

---

# 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 to 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 authority  
10 established pursuant to section 196-63.

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 having  
7 a high likelihood of effectively achieving durable sequestration  
8 benefits at reasonable compensation rates across eligible land  
9 types. "Phase I activities" includes:

10 (1) Any regenerative annual cropping system that includes  
11 at least four of the following practices:

12 (A) Compost application;

13 (B) Cover crops;

14 (C) Crop rotation;

15 (D) Green manure;

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

17 (F) Organic production;

18 (2) Improved pasture;

19 (3) Agroforestry;

20 (4) Reforestation;



(5) Protection of forests and shrublands from disturbance;

and

(6) Rotational grazing and improved forage.

"Phase II activities" means activities identified as those that support significant sequestration potential but that require additional technical work to estimate sequestration potential or identify appropriate eligible land types. "Phase II activities" includes:

(1) Biofuel production;

(2) Methane capture;

(3) Improved forest management;

(4) Grazing intensity;

(5) Mixed production systems; and

(6) Efficient nutrient and waste management.

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

**§196-B Hawaii agriculture and forest carbon positive incentive program; established.** There is established within the authority the Hawaii agriculture and forest carbon positive incentive program to incentivize carbon sequestration activities 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 no less than one year and no more than  
16 thirty years, as determined by the owner or lessee; provided  
17 that the length of a contract term shall directly correlate with  
18 the rate of compensation paid pursuant to the contract.

19 **§196-D Reviewing committee; report.** (a) The chairperson  
20 of the authority, or the chairperson's designee, shall establish  
21 and serve as the chairperson of a reviewing committee to review



1 program applications. The chairpersons of the boards of  
2 agriculture and land and natural resources, or their respective  
3 designees, shall participate as members of the reviewing  
4 committee.

5 (b) The reviewing committee shall submit a report to the  
6 legislature no later than twenty days prior to the convening of  
7 the regular session of 2023 and each regular session thereafter.  
8 Each report shall contain:

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

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

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

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



1 into a carbon incentives contract under this part to continue  
2 carrying out eligible practices. An owner or lessee shall not  
3 be prohibited from participating in the program based on the  
4 participation by the owner or lessee in other federal or state  
5 conservation assistance programs. Conservation easements shall  
6 not be required for eligibility in the program.

7 **§196-F Priority of carbon positive activities; benefits.**

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

10 (1) Cost effective;

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

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

15 (4) Achieve community priorities, including food security  
16 or watershed protection.

17 (b) On an annual basis, the Hawaii greenhouse gas  
18 sequestration task force established by section 225P-4 shall  
19 identify and prioritize selected carbon positive activities.  
20 The task force shall also identify co-benefits, which may  
21 include:





- 1 (1) Job creation;
- 2 (2) Food security and agriculture for local consumption;
- 3 (3) Water security;
- 4 (4) Increased biodiversity;
- 5 (5) Soil health; and
- 6 (6) Invasive species reduction and removal.

7 **\$196-G Hawaii agriculture and forest carbon positive**  
8 **incentive program special fund.** (a) There is established in  
9 the state treasury the Hawaii agriculture and forest carbon  
10 positive incentive program special fund, which shall consist of:

- 11 (1) Moneys appropriated to the fund by the legislature;
- 12 (2) All interest attributable to investment of money  
13 deposited in the fund;
- 14 (3) Moneys deposited into the fund from the environmental  
15 response, energy, and food security tax pursuant to  
16 section 243-3.5; and
- 17 (4) Moneys allotted to the fund from other sources.

18 (b) Moneys from the fund shall be expended by the  
19 authority for the purposes of the program including personnel  
20 salaries, inventory, and community and landowner outreach  
21 activities."



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

3       "(a) In the performance of, and with respect to the  
4 functions, powers, and duties vested in the authority by this  
5 part, the authority, as directed by the director and in  
6 accordance with a green infrastructure loan program order or  
7 orders under section 269-171 or an annual plan submitted by the  
8 authority pursuant to this section, as approved by the public  
9 utilities commission, may:

10       (1) Make loans and expend funds to finance the purchase or  
11 installation of green infrastructure equipment for  
12 clean energy technology, demand response technology,  
13 and energy use reduction and demand side management  
14 infrastructure, programs, and services;

15       (2) Hold and invest moneys in the green infrastructure  
16 special fund in investments as permitted by law and in  
17 accordance with approved investment guidelines  
18 established in one or more orders issued by the public  
19 utilities commission pursuant to section 269-171;

20       (3) Hire employees necessary to perform its duties,  
21 including an executive director. The executive



1 director shall be appointed by the authority, and the  
2 employees' positions, including the executive  
3 director's position, shall be exempt from chapter 76;

4 (4) Enter into contracts for the service of consultants  
5 for rendering professional and technical assistance  
6 and advice, and any other contracts that are necessary  
7 and proper for the implementation of the loan program;

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

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

15 (7) Be audited at least annually by a firm of independent  
16 certified public accountants selected by the  
17 authority, and provide the results of this audit to  
18 the department and the public utilities commission;

19 [and]



1        (8) Administer the Hawaii agriculture and forest carbon  
2        positive incentive program established by part ;  
3        and

4        [+8+] (9) Perform all functions necessary to effectuate the  
5        purposes of this part."

