxes it is most likely a viable business endeavor.

Reports have been submitted by the Department of Agriculture which details the number 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, the 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 the 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 a continued investment to agriculture's future in the State of Hawaii.



HAWAII CROP IMPROVEMENT ASSOCIATION

Board of Directors 2018 - 2020

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Vice-President
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Alan Takemoto

TESTIMONY FROM THE HAWAII CROP IMPROVEMENT ASSOCIATION

In Support of SB2094
RELATING TO TAXATION

Senate Committee on Ways and Means
Tuesday, 02-04-20 10:30AM
Senate conference room 211

Chair Dela-Cruz, Vice-Chair Keith-Agaran, and members of the committee:

The Hawaii Crop Improvement Association (HCIA) supports SB2094, which will amend the important agricultural land (IAL) qualified agricultural cost tax credit by repealing the cap amount of the tax credit and extends by 9 years the time period that the Department of Agriculture may certify important agricultural lands qualified agricultural costs.

HCIA believes in keeping important agricultural lands in agricultural use. As such, we support providing encouragements for landowners to do so. The IAL designation helps preserve properties for agriculture and provides an opportunity for future generations to continue to use these lands for agricultural production. Additionally, this measure will help provide the resources necessary to increase local food production and preserve natural view planes.

HCIA respectfully requests that this committee vote in support of SB2094 to help local farmers and agriculture throughout the State.

Mahalo for your time and consideration.

Respectfully,

Emmanuel Zibakalam, Program Director
Hawaii Crop Improvement Association

The Hawaii Crop Improvement Association is a Hawaii-based non-profit organization that promotes modern agriculture to help farmers and communities succeed. Through education, collaboration, and advocacy, we work to ensure a safe and sustainable food supply, support responsible farming practices, and build a healthy economy.



KAMEHAMEHA SCHOOLS®

Senate Committee on Ways and Means

Time: 10:30 a.m.

Date: February 4, 2020

Where: State Capitol Room 211

TESTIMONY

By Dana Sato

Director, Asset Management (O‘ahu)

RE: **SB 2094 Relating to Taxation**

E ka Luna Ho‘omalua Dela Cruz, ka Hope Luna Ho‘omalua Keith-Agaran, a me nā Lālā o kēia Kōmike, aloha! My name is Dana Sato and I serve as the O‘ahu Director of Asset Management for Kamehameha Schools.

We are writing in **SUPPORT of SB 2094**, which extends to the 2030 taxable year the important agricultural land qualified agricultural cost tax credit and repeals the credit’s cap amount.

Kamehameha Schools believes that our educational mission is best achieved in a society that supports and enables the success of our learners. One significant component of such a society is a sustainable, local food system. For this reason, we have heavily invested in agriculture on our lands across Hawai‘i to contribute to the State’s Aloha+ Challenge goal of doubling local food production by 2030.

The IAL tax credit plays an important role in achieving this goal by promoting greater investment in Hawai‘i’s agricultural economy. Specifically, 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.

Realizing the full potential of such investments, however, takes time, commitment, and patience. Extending the IAL Tax Credit through 2030 will give mahi‘ai, 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. Accordingly, we kindly request you **PASS SB 2094**.

Founded in 1887, Kamehameha Schools is an organization striving to 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. Mahalo nui!



LATE

Email: communications@ulupono.com

SENATE COMMITTEE ON WAYS AND MEANS
Tuesday, February 4, 2020 — 10:30 a.m. — Room 211

Ulupono Initiative supports SB 2094, Relating to Taxation.

Dear Chair Dela Cruz and Members of the Committee:

My name is Amy Hennessey, and I am the Senior Vice President of Communications & External Affairs at Ulupono Initiative. We are a Hawai'i-based impact investment firm that strives to improve our community's quality of life by creating more locally produced food; increasing affordable clean renewable energy and transportation options; and better managing waste and fresh water resources.

Ulupono supports SB 2094, which amends the important agricultural cost tax credit by repealing the cap amount of the tax credit and extends the credit by 9 years.

The Important Agricultural Lands designation is an important tool that exists to keep agricultural land in active production. As development encroaches rural districts, it is important to maintain the State's most productive lands in agriculture and encourage those producers to continue operations to support the State's food security and sustainability goals. This tax credit ensures an incentive to landowners to keep agricultural lands in productivity for perpetuity.

Thank you for this opportunity to testify.

Respectfully,

Amy Hennessey, APR
Senior Vice President, Communications & External Affairs

Investing in a Sustainable Hawai'i