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## A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that food insecurity has  
2 been a problem for many households in the State and was further  
3 exacerbated by the coronavirus disease 2019 pandemic. The State  
4 experienced a fifty-one per cent increase in the number of  
5 households dealing with food insecurity. According to Feeding  
6 America, one in ten people in the State face hunger, including  
7 one in six children. In 2021, the State had the second highest  
8 rate of child food insecurity in the country. The legislature  
9 further finds that one in five families in the State rely on  
10 food banks and food pantries to supplement their nutritional  
11 needs. However, supply chain issues, shipping delays, and  
12 inflation, coupled with increased rates of program  
13 participation, affected the ability of these programs to provide  
14 necessary nutritional support to Hawaii's families.

15           Many food banks and food pantries rely on donations to  
16 continue providing the necessary services to those in need.  
17 While these programs do receive some donations of extra produce



1 from grocery stores and other donors, access to fresh healthy  
2 foods remains limited for families in need throughout the State,  
3 making it difficult for these households to maintain consistent,  
4 well-balanced, and nutritious diets. The legislature believes  
5 that small farms in the State can help to tackle the issues of  
6 hunger and nutritional disparities for many families in Hawaii  
7 by donating excess produce to food banks and food pantries.  
8 This will not only help families in need, but will also reduce  
9 food waste at the agricultural production, processing, or  
10 distribution level; create partnerships between small farms and  
11 local organizations serving families in need; and increase  
12 access to and consumption of healthy, locally produced food  
13 products while reducing dependence on imported produce.  
14 However, the legislature recognizes that without the support of  
15 the government, small farmers may not be able to sustain  
16 donating excess produce to food banks and food pantries.

17 Accordingly, the purpose of this Act is to establish a tax  
18 credit for eligible small farms that donate certain food  
19 products or prepared foods to food banks and food pantries.



1 SECTION 2. Chapter 235, Hawaii Revised Statutes, is  
2 amended by adding a new section to part VI to be appropriately  
3 designated and to read as follows:

4 "§235- Qualified small farm food donation tax credit.

5 (a) There shall be allowed to each qualified small farm subject  
6 to the taxes imposed by this chapter that donates an eligible  
7 food product or prepared food to food banks or food pantries, a  
8 small farm food donation tax credit that shall be deductible  
9 from the taxpayer's net income tax liability, if any, imposed by  
10 this chapter for the taxable year in which the tax credit is  
11 properly claimed.

12 (b) The tax credit shall be equal to one hundred per cent  
13 of the wholesale value of the eligible food product or prepared  
14 food.

15 (c) The total amount of tax credits claimed per qualified  
16 small farm shall not exceed \$8,000. The total amount of tax  
17 credits allowed under this section in any particular year shall  
18 not exceed \$150,000 for each county.

19 (d) If the tax credit under this section exceeds the  
20 taxpayer's income tax liability, the excess of the credit over



1 liability may be used as credit against the taxpayer's income  
2 tax liability in subsequent years until the credit is exhausted.

3 (e) All claims for the tax credit under this section,  
4 including amended claims, shall be filed on or before the end of  
5 the twelfth month following the close of the taxable year for  
6 which the credit may be claimed. Failure to comply with the  
7 foregoing provision shall constitute a waiver of the right to  
8 claim the credit.

9 (f) The department of taxation:

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

12 (2) May require the taxpayer to furnish information to  
13 ascertain the validity of the claim for the credit  
14 made under this section; and

15 (3) May adopt rules pursuant to chapter 91 to effectuate  
16 this section.

17 (g) The department of agriculture shall:

18 (1) Establish standards and criteria to determine the  
19 value of the eligible food product or prepared food  
20 donated;



- 1        (2) Maintain records of the total amount of donations made
- 2                by each taxpayer claiming the credit;
- 3        (3) Verify the amount of donations made;
- 4        (4) Total all donations made;
- 5        (5) Verify that the receiving food bank or food pantry is
- 6                equipped to hold and distribute donated eligible food
- 7                products or prepared food;
- 8        (6) Certify the total amount of the tax credit for each
- 9                taxable year; and
- 10       (7) Adopt rules pursuant to chapter 91 to effectuate this
- 11                section.

12        Upon each determination, the department of agriculture  
13 shall issue a certificate to the taxpayer verifying the  
14 donations made and the credit amount certified for each taxable  
15 year. For a taxable year, the department of agriculture may  
16 certify a credit for a taxpayer who could have claimed the  
17 credit in a previous taxable year but chose not to because the  
18 maximum annual credit amount under subsection (c) was reached in  
19 that taxable year.

20        (h) The taxpayer shall file the certificate with the  
21 taxpayer's tax return with the department of taxation.



1 Notwithstanding the department of agriculture's certification  
2 authority under this section, the director of taxation may audit  
3 and adjust certification to conform to the facts.

4 (i) If in any taxable year, the annual amount of certified  
5 credits reaches \$600,000 in the aggregate, the department of  
6 agriculture shall immediately discontinue certifying credits and  
7 notify the department of taxation. In no instance shall the  
8 department of agriculture certify a total amount of credits  
9 exceeding \$600,000 per taxable year. To comply with this  
10 restriction, the department of agriculture shall certify credits  
11 on a first come, first served basis.

12 The department of taxation shall not allow the aggregate  
13 amount of credits claimed to exceed \$600,000 per taxable year.

14 (j) For the purposes of this section:

15 "Eligible food product" means fresh farmed plant products  
16 for human consumption, including farmed plant products that are  
17 recognized as indigenous to native Hawaiian culture.

18 "Prepared food" means a value-added eligible food product  
19 that consists of no more than two ingredients, with the primary  
20 ingredient being a farmed plant product that is recognized as  
21 indigenous to native Hawaiian culture. "Prepared food" includes



1 but is not limited to poi and cooked kalo corms, kalo leaves, or  
2 breadfruit.

3 "Qualified small farm" means:

4 (1) An operation with a gross cash farm income of \$250,000  
5 or less; and

6 (2) A farm business that has a valid employer  
7 identification number and general excise tax license  
8 and is located in the State."

9 SECTION 3. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$ or so  
11 much thereof as may be necessary for fiscal year 2023-2024 and  
12 the same sum or so much thereof as may be necessary for fiscal  
13 year 2024-2025 for the administration of the certification  
14 process for the small farm food donation tax credit.

15 The sums appropriated shall be expended by the department  
16 of agriculture for the purposes of this Act.

17 SECTION 4. New statutory material is underscored.

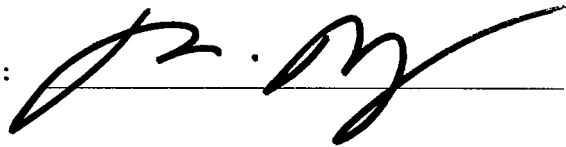
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1 SECTION 5. This Act shall take effect on July 1, 2023, and  
2 shall:

- 3 (1) Apply to taxable years beginning after December 31,  
4 2022; and  
5 (2) Be repealed on June 30, 2026.  
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INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. M.", written over a horizontal line.

JAN 20 2023





# H.B. NO. 619

**Report Title:**

Qualified Small Farms; Donations; Tax Credit; Appropriation

**Description:**

Establishes an income tax credit for qualified small farms with gross sales of \$250,000 or less that donate eligible food products or prepared food to food banks or food pantries. Appropriates funds. Sunsets 6/30/2026.

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

