

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LT. GOVERNOR



ISAAC W. CHOY
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Mike Gabbard, Chair;
The Honorable Clarence K. Nishihara, Vice Chair;
and Members of the Senate Committee on Agriculture and Environment

From: Isaac W. Choy, Director
Department of Taxation

Date: Friday, February 11, 2022
Time: 1:30 P.M.
Place: Via Video Conference, State Capitol

**Re: S.B. 2435, Relating to the Important Agricultural Land
Qualified Agricultural Cost Tax Credit**

The Department of Taxation (Department) offers the following comments on S.B. 2435 for the committee's consideration.

S.B. 2435 amends the important agricultural land qualified agricultural cost tax credit (IAL credit) under section 235-110.93, Hawaii Revised Statutes, by requiring the taxpayer to claim the credit in the third taxable year after the taxable year in which the taxpayer applies to the Department of Agriculture (DOA) for first-year certification of their credit. After that third following taxable year, taxpayers may subsequently claim their remaining two years of IAL credit in consecutive or inconsecutive taxable years. The measure also extends the DOA certification period December 31, 2021 to December 31, 2031. The measure would apply to taxable years beginning after December 31, 2021.

The Department defers to the DOA on its ability to continue certifying the credit until 2031 but takes no position on the ten-year extension of the IAL credit proposed in this measure, as it does not create a substantial administrative burden on the Department.

The Department is able to administer this measure as currently written. Thank you for the opportunity to provide testimony.

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
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

**FEBRUARY 11, 2022
1:30 P.M.
VIA VIDEOCONFERENCE**

**SENATE BILL NO. 2435
RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT**

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2435. This measure amends the Important Agricultural Lands (IAL) Qualified Agricultural Cost Tax Credit by delaying for three years when a taxpayer may claim the tax credit after applying to the Department of Agriculture for the first-year certification of the credit. This bill also extends the time that the Department may certify qualified agricultural costs from December 31, 2021 to December 31, 2031.

The Department of Agriculture recommends deleting the amendments in support of the proposed delay of three years found on page 4, lines 6-15, thereby reestablishing the existing language. The Department supports the 10-year extension of the Department's responsibility to certify credits as found on page 4, line 19.

The Department strongly supports the continuation of the IAL Qualified Agricultural Cost Tax Credit which moves Hawaii toward food self-sufficiency by helping to offset costs related to establishing and sustaining viable agricultural operations. During the 2021 legislative session, the Department acknowledged the State's precarious financial situation that necessitated the three-year delay for a landowner/farmer of designated IAL to claim the tax credit. The Department believes that the State's current economy recovery is such that the three-year delay can be eliminated to the benefit of the landowners and farmers on designated IAL who have



been investing in improvements to their agricultural operations as well as other private landowners wishing to voluntarily request IAL designation in order to claim the tax credit for qualified agricultural expenses.

Thank you for the opportunity to testify on this important measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Important Agricultural Land Qualified Agricultural Cost Tax Credit

BILL NUMBER: SB 2435, HB 2190

INTRODUCED BY: SB by KOUCHI by request; HB by MORIKAWA, HASHEM, MARTEN, MATAYOSHI, TODD

EXECUTIVE SUMMARY: Clarifies that a taxpayer may claim the important agricultural land qualified agricultural cost tax credit no earlier than the third taxable year after application for first-year certification of the credit. Extends the time that the department of agriculture may certify the important agricultural land qualified agricultural costs tax credit from 12/31/2021 to 12/31/2031.

SYNOPSIS: Amends section 235-110.93, HRS, to provide that the taxpayer may claim the credit in the third taxable year after application to the department of agriculture for first-year certification of the credit, and to extend the deadline for the credit to December 31, 2031.

EFFECTIVE DATE: Upon Approval, applicable to taxable years beginning after December 31, 2021.

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 2022 report on the credit (<https://hdoa.hawaii.gov/wp-content/uploads/2022/01/IAL-Tax-Credit-Report-final.pdf>), representing activity for the 2020 tax year, the department reported that it certified no credits because there were no applicants. There was only one applicant in 2019, and two applicants in the 2018 tax year.

The department in its report recommended an extension of the sunset date of the credit, which expired at the end of 2021. The department recommended the extension as necessary to provide the counties of Kauai, Maui, and Hawaii more time to complete their identification of candidate lands as described in Section 205-47, HRS, and allow landowners/farmers to claim IAL tax credits for their agricultural lands that are designated by the Land Use Commission as IAL pursuant to Section 205-49.

The department also stated that only the City & County of Honolulu has submitted 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, and that the LUC is expected to act upon it in 2022.

In testimony on a similar bill in 2017, some of the counties complained that the process of drawing up such maps was unduly expensive.

Re: SB 2435, HB 2190

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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: 2/8/2022



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e-mail info@hfbf.org; www.hfbf.org

FEBRUARY 11, 2022

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 2435
RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT

Conference Room 224 & Videoconference
1:30 PM

Aloha Chair Gabbard, Vice-Chair Nishihara, 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 2435, which extends through the 2031 tax year, the time that the Department of Agriculture may certify important agricultural lands qualified agricultural costs. It also clarifies that a taxpayer can claim the credit in the third taxable year after they apply for the credit, rather than in any taxable year.

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 on agricultural land preservation measures across the nation. Initiatives that were passed many years ago were especially taken under scrutiny to determine whether their intents were realized. What became obvious was payments for development rights, preserved land for 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.

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.

Thank you for the opportunity to testify on this measure of great importance.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
ON
SENATE BILL NO. 2435

February 11, 2022
1:30 p.m.
Room 224 and Videoconference

RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2435 amends Section 235-110.93, HRS, to: clarify that a taxpayer may claim the Important Agricultural Land Qualified Agricultural Cost Tax Credit no earlier than the third taxable year after the taxpayer applies for first-year certification of the credit; and extend the time that the Department of Agriculture may certify the tax credit from December 31, 2021 to December 31, 2031.

