

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 14-0704.01 Esther van Mourik x4215

HOUSE BILL 14-1119

HOUSE SPONSORSHIP

McLachlan, Dore

SENATE SPONSORSHIP

Hodge and Roberts,

House Committees

Agriculture, Livestock, & Natural Resources
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

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

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/billsummaries>.)

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.

SENATE
Amended 2nd Reading
April 29, 2014

HOUSE
3rd Reading Unamended
April 9, 2014

HOUSE
Amended 2nd Reading
April 8, 2014

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

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Colorado's major food banks are some of the most efficient
5 and effective organizations in the state and distribute food to nearly two
6 thousand nonprofit agencies statewide. In turn, those major food banks
7 provide meals and services to people in need by way of diverse agencies
8 such as food pantries, day care centers, battered women's shelters, soup
9 kitchens, residential treatment centers, and senior and youth programs.
10 Major food banks serve all ages and segments of our community.

11 (b) Colorado's food banks are experiencing historic demand.
12 Much of this demand has come from families and individuals who have
13 been forced to use this safety net for the first time, including victims of
14 Colorado's recent wild fire and flood disasters.

15 (c) Food banks from across Colorado have had extreme challenges
16 keeping their shelves stocked and have often been unable to provide the
17 basic necessities to those in need, particularly with respect to fresh
18 produce;

19 (d) According to a 2013 census bureau survey, almost fourteen
20 percent of the state's population, or almost seven hundred thousand
21 Coloradans, lived in poverty during 2012. This includes eighteen percent
22 of all children under the age of eighteen. More than eight hundred forty
23 thousand Coloradans, or slightly more than sixteen percent of the state's
24 population, faced a time when there was not enough money to buy food
25 for themselves or their family in 2012.

1 (e) It is in the interest of the state to develop and support programs
2 that promote increased access to healthy food and increased consumption
3 of Colorado-grown products. Such increased access will improve child
4 and adult nutrition, promote a strong and healthy workforce, and help
5 address the obesity problems facing virtually every demographic in the
6 state.

7 (f) Colorado is home to some of the most productive farmlands
8 and hardest working farmers in the world. These farms and farming
9 families are critical to providing a healthy food supply and ensuring a
10 natural resource for Colorado's future generations.

11 (g) Colorado's fruit and vegetable growers and Colorado ranchers
12 want to do their part in helping Coloradans in need by helping them gain
13 more access to fresh, healthy food;

14 (h) Many of the state's farmers and ranchers would benefit from
15 a modest tax credit that would make it easier for them to donate more of
16 their fresh produce and incentivize more local growers to make the
17 financial and labor investment to donate their crops or livestock to
18 emergency food providers; and

19 (i) It is rare for Colorado's food banks to offer varying products
20 to the families they serve. In many neighboring states, similar tax credits
21 have helped food banks procure more diverse product donations.

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

24 **39-22-536. Credit for food contributed to hunger-relief**
25 **charitable organizations - definitions - repeal.** (1) AS USED IN THIS
26 SECTION:

27 (a) "FOOD BANK" MEANS A CHARITABLE ORGANIZATION EXEMPT

1 FROM FEDERAL INCOME TAXATION UNDER THE PROVISIONS OF THE
2 INTERNAL REVENUE CODE THAT ANNUALLY DISTRIBUTES OVER TEN
3 MILLION POUNDS OF FOOD AND NONFOOD ESSENTIALS TO HUNGER-RELIEF
4 PROGRAMS.

5 (b) "FOOD CONTRIBUTION" MEANS A CONTRIBUTION BY A
6 TAXPAYER OF FOOD USABLE FOR HUMAN BEINGS, SUCH AS LIVESTOCK, BIG
7 GAME AS DEFINED IN SECTION 33-1-102 (2), C.R.S., THAT IS PROCESSED AT
8 A PROCESSING FACILITY CERTIFIED BY THE UNITED STATES DEPARTMENT
9 OF AGRICULTURE, EGGS, MILK, OR AN AGRICULTURAL CROP, INCLUDING
10 BUT NOT LIMITED TO GRAINS, FRUITS, AND VEGETABLES.

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

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

20 (e) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC
21 OR FOREIGN CORPORATION SUBJECT TO THE PROVISIONS OF PART 3 OF THIS
22 ARTICLE WHO FILES A SCHEDULE F WITH THEIR FEDERAL INCOME TAX
23 RETURN.

24 (f) "WHOLESALE MARKET PRICE" MEANS THE AVERAGE
25 WHOLESALE MARKET PRICE FOR THE FOOD CONTRIBUTION IN THE NEAREST
26 REGIONAL MARKET DURING THE MONTH IN WHICH THE CONTRIBUTION IS
27 MADE, DETERMINED AS IF THE FOOD CONTRIBUTION WERE MARKETABLE.

