

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0704.01 Esther van Mourik x4215

HOUSE BILL 14-1119

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HOUSE SPONSORSHIP

McLachlan, Dore

SENATE SPONSORSHIP

Hodge and Roberts,

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House Committees

Agriculture, Livestock, & Natural Resources  
Finance

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING AN INCOME TAX CREDIT FOR THE DONATION OF FOOD TO  
102 A HUNGER-RELIEF CHARITABLE ORGANIZATION.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)*

The bill creates an income tax credit for taxpayers who make food contributions to a hunger-relief charitable organization in an amount equal to either twenty-five percent, but not to exceed a maximum dollar amount, of the wholesale market price or twenty-five percent, but not to exceed a maximum dollar amount, of the most recent sale price of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

food contributions for tax years commencing on or after January 1, 2014, but before January 1, 2019.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 39-22-536 as  
3 follows:

4 **39-22-536. Credit for food contributed to hunger-relief**  
5 **charitable organizations - definitions - repeal.** (1) AS USED IN THIS  
6 SECTION:

7 (a) "FOOD BANK" MEANS A CHARITABLE ORGANIZATION EXEMPT  
8 FROM FEDERAL INCOME TAXATION UNDER THE PROVISIONS OF THE  
9 INTERNAL REVENUE CODE THAT ANNUALLY DISTRIBUTES OVER TEN  
10 MILLION POUNDS OF FOOD AND NONFOOD ESSENTIALS TO HUNGER-RELIEF  
11 PROGRAMS.

12 (b) "FOOD CONTRIBUTION" MEANS A CONTRIBUTION BY A  
13 TAXPAYER OF FOOD USABLE FOR HUMAN BEINGS, SUCH AS LIVESTOCK,  
14 EGGS, MILK, OR AN AGRICULTURAL CROP, INCLUDING BUT NOT LIMITED TO  
15 GRAINS, FRUITS, AND VEGETABLES.

16 (c) "HUNGER-RELIEF CHARITABLE ORGANIZATION" MEANS A  
17 CHARITABLE ORGANIZATION EXEMPT FROM FEDERAL INCOME TAXATION  
18 UNDER THE PROVISIONS OF THE INTERNAL REVENUE CODE THAT USES FOOD  
19 CONTRIBUTIONS FOR HUNGER-RELIEF IN ITS COMMUNITY.

20 (d) "MOST RECENT SALE PRICE" MEANS AN AMOUNT EQUAL TO THE  
21 PRICE THAT A TAXPAYER WOULD HAVE RECEIVED FOR THE FOOD  
22 CONTRIBUTION, DETERMINED AS IF THE FOOD CONTRIBUTION HAD BEEN  
23 SOLD ON THE DATE OF THE MOST RECENT SALE OF SUCH FOOD AND AT THE  
24 SAME PRICE PER UNIT AS SUCH FOOD THAT WAS SOLD ON THAT DATE.

25 (e) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC

1 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS  
2 ARTICLE WHO FILES A SCHEDULE F WITH THEIR FEDERAL INCOME TAX  
3 RETURN.

4 (f) "WHOLESALE MARKET PRICE" MEANS THE AVERAGE  
5 WHOLESALE MARKET PRICE FOR THE FOOD CONTRIBUTION IN THE NEAREST  
6 REGIONAL MARKET DURING THE MONTH IN WHICH THE CONTRIBUTION IS  
7 MADE, DETERMINED AS IF THE FOOD CONTRIBUTION WERE MARKETABLE.

8 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,  
9 FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014,  
10 BUT BEFORE JANUARY 1, 2019, A TAXPAYER WHO MAKES A FOOD  
11 CONTRIBUTION DURING THE TAX YEAR TO A HUNGER-RELIEF CHARITABLE  
12 ORGANIZATION AND RECEIVES A CREDIT CERTIFICATE AS DESCRIBED IN  
13 PARAGRAPH (b) OF THIS SUBSECTION (2) IS ALLOWED A CREDIT AGAINST  
14 THE INCOME TAXES IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO  
15 EITHER TWENTY-FIVE PERCENT, NOT TO EXCEED FIVE THOUSAND DOLLARS,  
16 OF THE WHOLESALE MARKET PRICE OR TWENTY-FIVE PERCENT, NOT TO  
17 EXCEED FIVE THOUSAND DOLLARS, OF THE MOST RECENT SALE PRICE OF  
18 THE FOOD CONTRIBUTION.

