

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 Mark J. Hashem, Chair;
The Honorable Amy A. Perruso, Vice Chair;
and Members of the House Committee on Agriculture

From: Isaac W. Choy, Director
Department of Taxation

Date: March 19, 2021

Time: 10:00 A.M.

Place: Via Videoconference, Hawaii State Capitol

**Re: S.B. 339, S.D. 2, Relating to Relating to the Important Agricultural Land
Qualified Agricultural Cost Tax Credit**

The Department of Taxation (Department) offers the following comments regarding S.B. 339, S.D. 2, for your consideration.

S.B. 339, S.D. 2, 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. The measure also postpones the date the DOA shall cease certifying the IAL credit from December 31, 2021 until December 31, 2030. The measure has a defective effective date of July 1, 2050 and otherwise applies to taxable years beginning after December 31, 2021.

The Department defers to the DOA on its ability to continue certifying the credit but takes no position on the extension of the IAL credit proposed in this measure. As long as this change in the IAL credit remains applicable to taxable years beginning after December 31, 2021, there will not be a significant administrative burden on the Department.

The Department notes that P.L. 117-2, commonly known as the American Rescue Plan Act of 2021 (ARPA), provides State Coronavirus Fiscal Recovery Funds with certain limitations. Specifically, Section 9901 of the ARPA prohibits these funds from being used to, "either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase." The "covered period" is defined as beginning on March 3, 2021 and ending on the last day of the state's fiscal year in which the State's stimulus funds are completely expended.

If the State fails to comply with this restriction on use of funds, it is required to repay an amount equal to the lesser of: (1) the amount of the applicable reduction to net tax revenue attributable to such violation; and (2) the amount of funds received by such state under Section 9901 of the ARPA.

The Department cautions that the enactment of any tax measure resulting in a revenue loss during the covered period may result in the State having to repay an amount equal to the projected revenue loss from the State Coronavirus Fiscal Recovery Funds that Hawaii receives.

Thank you for the opportunity to provide testimony on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
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
HONOLULU, HAWAII 96810-0150

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 HOUSE COMMITTEE ON AGRICULTURE
ON
SENATE BILL NO. 339, S.D. 2

March 19, 2021
10:00 a.m.
Room 325

RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 339, S.D. 2.

S.B. No. 339, S.D. 2, amends the Important Agricultural Land Qualified Agricultural Cost Tax Credit (tax credit) under Section 235-110.93, HRS, by specifying that the taxpayer may first claim the tax credit no earlier than in the third taxable year after the taxable year in which the taxpayer applies to the Department of Agriculture (DOA) for the first-year certification of the tax credit; and extending the time that the DOA may certify the tax credit from December 31, 2021, to December 31, 2030.

B&F is concerned that this measure would decrease revenues to the State general fund and impact the State's share of direct federal aid from the American Rescue Plan Act of 2021 (ARPA). Provisions of the ARPA specifically state:

"A state or territory shall not use the funds provided under this section or transferred pursuant to section 603(c)(4) to either directly or indirectly offset a reduction in the net tax revenue of such state or territory resulting from a change

in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase.”

B&F notes that any reduction in State tax revenues could result in reduced ARPA funding. Hawai'i's estimated allocation of ARPA funds is in excess of \$1.6 billion and is critical to mitigating the negative financial impacts the COVID-19 pandemic has had on the State budget.

B&F defers to the DOA and the Department of Taxation regarding the implementation of this bill.

Thank you for your consideration of our 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
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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

MARCH 19, 2021
10:00 A.M.
CONFERENCE ROOM 211

SENATE BILL NO. 339 SD1
RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT

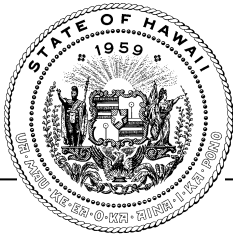
Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 339 SD1. 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, 2030.

The Department strongly supports the continuation of the IAL Qualified Agricultural Cost Tax Credit which supports moving Hawaii toward food self-sufficiency by helping to offset costs related to establishing and sustaining viable agricultural operations. The Department acknowledges 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 hopes that the State's economy recovers sufficiently and rapidly thereby allowing the three-year delay to be lessened or eliminated to the benefit of the hundreds of landowners/farmers on Oahu who lands may soon be designated as IAL and any other private landowner wishing to voluntarily request IAL designation.

Thank you for the opportunity to testify on this measure.





OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
HOUSE COMMITTEE ON AGRICULTURE
Friday, March 19, 2021
10:00 AM
Via Videoconference

in consideration of
SB 339, SD2
**RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT.**

Chair Hashem, Vice Chair Perruso, and Members of the House Committee on Agriculture.

The Office of Planning (OP) **strongly supports** SB 339, SD2, which extends the Department of Agriculture's (DOA) certification of the important agricultural land (IAL) qualified agricultural cost tax credit to December 31, 2030, and clarifies when claims are to be made following an application for DOA certification of the tax credit.

OP supports the 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. Successful commercial farming is the most cost-effective way to protect farmland. The IAL incentives were always intended to be a long-term commitment to Hawaii's agricultural industry—like agricultural real property tax dedication provisions—providing permanent tools and services that promote the viability of current and future farmers on Hawaii's best lands, particularly those designated as IAL.

