

JAN 22 2021

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. The legislature finds that increasing extreme
2 weather events due to climate change makes the isolated Hawaiian
3 islands more vulnerable to being cut off from food and water
4 shortages and highlights the importance of food and water
5 security. As such, Hawaii needs to find a way to both reduce
6 its contribution to climate change and increase local food
7 production. The legislature further finds that while carbon
8 offset credits pay for carbon positive actions, certification is
9 cost prohibitive to small landowners. Incentivizing carbon
10 positive actions through a payment of services program would
11 allow small farmers, ranchers, and landowners to be compensated
12 for taking actions to help Hawaii reach its climate positive
13 goal.

14 The purpose of this Act is to establish a Hawaii
15 agriculture and forest carbon positive incentive program that
16 will keep forests and working agriculture lands intact and
17 sequester additional carbon on those lands and to fund the



1 program with a portion of the revenues generated by the
2 environmental response, energy, and food security tax.

3 SECTION 2. Chapter 196, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . HAWAII AGRICULTURE AND FOREST CARBON POSITIVE
7 INCENTIVE PROGRAM

8 §196-A Definitions. As used in this part:

9 "Authority" means the Hawaii green infrastructure
10 authority.

11 "Carbon incentives contract" means a contract that
12 specifies the following:

- 13 (1) The eligible practices to be undertaken;
14 (2) The acreage of eligible land;
15 (3) The agreed rate of compensation;
16 (4) A schedule to verify that the terms of the contract
17 have been fulfilled; and
18 (5) Other terms as are determined necessary by the
19 authority.

20 "Eligible land" means agricultural or forest land in the
21 State that is privately owned or public land leased to a private



1 citizen at the time of initiation of a carbon incentives
2 contract.

3 "Eligible practices" means practices that increase carbon
4 sequestration and storage over a designated period on eligible
5 land.

6 "Phase I activities" means activities identified as those
7 with a high likelihood of effectively achieving durable
8 sequestration benefits at reasonable compensation rates across
9 eligible land types. "Phase I activities" includes but is not
10 limited to:

11 (1) Regenerative annual cropping system that includes at
12 least four of the following practices:

13 (A) Compost application;

14 (B) Cover crops;

15 (C) Crop rotation;

16 (D) Green manure;

17 (E) No-till or reduced tillage; and

18 (F) Organic production;

19 (2) Improved pasture;

20 (3) Agroforestry;

21 (4) Reforestation;



1 (5) Protection of forests and shrublands from disturbance;

2 and

3 (6) Rotational grazing and improved forage.

4 "Phase II activities" means activities identified as those
5 that support significant sequestration potential but require
6 additional technical work to estimate sequestration potential or
7 identify appropriate eligible land types. "Phase II activities"
8 includes but is not limited to:

9 (1) Biofuel production;

10 (2) Methane capture;

11 (3) Improved forest management;

12 (4) Grazing intensity;

13 (5) Mixed production systems; and

14 (6) Efficient nutrient and waste management.

15 "Program" means the Hawaii agriculture and forest carbon
16 positive incentive program established by this part.

17 **§196-B Hawaii agriculture and forest carbon positive**
18 **incentive program; established.** There is established within the
19 authority the Hawaii agriculture and forest carbon positive
20 incentive program to incentivize carbon sequestration activities
21 through carbon incentives contracts that provide for



1 compensation for eligible activities by program participants.

2 The authority shall administer the program and shall:

3 (1) Conduct program evaluation;

4 (2) Coordinate with the department of agriculture and the
5 department of land and natural resources;

6 (3) Provide owners and lessees of eligible land financial
7 incentive payments for eligible practices over a
8 designated period, with appropriate crediting for
9 carbon benefits as specified through a carbon
10 incentives contract;

11 (4) Establish and implement protocols that provide
12 monitoring and verification of compliance with the
13 terms of carbon incentives contracts;

14 (5) Make available to the public any modeling,
15 methodology, or protocol resources developed to
16 estimate sequestration rates of potential projects;
17 and

18 (6) Identify, evaluate, and distribute dedicated funds to
19 accomplish the purposes of the program.

20 **§196-C Program assistance; contract terms and compensation**
21 **rates.** (a) The department of agriculture and department of



1 land and natural resources shall assist the authority in
2 carrying out the purposes of the program including:

- 3 (1) Establishing compensation rates and carbon incentives
4 contract terms for phase I activities;
- 5 (2) Estimating sequestration rates for phase I and phase
6 II activities;
- 7 (3) Conducting research to develop technical underpinning
8 of compensation rates for phase II activities; and
- 9 (4) Conducting community and landowner outreach
10 activities.