B&F notes that the federal American Rescue Plan (ARP) Act restricts states from using ARP Coronavirus State Fiscal Recovery Funds (CSFRF) to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the CSFRF have been spent. If a state cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than the CSFRF, such as:

- By enacting policies to raise other sources of revenue;

- By cutting spending; or
- Through higher revenue due to economic growth.

If the CSFRF provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the U.S. Treasury.

The U.S. Department of Treasury has issued rules governing how this restriction is to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with this ARP restriction.

Thank you for your consideration of our comments.



Email: communications@ulupono.com

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT
Friday, February 11, 2022 — 1:30 p.m.

Ulupono Initiative supports SB 2435, Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit.

Dear Chair Gabbard and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono supports SB 2435, which clarifies that a taxpayer can claim the Important Agricultural Land Qualified Agricultural Cost Tax Credit no earlier than the third taxable year after application for first-year certification of the credit. This bill also extends the time that the Department of Agriculture may certify this tax credit from 12/31/2021 to 12/31/2031.

The Important Agricultural Lands designation is an important tool that exists to keep agricultural land in active production. As development encroaches on 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. We recognize that you face many difficult decisions this year to balance the budget in the midst of this economic crisis, but we hope that this support for local agriculture can be considered.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i

SB-2435

Submitted on: 2/10/2022 2:04:00 PM

Testimony for AEN on 2/11/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dante Carpenter	Testifying for Carpenter & Carpenter, Inc.	Support	No

Comments:

Sen. Gabbard, Chair; Sen. Nishihara, V-C; and Members of the Agric. & Envir. (AEN) Committee:

I am Dante Carpenter, Consultant to "**Waiialua Egg Farm**," a Farm-Fresh and Cage-Free Production Facility, located in Waiialua, O'ahu. Be advised that this Egg-Production Facility is a "State-of-the-Art" enterprise with an eventual capacity to produce One (1) million eggs per day for sale to residents within the State of Hawai'i. Presently there are over 200,000 young hens, originally delivered as chicks, that have begun being egg-producers in the Wailua Egg Farm Facility.

To-date, over \$40 million dollars have been expended for property acquisition, as well as design & construction of these modern facilities to meet all the newest health, humane, and safety requirements of Modern Egg Production.

Indeed, the Waiialua Egg Farm strongly supports SB2435, Relating to IAL Qualified Agricultural Cost Tax Credit, in assisting the developing of Hawai'i food products for its residents' consumption.

Respectfully submitted,

Dante Carpenter - (808) 358-7104 Cell



February 10, 2022

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair
Senate Committee on Agriculture and Environment

Comments in Support of SB 2435, Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit (Clarifies that a taxpayer may claim the credit no earlier than the third taxable year after application for first-year certification of the credit; extends the time that the Department of Agriculture [DOA] may certify the important agricultural lands qualified agricultural costs tax credit from 12/31/2021 to 12/31/2031.)

Friday, February 11, 2022, at 1:30 p.m.; Conference Room 224 & Videoconference

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 2435** and of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture, including important agricultural lands (IAL) in Hawaii.

SB 2435. The purpose of this bill is to clarify that a taxpayer may first claim the credit in the third taxable year after application for the first year certification of the credit rather than in the taxable year following the taxable year in which the qualified agricultural costs were incurred; and to extend the expiration date of the DOA's certification authority with regard to the important agricultural land qualified agricultural cost tax credit from December 31, 2021 to December 31, 2031, in order to provide additional time to allow landowners and farmers to claim the tax credit in the event that their agricultural lands are identified as potential IAL and subsequently designated as such by the land use commission (LUC). LURF understands that the

three-year delay for a landowner or farmer of designated IAL to claim the tax credit is necessary due to the State's current precarious financial situation as a result of the COVID-19 pandemic.

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 credits assist qualified landowners and farmers by offsetting costs related to establishing and sustaining viable agricultural operations and help to sustain agricultural businesses, promote local food production, and increase 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."

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 IAL for agricultural use in Hawaii concurrently with the process of identifying IAL 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.

Pursuant to the current law, however, the DOA would have ceased certifying tax credits for tax years beginning after December 31, 2021. Moreover, the counties have not yet provided anticipated IAL incentives. The proposed extension will allow landowners and farmers to claim the tax credit should their lands be identified as potential important agricultural lands by the LUC.

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 2435**, and respectfully urges your favorable consideration of this bill.



Kamehameha Schools®

Senate Committee on Agriculture and Environment

Date: February 11, 2021

Time: 1:30 p.m.

Where: Conference Room 224

TESTIMONY

By Dana Sato

Integrated Asset Management, Community & 'Āina Resiliency Group

RE: SB 2435 – Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit

E ka Luna Ho‘omaluku Gabbard, ka Hope Luna Ho‘omaluku Nishihara, a me nā Lālā o kēia Kōmike, aloha!

Kamehameha Schools **supports SB 2435**, which extends to the 2031 taxable year the important agricultural land (IAL) qualified agricultural cost tax credit.

We believe that our educational mission is best achieved in a society that supports and enables the success and well-being 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 can play an important role in achieving this goal by promoting greater investment in Hawai‘i’s agricultural economy. Specifically, IAL tax credits can 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.

Extending the IAL tax credit, as one component of a more comprehensive strategy of investments and supports, can provide the time and opportunity to create thriving local food systems that enhance the lives of Hawai‘i’s people.

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.

Hānai i ke keiki; ola ka lāhui. (*Nurture the child and the people thrive.*)