OP offers the following comments, but defers to other departments as to their fiscal impact.

1. It is unclear whether the three-year delay is a permanent or temporary delay imposed due to fiscal conditions resulting from the COVID-19 pandemic. A permanent delay weakens the utility of the incentive for farmers.
2. Consideration should be given to making this a permanent tax credit, since a strong agricultural economy requires ongoing investment in agricultural infrastructure, equipment, and farm improvements.

Thank you for the opportunity to testify on this measure.



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March 18, 2021

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON SB 339, SD2
RELATING TO THE IMPORTANT AGRICULTURAL LAND QUALIFIED
AGRICULTURAL COST TAX CREDIT

Conference Room 325
10:00 AM

Aloha Chair Hashem, Vice-Chair Perruso, 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 339, SD2, which extends through the 2030 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.



Email: communications@ulupono.com

HOUSE COMMITTEE ON AGRICULTURE
Friday, March 19, 2021 — 10:00 a.m.

Ulupono Initiative supports SB 339 SD 2, Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit.

Dear Chair Hashem 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 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 339 SD 2, 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 12/31/2030.

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 this opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



HAWAII CROP IMPROVEMENT ASSOCIATION

In Support of SB339 SD2
Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit

House Committee on Agriculture

Date: Friday, March 19, 2021

Time: 10:00 a.m.

Place: Via Video Conference

Chair Dela Hashem, Vice-Chair Perruso, and members of the committee:

Thank you for allowing the Hawaii Crop Improvement Association the opportunity to provide testimony in support of SB339 SD2 which 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 12/31/2030; applies to taxable years beginning after 12/31/2021.

The Hawaii Crop Improvement Association applauds the Hawaii State Legislature for taking up this important measure to support agriculture across the State. The Important Agricultural Lands (IAL) Qualified Agricultural Cost Tax Credit is, and has been, a vital mechanism to incentivize and increase longevity in Hawaii's agricultural sector. It has proven itself an effective tool by providing local farmers with fiscal assistance while ensuring opportunities for future generations through land designation.

Mahalo for this opportunity to testify in support of the intent of SB339 SD2. If you have any questions, please contact me at your convenience.

Sincerely,

Emmanuel Zibakalam

Executive 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®

House Committee on Agriculture

Date: March 19, 2021

Time: 10:00 a.m.

Where: Via Videoconference

TESTIMONY

By Dana Sato

Integrated Asset Management, Community and 'Āina Resiliency Group

RE: SB 339, SD2 -- Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit

E ka Luna Ho'omalulu Hashem, ka Hope Luna Ho'omalulu Perruso, a me nā Lālā o kēia Kōmike, aloha!

Kamehameha Schools **supports the intent of SB 339, SD2**, which extends to the 2030 taxable year the important agricultural land qualified agricultural cost tax credit.

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 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.

We also recognize the impact tax credits have on revenues at a time the State is facing a budget deficit and we defer to the leadership of this Committee to determine whether resources are available to continue this commitment.

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!

SB-339-SD-2

Submitted on: 3/16/2021 6:18:34 PM

Testimony for AGR on 3/19/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dante Carpenter	Individual	Support	No

Comments:

Chair Rep. Mark Hashem & House Agriculture Committee Members:

My name is Dante Carpenter, former Legislator & Officeholder, now as a business consultant - testifying in support of this measure, SB339-SD2, which will establish an Agricultural Cost Tax Credit on Important Agricultural Land.

This is a fine Bill which will assist all Agricultural Producers by recognition of the costs involved for equipment and operations, as well as the cost(s) of construction and methods of supplying food products in the State of Hawai'i. Further, by extending the time, the Department of Agriculture can verify and certify the qualified agricultural costs tax credit is appropriate for the designated Important Agriculture Land producer.

Dante Carpenter

President, Carpenter & Carpenter, Inc.

SB-339-SD-2

Submitted on: 3/17/2021 9:26:51 AM

Testimony for AGR on 3/19/2021 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Regina Gregory	Individual	Oppose	No

Comments:

A 3-year delay defeats the purpose of the tax credit.



March 16, 2021

Representative Mark J. Hashem, Chair
Representative Amy A. Perruso, Vice Chair
House Committee on Agriculture

Comments in Support of SB 339, S.D.2, Relating to Income Taxation; 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 credits from 12/31/2021 to 12/31/2030; applies to taxable years beginning after 12/31/2021; effective 7/1/2150.)

Friday, March 19, 2021, at 10:00 a.m.; Conference Room 325 Via 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 339, S.D.2** 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 339, S.D.2. The purpose of this bill is to clarify that a taxpayer may first claim the credit no earlier than in the third taxable year after the taxable year during which the taxpayer applied to the DOA for first-year certification of the credit; and to extend the expiration date of the credit from December 31, 2021 to December 31, 2030, 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 important agricultural lands and 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.

The DOA, however, will currently cease certifying tax credits for tax years beginning after December 31, 2021. Moreover, the counties have not provided IAL incentives to date. 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 339, S.D.2**, and respectfully urges your favorable consideration of this bill.