11 (b) The department of agriculture and department of land
12 and natural resources shall establish compensation rates and
13 carbon incentives contract terms within one year of the date of
14 receipt of a program application. A carbon incentives contract
15 shall be for a term of not less than one year and no more than
16 thirty years, as determined by the owner or lessee; provided
17 that the longer the term of the contract, the higher the rate of
18 compensation.

19 **§196-D Reviewing committee; report.** (a) The authority
20 shall establish and chair a reviewing committee to review
21 program applications. The department of agriculture and



1 department of land and natural resources shall participate on
2 the reviewing committee.

3 (b) The reviewing committee shall submit a report to the
4 legislature no later than twenty days prior to the convening of
5 the regular session of 2023 and each regular session thereafter
6 that contains:

7 (1) An estimate of annual and cumulative reductions
8 achieved as a result of the program, determined using
9 standardized measures including measures of economic
10 efficiency;

11 (2) A summary of any changes to the program made as a
12 result of program measurement, monitoring, and
13 verification; and

14 (3) The total number of acres enrolled in the program.

15 **§196-E Eligibility.** Landowners and lessees of eligible
16 land are eligible for the program upon submission of a program
17 application, as prepared by the authority, to enter into a
18 carbon incentives contract. An owner of eligible land currently
19 engaged in eligible practices shall not be barred from entering
20 into a carbon incentives contract under this part to continue
21 carrying out eligible practices. An owner or lessee shall not



1 be prohibited from participating in the program due to
2 participation of the owner or lessee in other federal or state
3 conservation assistance programs. Conservation easements shall
4 not be required for eligibility in the program.

5 **§196-F Priority of carbon positive activities; benefits.**

6 (a) Priority eligibility shall be given to phase I and phase II
7 activities that are:

8 (1) Cost effective;

9 (2) Provide co-benefits to the State and owner or lessee
10 of eligible land;

11 (3) Have the potential to create jobs in the forestry or
12 agriculture sectors, and in rural communities; and

13 (4) Achieve community priorities including food security
14 or watershed protection.

15 (b) The Hawaii greenhouse gas sequestration task force,
16 established by section 225P-4, shall annually identify and
17 prioritize selected carbon positive activities. The Hawaii
18 greenhouse gas sequestration task force shall also identify co-
19 benefits, which may include but are not limited to:

20 (1) Job creation;

21 (2) Food security and agriculture for local consumption;



- (3) Water security;
- (4) Increased biodiversity;
- (5) Soil health; and
- (6) Invasive species reduction and removal.

§196-G Hawaii agriculture and forest carbon positive incentive program special fund. There is established in the state treasury the Hawaii agriculture and forest carbon positive incentive program special fund, which shall consist of moneys appropriated to the fund by the legislature, all interest attributable to investment of money deposited in the fund, moneys deposited in the fund from the environmental response, energy, and food security tax pursuant to section 243-3.5, and moneys allotted to the fund from other sources. Moneys from the fund shall be expended by the authority for the purposes of the program including personnel salaries, inventory, and community and landowner outreach activities."

SECTION 3. Section 196-64, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the performance of, and with respect to the functions, powers, and duties vested in the authority by this part, the authority, as directed by the director and in



1 accordance with a green infrastructure loan program order or
2 orders under section 269-171 or an annual plan submitted by the
3 authority pursuant to this section, as approved by the public
4 utilities commission may:

5 (1) Make loans and expend funds to finance the purchase or
6 installation of green infrastructure equipment for
7 clean energy technology, demand response technology,
8 and energy use reduction and demand side management
9 infrastructure, programs, and services;

10 (2) Hold and invest moneys in the green infrastructure
11 special fund in investments as permitted by law and in
12 accordance with approved investment guidelines
13 established in one or more orders issued by the public
14 utilities commission pursuant to section 269-171;

15 (3) Hire employees necessary to perform its duties,
16 including an executive director. The executive
17 director shall be appointed by the authority, and the
18 employees' positions, including the executive
19 director's position, shall be exempt from chapter 76;

20 (4) Enter into contracts for the service of consultants
21 for rendering professional and technical assistance



1 and advice, and any other contracts that are necessary
2 and proper for the implementation of the loan program;

3 (5) Enter into contracts for the administration of the
4 loan program, without the necessity of complying with
5 chapter 103D;

6 (6) Establish loan program guidelines to be approved in
7 one or more orders issued by the public utilities
8 commission pursuant to section 269-171 to carry out
9 the purposes of this part;

10 (7) Be audited at least annually by a firm of independent
11 certified public accountants selected by the
12 authority, and provide the results of this audit to
13 the department and the public utilities commission;
14 [and]

15 (8) Administer the Hawaii agriculture and forest carbon
16 positive incentive program established by part ;
17 and

18 ~~[(+8)]~~ (9) Perform all functions necessary to effectuate the
19 purposes of this part."