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

8        "(a) The greenhouse gas sequestration task force is  
9        established within the office of planning for administrative  
10       purposes only. The task force shall ~~[have the following~~  
11       ~~objectives]~~:

12       (1) Work with public and private stakeholders to establish  
13       a baseline for greenhouse gas emissions within Hawaii  
14       and short- and long-term benchmarks for increasing  
15       greenhouse gas sequestration in the State's  
16       agricultural and natural environment;

17       (2) Identify appropriate criteria to measure baseline  
18       levels and increases in greenhouse gas sequestration,  
19       improvements in soil health, increases in agricultural  
20       and aquacultural product yield and quality  
21       attributable to greenhouse gas sequestration and



1 improvements in soil health, and other key indicators  
2 of greenhouse gas benefits from beneficial  
3 agricultural and aquacultural practices that may be  
4 used to create a certification program for promoting  
5 agricultural and aquacultural practices that generate  
6 greenhouse gas benefits and agricultural and  
7 aquacultural production benefits;

8 (3) Identify land and marine use policies, agricultural  
9 policies, agroforestry policies, and mitigation  
10 options that would encourage agricultural and  
11 aquacultural practices and land use practices that  
12 would promote increased greenhouse gas sequestration,  
13 build healthy soils, and provide greenhouse gas  
14 benefits;

15 (4) Identify ways to increase the generation and use of  
16 compost in Hawaii to build healthy soils;

17 (5) Identify practices and policies that add trees or  
18 vegetation to expand the urban tree canopy in urban  
19 areas to reduce ambient temperatures, increase climate  
20 resiliency, and improve greenhouse gas sequestration  
21 in Hawaii; [and]



1 (6) Make recommendations to the legislature and governor  
2 regarding measures that would increase climate  
3 resiliency, build healthy soils, provide greenhouse  
4 gas benefits, or cool urban areas[-]; and

5 (7) Identify and prioritize carbon positive activities  
6 eligible for the Hawaii agriculture and forest carbon  
7 positive incentive program established by part  
8 of chapter 196, on an annual basis."

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

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



- 1 (1) 5 cents of the tax on each barrel shall be deposited  
2 into the environmental response revolving fund  
3 established under section 128D-2;
- 4 (2) 5 cents of the tax on each barrel shall be deposited  
5 into the energy security special fund established  
6 under section 201-12.8;
- 7 (3) 10 cents of the tax on each barrel shall be deposited  
8 into the energy systems development special fund  
9 established under section 304A-2169.1; ~~and~~
- 10 (4) 15 cents of the tax on each barrel shall be deposited  
11 into the agricultural development and food security  
12 special fund established under section 141-10[-]; and
- 13 (5) \_\_\_\_\_ cents of the tax on each barrel shall be  
14 deposited into the Hawaii agriculture and forest  
15 carbon positive incentive program special fund  
16 established under section 196-G.

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

19 SECTION 6. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so  
21 much thereof as may be necessary for fiscal year 2021-2022 and



1 the same sum or so much thereof as may be necessary for fiscal  
2 year 2022-2023 to be deposited into the Hawaii agriculture and  
3 forest carbon positive incentive program special fund.

4 SECTION 7. There is appropriated out of the Hawaii  
5 agriculture and forest carbon positive incentive program special  
6 fund the sum of \$ or so much thereof as may be  
7 necessary for fiscal year 2021-2022 and the same sum or so much  
8 thereof as may be necessary for fiscal year 2022-2023 for the  
9 Hawaii agriculture and forest carbon positive incentive program,  
10 including one full-time equivalent (1.0 FTE) program management  
11 position.

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

14 SECTION 8. In codifying the new sections added by  
15 section 2 of this Act, the revisor of statutes shall substitute  
16 appropriate section numbers for the letters used in designating  
17 the new sections in this Act.

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





1           SECTION 10. This Act shall take effect on July 1, 2050;  
2 provided that sections 6 and 7 shall take effect on July 1,  
3 2051.



**Report Title:**

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

**Description:**

Establishes the Hawaii agriculture and forest carbon positive  
incentive program. Effective 7/1/2050. Appropriates funds on  
7/1/2051. (SD2)

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

