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# A BILL FOR AN ACT

RELATING TO FOOD SAFETY.

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

1           SECTION 1. The federal Food and Drug Administration has  
2 formalized stricter food safety regulations for agriculture  
3 under the recently passed Food Safety Modernization Act. The  
4 new standards include provisions, such as frequent sampling of  
5 irrigation water, that will be burdensome and expensive for many  
6 of Hawaii's farmers. The costs that farmers must incur to  
7 comply with the new food safety requirements are prohibitive to  
8 some farmers and will likely result in farm closures. These  
9 farmers require assistance with meeting the compliance costs to  
10 prevent the detrimental effect that closures will have on the  
11 diversified agricultural industry in the state.

12           SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
13 amended by adding a new section to part I to be appropriately  
14 designated and to read as follows:

15           "§141-     Food Safety Modernization Act special fund.  
16 There is established in the state treasury the Food Safety  
17 Modernization Act special fund to be administered by the



1 department of agriculture and into which shall be deposited fees  
2 assessed and collected by the department of agriculture pursuant  
3 to section 235- (f). Moneys in the special fund shall be used  
4 for the purposes described in section 235- (f)."

5 SECTION 3. Chapter 235, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§235-A Food Safety Modernization Act tax credit. (a)

9 There shall be allowed to each qualified taxpayer subject to the  
10 tax imposed under this chapter, an income tax credit that shall  
11 be deductible from the taxpayer's net income tax liability, if  
12 any, imposed by this chapter for the taxable year in which the  
13 credit is properly claimed.

14 (b) The amount of the tax credit shall be equal to the  
15 qualified expenses of the qualified taxpayer, up to a maximum of  
16 \$50,000.

17 (c) In the case of a partnership, S corporation, estate,  
18 or trust, the tax credit allowable is for qualified expenses  
19 incurred by the entity for the taxable year. The expenses upon  
20 which the tax credit is computed shall be determined at the  
21 entity level. Distribution and share of credit shall be



1 determined pursuant to section 704(b) of the Internal Revenue  
2 Code.

3 (d) The total amount of tax credits allowed under this  
4 section shall not exceed \$2,000,000 for all qualified taxpayers  
5 in any taxable year; provided that any taxpayer who is not  
6 eligible to claim the credit in a taxable year due to the  
7 \$2,000,000 cap having been exceeded for that taxable year shall  
8 be eligible to claim the credit in the subsequent taxable year.

9 (e) Prior to March 31, every qualified taxpayer shall  
10 submit a written, certified statement to the chairperson of the  
11 board of agriculture stating the qualified expenses incurred by  
12 the taxpayer in the previous taxable year, and also identifying  
13 the amount of the tax credit claimed by the taxpayer pursuant to  
14 this section, if any, in the previous taxable year.

15 (f) The department of agriculture shall:

16 (1) Maintain records of the names and addresses of the  
17 qualified taxpayers claiming the credits under this  
18 section and the total amount of the qualified expenses  
19 upon which the tax credits are based;

20 (2) Verify the nature and amount of the qualified  
21 expenses;



- 1       (3) Total all qualified and cumulative expenses that the  
2       department certifies;
- 3       (4) Certify the amount of the tax credit for each taxpayer  
4       for each taxable year and the cumulative amount of the  
5       tax credit; and
- 6       (5) May adopt rules under chapter 91 necessary to  
7       effectuate the purposes of this subsection.

8       Upon each determination made under this subsection, the  
9       department of agriculture shall issue a certificate to the  
10       taxpayer verifying information submitted to the department of  
11       agriculture, including amounts of qualified expenses, the credit  
12       amount certified for the taxpayer for each taxable year, and the  
13       cumulative amount of tax credits certified. The taxpayer shall  
14       file the certificate with the taxpayer's tax return with the  
15       department of taxation.

16       The department of agriculture may assess and collect a fee  
17       to offset the costs of certifying tax credit claims under this  
18       section. The fees collected shall be deposited into the Food  
19       Safety Modernization Act special fund established by section  
20       141- .

21       (g) The director of taxation:



1       (1) Shall prepare any forms that may be necessary to claim  
2       a tax credit under this section;

3       (2) May require the taxpayer to furnish reasonable  
4       information to ascertain the validity of the claim for  
5       the tax credit made under this section; and

6       (3) May adopt rules under chapter 91 necessary to  
7       effectuate the purposes of this section.

8       (h) If the tax credit under this section exceeds the  
9       taxpayer's net income tax liability, the excess of the credit  
10      over liability may be used as a credit against the taxpayer's  
11      net income tax liability in subsequent years until exhausted.

12      All claims for the tax credit under this section, including  
13      amended claims, shall be filed on or before the end of the  
14      twelfth month following the close of the taxable year for which  
15      the credit may be claimed. Failure to comply with the foregoing  
16      provision shall constitute a waiver of the right to claim the  
17      credit.

18      (i) As used in this section:

19      "Food Safety Modernization Act" means the federal Food  
20      Safety Modernization Act of 2011, Public Law 111-353, as  
21      amended.



1       "Net income tax liability" means income tax liability  
2 reduced by all other credits allowed under this chapter.

3       "Qualified expenses" means expenses incurred by a qualified  
4 taxpayer to comply with the requirements of the Food Safety  
5 Modernization Act.

6       "Qualified taxpayer" means a farmer, food processor, and  
7 produce merchant wholesaler who is subject to the Food Safety  
8 Modernization Act and whose gross income from the sale of  
9 agricultural products for the most recently reported fiscal year  
10 totals no more than \$500,000."

11       SECTION 4. New statutory material is underscored.

12       SECTION 5. This Act shall take effect on March 9, 2092;  
13 provided that section 3 shall apply to taxable years beginning  
14 after December 31, 2092.



**Report Title:**

Agriculture; Food Safety Modernization Act; Income Tax Credit;  
Special Fund

**Description:**

Establishes an income tax credit to assist farmers with expenses associated with compliance with the Food Safety Modernization Act. Establishes the Food Safety Modernization Act special fund. Effective 3/9/2092. (SD2)

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