20 SECTION 4. Section 225P-4, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



1 "(a) The greenhouse gas sequestration task force is
2 established within the office of planning for administrative
3 purposes only. The task force shall have the following
4 objectives:

5 (1) Work with public and private stakeholders to establish
6 a baseline for greenhouse gas emissions within Hawaii
7 and short- and long-term benchmarks for increasing
8 greenhouse gas sequestration in the State's
9 agricultural and natural environment;

10 (2) Identify appropriate criteria to measure baseline
11 levels and increases in greenhouse gas sequestration,
12 improvements in soil health, increases in agricultural
13 and aquacultural product yield and quality
14 attributable to greenhouse gas sequestration and
15 improvements in soil health, and other key indicators
16 of greenhouse gas benefits from beneficial
17 agricultural and aquacultural practices that may be
18 used to create a certification program for promoting
19 agricultural and aquacultural practices that generate
20 greenhouse gas benefits and agricultural and
21 aquacultural production benefits;



- 1 (3) Identify land and marine use policies, agricultural
2 policies, agroforestry policies, and mitigation
3 options that would encourage agricultural and
4 aquacultural practices and land use practices that
5 would promote increased greenhouse gas sequestration,
6 build healthy soils, and provide greenhouse gas
7 benefits;
- 8 (4) Identify ways to increase the generation and use of
9 compost in Hawaii to build healthy soils;
- 10 (5) Identify practices and policies that add trees or
11 vegetation to expand the urban tree canopy in urban
12 areas to reduce ambient temperatures, increase climate
13 resiliency, and improve greenhouse gas sequestration
14 in Hawaii; ~~and~~
- 15 (6) Make recommendations to the legislature and governor
16 regarding measures that would increase climate
17 resiliency, build healthy soils, provide greenhouse
18 gas benefits, or cool urban areas~~[-]~~; and
- 19 (7) Identify and prioritize carbon positive activities
20 eligible for the Hawaii agriculture and forest carbon



1 positive incentive program established by part of
2 chapter 196, on an annual basis."

3 SECTION 5. Section 243-3.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In addition to any other taxes provided by law,
6 subject to the exemptions set forth in section 243-7, there is
7 hereby imposed a state environmental response, energy, and food
8 security tax on each barrel or fractional part of a barrel of
9 petroleum product sold by a distributor to any retail dealer or
10 end user of petroleum product, other than a refiner. The tax
11 shall be \$1.05 on each barrel or fractional part of a barrel of
12 petroleum product that is not aviation fuel; provided that of
13 the tax collected pursuant to this subsection:

14 (1) 5 cents of the tax on each barrel shall be deposited
15 into the environmental response revolving fund
16 established under section 128D-2;

17 (2) 5 cents of the tax on each barrel shall be deposited
18 into the energy security special fund established
19 under section 201-12.8;



(3) 10 cents of the tax on each barrel shall be deposited into the energy systems development special fund established under section 304A-2169.1; ~~[and]~~

(4) 15 cents of the tax on each barrel shall be deposited into the agricultural development and food security special fund established under section 141-10 ~~[÷]~~; and

(5) cents of the tax on each barrel shall be deposited into the Hawaii agriculture and forest carbon positive incentive program special fund established under section 196-F.

The tax imposed by this subsection shall be paid by the distributor of the petroleum product."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2021-2022 and the same sum or so much thereof as may be necessary for fiscal year 2022-2023 to be deposited into the Hawaii agriculture and forest carbon positive incentive program special fund.

SECTION 7. There is appropriated out of the Hawaii agriculture and forest carbon positive incentive program special fund the sum of \$ or so much thereof as may be



1 necessary for fiscal year 2021-2022 and the same sum or so much
2 thereof as may be necessary for fiscal year 2022-2023 for the
3 Hawaii agriculture and forest carbon positive incentive program,
4 including one full-time equivalent (1.0 FTE) program management
5 position.

6 The sums appropriated shall be expended by the Hawaii green
7 infrastructure authority for the purposes of this Act.

8 SECTION 8. In codifying the new sections added by
9 section 2 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

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

14 SECTION 10. This Act shall take effect upon its approval;
15 provided that sections 6 and 7 shall take effect on July 1,
16 2021.

17

INTRODUCED BY: 



S.B. NO. 493

Report Title:

Hawaii Agriculture and Forest Carbon Positive Incentive Program;
Hawaii Green Infrastructure Authority.

Description:

Establishes the Hawaii agriculture and forest carbon positive
incentive program. Appropriates funds.

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