1 (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION,
2 FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2015,
3 BUT BEFORE JANUARY 1, 2020, A TAXPAYER WHO MAKES A FOOD
4 CONTRIBUTION DURING THE TAX YEAR TO A HUNGER-RELIEF CHARITABLE
5 ORGANIZATION AND RECEIVES A CREDIT CERTIFICATE AS DESCRIBED IN
6 PARAGRAPH (b) OF THIS SUBSECTION (2) IS ALLOWED A CREDIT AGAINST
7 THE INCOME TAXES IMPOSED BY THIS ARTICLE IN AN AMOUNT EQUAL TO
8 EITHER TWENTY-FIVE PERCENT, NOT TO EXCEED FIVE THOUSAND DOLLARS,
9 OF THE WHOLESALE MARKET PRICE OR TWENTY-FIVE PERCENT, NOT TO
10 EXCEED FIVE THOUSAND DOLLARS, OF THE MOST RECENT SALE PRICE OF
11 THE FOOD CONTRIBUTION.

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

14 (A) INDICATES THE FOOD CONTRIBUTION WAS ACCEPTED BY A
15 HUNGER-RELIEF CHARITABLE ORGANIZATION, AND SETS FORTH THE NAME
16 OF THE HUNGER-RELIEF CHARITABLE ORGANIZATION;

17 (B) CERTIFIES THAT THE USE OF THE FOOD CONTRIBUTION IS
18 RELATED TO THE PURPOSE OR FUNCTION CONSTITUTING THE BASIS FOR THE
19 HUNGER-RELIEF CHARITABLE ORGANIZATION'S TAX EXEMPT STATUS AND
20 THAT THE FOOD CONTRIBUTION WILL NOT BE TRANSFERRED BY THE
21 HUNGER-RELIEF CHARITABLE ORGANIZATION IN EXCHANGE FOR MONEY,
22 OTHER PROPERTY, OR SERVICES;

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

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

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

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

9 (3) IF THE CREDIT EXCEEDS THE AMOUNT OF INCOME TAX DUE ON
10 THE INCOME OF THE TAXPAYER FOR THE TAX YEAR DURING WHICH THE
11 CONTRIBUTION WAS MADE, THE AMOUNT OF THE TAX CREDIT NOT USED AS
12 AN OFFSET AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR MAY NOT
13 BE ALLOWED AS A REFUND, BUT MAY BE CARRIED FORWARD AND APPLIED
14 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
15 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE
16 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

17 (4) (a) A TAXPAYER MAY NOT CLAIM THE CREDIT ALLOWED IN THIS
18 SECTION IF THE TAXPAYER CLAIMS A DEDUCTION FOR CHARITABLE
19 CONTRIBUTIONS AS ALLOWED IN SECTION 39-22-104 (4) (m) FOR THE FOOD
20 CONTRIBUTION TO THE HUNGER-RELIEF CHARITABLE ORGANIZATION.

21 (b) A TAXPAYER MAY NOT CLAIM THE CREDIT ALLOWED IN THIS
22 SECTION IF THE TAXPAYER CLAIMS THE CORPORATE INCOME TAX CREDIT
23 FOR CROP OR LIVESTOCK CONTRIBUTIONS ALLOWED IN SECTION 39-22-301
24 (3) FOR THE FOOD CONTRIBUTION TO THE HUNGER-RELIEF CHARITABLE
25 ORGANIZATION.

26 (5) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2025.

27 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **amend**

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

2 **39-22-104. Income tax imposed on individuals, estates, and**
3 **trusts - single rate - definitions - repeal.** (3) There shall be added to the
4 federal taxable income:

5 (j) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
6 1, 2015, BUT BEFORE JANUARY 1, 2020, AN AMOUNT EQUAL TO THE
7 CHARITABLE CONTRIBUTION DEDUCTION ALLOWED BY SECTION 170 OF THE
8 INTERNAL REVENUE CODE TO THE EXTENT SUCH DEDUCTION INCLUDES A
9 FOOD CONTRIBUTION DURING THE TAX YEAR TO A HUNGER-RELIEF
10 CHARITABLE ORGANIZATION FOR WHICH AN INCOME TAX CREDIT IS
11 CLAIMED PURSUANT TO SECTION 39-22-536.

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

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

24 (VII) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
25 JANUARY 1, 2015, BUT BEFORE JANUARY 1, 2020, ANY INDIVIDUAL WHO
26 CLAIMS AN INCOME TAX CREDIT ALLOWED IN SECTION 39-22-536 MAY NOT
27 CLAIM THE DEDUCTION SET FORTH IN THIS PARAGRAPH (m) FOR THE FOOD

1 CONTRIBUTION TO THE HUNGER-RELIEF CHARITABLE ORGANIZATION.

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