

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

**MONDAY, FEBRUARY 1, 2021
1:00 P.M.
VIA VIDEO CONFERENCE**

**SENATE BILL NO. 339
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. 339. 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.



DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Room 205
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Phone: (808) 586-0186 Fax: (808) 586-0189

TESTIMONY OF JAMES J. NAKATANI
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION

BEFORE THE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Monday, February 1, 2021
1:00 p.m.

SENATE BILL NO. 339
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. 339. The Agribusiness Development Corporation (ADC) strongly supports Senate Bill No. 339, which extends the time the Department of Agriculture may certify qualified agricultural costs from December 31, 2021 to December 31, 2030.

The Important Agricultural Land Qualified Agriculture Cost Tax Credit is an important tool to incentivize agriculture production on agriculture lands to ensure these lands are kept in agriculture for future generations. The ADC acknowledges and appreciates the Legislature's effort to support agriculture during these tough economic times.

Thank you for your consideration of this bill.

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
and Members of the Senate Committee on Agriculture and Environment

Date: February 1, 2021

Time: 1:00 P.M.

Place: Via Videoconference, Hawaii State Capitol

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

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

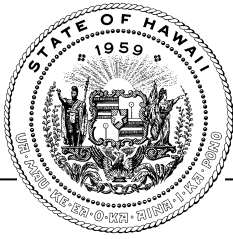
S.B. 339 amends the important agricultural land qualified agricultural cost tax credit (IAL credit) under section 235-110.93, Hawaii Revised Statutes, by clarifying that the IAL credit may be claimed in the third year after the qualified agricultural costs on which it is based are incurred, rather than any year after the costs are incurred. S.B. 339 also changes the date the Department of Agriculture shall cease certifying the IAL credit from December 31, 2021 until December 31, 2030.

First, the Department appreciates the intent of the measure to clarify the IAL credit provisions, however, the proposed language does not provide the intended clarity. Under current law, the IAL credit is claimed over a 3-year period. The language that says the credit must be claimed in the 3rd year after the application is submitted to the DOA is in direct conflict with the credit structure.

Second, the Department takes no position on the extension of the IAL credit proposed in Section 2 of this measure as this amendment does not create a substantial administrative burden on the Department.

Finally, the Department suggests amending the effective date of the measure as changing the year in which taxpayers can claim the IAL credit will cause confusion without further specificity on when the change is effective. The Department suggests amending the effective date to taxable years beginning after December 31, 2021 so that the amendments do impact any credit claims that have already matured.

Thank you for the opportunity to provide comments.



OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

AMENDED Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Monday, February 1, 2021
1:00 PM
Via Videoconference

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

Chair Gabbard, Vice Chair Nishihara, and Members of the Senate Committee on Agriculture and Environment.

The Office of Planning (OP) **strongly supports** SB 339, which would extend the Department of Agriculture's (DOA) certification of credits for important agricultural land (IAL) qualified agricultural costs from December 31, 2021 to December 31, 2030, and clarifies that claims are to be made the third taxable year following an application for DOA certification of the tax credit.

OP supports the renewal and 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 package passed in 2008, including this tax credit, was always intended to be a long-term commitment to providing permanent tools and services—like agricultural real property tax dedication provisions—that would promote and grow Hawaii's agricultural industry and promote agricultural viability for current and future farmers on Hawaii's best lands, particularly those designated as IAL.

OP suggests consideration be given to making this a permanent tax credit since farming requires ongoing investment in agricultural infrastructure, equipment, and farm improvements. OP defers to other departments on the fiscal impact of this measure.

Thank you for the opportunity to testify on this measure.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Extension of Important Agricultural Land Credit

BILL NUMBER: SB 339

INTRODUCED BY: GABBARD, INOUE, KEITH-AGARAN, KIM, LEE, SAN BUENAVENTURA, Chang, Kidani, Shimabukuro

EXECUTIVE SUMMARY: 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. 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.

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, 2030.

EFFECTIVE DATE: Upon approval.

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 2021 report on the credit (https://hdoa.hawaii.gov/wp-content/uploads/2020/12/DOA-IAL-Tax-Credit-Report-2019_final.pdf), representing activity for the 2019 tax year, the department reported that it certified \$125,000 in credits for one applicant. There were only 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 has not yet acted upon it.

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

Re: SB 339
Page 2

the original legislation are being met, and whether there is any prospect of return on our investment of public dollars.

Digested 1/29/2021



January 29, 2021

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

Comments in Support of SB 339, Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit (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. Extends the time that the Department of Agriculture may certify the important agricultural lands qualified agricultural costs tax credits from 12/31/2021 to 12/31/2030.)

Monday, February 1, 2021, at 1:00 p.m., 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** 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. The purpose of this bill is to clarify that a taxpayer can claim the credit in the third taxable year after they apply for the credit, rather than in any taxable year after the taxable year during which the taxpayer incurred the qualified costs upon which the credit is based; and to extend the time that the Department of Agriculture (DOA) may certify the important agricultural land qualified agricultural cost tax credits from December 21, 2021 to December 31, 2021, 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'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." 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 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**, and respectfully urges your favorable consideration of this bill.



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

February 1, 2021

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

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

Videoconference
1:00 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 339, 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

SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT
Monday, February 1, 2021 — 1:00 p.m.

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

Dear Chair Gabbard 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 freshwater and waste resources.

Ulupono supports SB 339, which 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, and extends the time that the Department of Agriculture may certify Important Agricultural Lands qualified agricultural costs through the 2030 tax year.

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,

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

Investing in a Sustainable Hawai'i



Kamehameha Schools®

Senate Committee on Agriculture and Environment

Date: February 20, 2021

Time: 1:00 p.m.

Where: Via Videoconference

TESTIMONY

By Dana Sato

Director, Asset Management (O'ahu)

RE: **SB 339 Relating to the Important Agricultural Land Qualified Agricultural Cost Tax Credit**

E ka Luna Ho'omalua Gabbard, ka Hope Luna Ho'omalua Nishihara, 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 339**, 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 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.

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

While we recognize this continued commitment may negatively impact revenues at a time the State is facing a budget deficit, we strongly believe that the agricultural industry and Hawai'i's broader food systems can both stimulate economic recovery and enable greater long-term resilience.

Accordingly, we kindly request you **PASS SB 339**.

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!