19 (b) (I) A FOOD BANK SHALL ISSUE A CREDIT CERTIFICATE TO THE  
20 TAXPAYER THAT:

21 (A) INDICATES THE FOOD CONTRIBUTION WAS ACCEPTED BY A  
22 HUNGER-RELIEF CHARITABLE ORGANIZATION, AND SETS FORTH THE NAME  
23 OF THE HUNGER-RELIEF CHARITABLE ORGANIZATION;

24 (B) CERTIFIES THAT THE USE OF THE FOOD CONTRIBUTION IS  
25 RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR THE  
26 HUNGER-RELIEF CHARITABLE ORGANIZATION'S TAX EXEMPT STATUS AND  
27 THAT THE FOOD CONTRIBUTION WILL NOT BE TRANSFERRED BY THE

1 HUNGER-RELIEF CHARITABLE ORGANIZATION IN EXCHANGE FOR MONEY,  
2 OTHER PROPERTY, OR SERVICES;

3 (C) SETS FORTH THE QUANTITY OF THE FOOD CONTRIBUTION; AND

4 (D) DETERMINES EITHER THE WHOLESALE MARKET PRICE OR  
5 RECENT SALE PRICE OF THE FOOD CONTRIBUTION.

6 (II) THE TAXPAYER SHALL INCLUDE THE CREDIT CERTIFICATE WITH  
7 THE INCOME TAX RETURN FILED WITH THE DEPARTMENT OF REVENUE.

8 (c) A HUNGER-RELIEF CHARITABLE ORGANIZATION HAS A RIGHT TO  
9 REFUSE A FOOD CONTRIBUTION FROM A TAXPAYER IF THE HUNGER-RELIEF  
10 CHARITABLE ORGANIZATION BELIEVES THAT THE FOOD CONTRIBUTION IS  
11 NOT USABLE FOR HUMAN BEINGS OR IF THE HUNGER-RELIEF CHARITABLE  
12 ORGANIZATION DOES NOT BELIEVE IT WILL BE ABLE TO USE THE FOOD  
13 CONTRIBUTION PRIOR TO THE FOOD SPOILING. IF A FOOD CONTRIBUTION IS  
14 REFUSED, A CREDIT CERTIFICATE DESCRIBED IN PARAGRAPH (b) OF THIS  
15 SUBSECTION (2) MAY NOT BE ISSUED BY A FOOD BANK.

16 (3) IF THE CREDIT EXCEEDS THE AMOUNT OF INCOME TAX DUE ON  
17 THE INCOME OF THE TAXPAYER FOR THE TAX YEAR DURING WHICH THE  
18 CONTRIBUTION WAS MADE, THE AMOUNT OF THE TAX CREDIT NOT USED AS  
19 AN OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR MAY NOT  
20 BE ALLOWED AS A REFUND, BUT MAY BE CARRIED FORWARD AND APPLIED  
21 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME  
22 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE  
23 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

24 (4) A TAXPAYER MAY NOT CLAIM THE CREDIT ALLOWED IN THIS  
25 SECTION IF THE TAXPAYER CLAIMS A DEDUCTION FOR CHARITABLE  
26 CONTRIBUTIONS AS ALLOWED IN SECTION 39-22-104(4)(m) FOR THE FOOD  
27 CONTRIBUTION TO THE HUNGER-RELIEF CHARITABLE ORGANIZATION.

1 (5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2024.

2 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **amend**

3 (4) (m) (I); and **add** (3) (j) and (4) (m) (VII) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**  
5 **trusts - single rate - definitions - repeal.** (3) There shall be added to the  
6 federal taxable income:

7 (j) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY  
8 1, 2014, BUT BEFORE JANUARY 1, 2019, AN AMOUNT EQUAL TO THE  
9 CHARITABLE CONTRIBUTION DEDUCTION ALLOWED BY SECTION 170 OF THE  
10 INTERNAL REVENUE CODE TO THE EXTENT SUCH DEDUCTION INCLUDES A  
11 FOOD CONTRIBUTION DURING THE TAX YEAR TO A HUNGER-RELIEF  
12 CHARITABLE ORGANIZATION FOR WHICH AN INCOME TAX CREDIT IS  
13 CLAIMED PURSUANT TO SECTION 39-22-536.

14 (4) There shall be subtracted from federal taxable income:

15 (m) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (VII) OF THIS  
16 PARAGRAPH (m), for any income tax year commencing on or after January  
17 1, 2001, for any individual who claims the basic standard deduction  
18 allowed under section 63 (c) (2) of the internal revenue code on the  
19 individual's federal return and, therefore, cannot claim an itemized  
20 deduction for charitable contributions pursuant to section 170 of the  
21 internal revenue code, an amount equal to the amount of any deduction  
22 based upon the aggregate amount of charitable contributions in excess of  
23 five hundred dollars that the individual could have claimed pursuant to  
24 section 170 of the internal revenue code if the individual had not claimed  
25 the basic standard deduction.

26 (VII) ANY INDIVIDUAL WHO CLAIMS AN INCOME TAX CREDIT  
27 ALLOWED IN SECTION 39-22-536 MAY NOT CLAIM THE DEDUCTION SET

1 FORTH IN THIS PARAGRAPH (m).

2           **SECTION 3. Safety clause.** The general assembly hereby finds,  
3 determines, and declares that this act is necessary for the immediate  
4 preservation of the public peace, health, and safety.