HB14-1119

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 14-0704	**Date:**	January 29, 2014
Prime Sponsor(s):	Rep. McLachlan Sen. Hodge; Roberts	**Bill Status:**	House Agriculture
		Fiscal Analyst:	Greg Sobetski (303-866-4105)

SHORT TITLE: TAX CREDIT FOR DONATING FOOD TO CHARITABLE ORG

Fiscal Impact Summary*	**FY 2013-2014**	**FY 2014-2015**	**FY 2015-2016**
State Revenue	**($122,000)**	**($199,000)**	**($154,000)**
Revenue Change			
General Fund	($122,000)	($199,000)	($154,000)
State Expenditures	**$0**	**$23,411**	**$4,904**
General Fund	$0	$22,674	$4,134
Centrally Appropriated Costs**	$0	$737	$770
FTE Position Change	0	0.1	0.1
Appropriation Required: Department of Revenue - $22,674 (FY 2014-15)			

* *This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.*
** *These costs are not included in the bill's appropriation. See the State Expenditures section for more information.*

Summary of Legislation

The bill creates an income tax credit for individual and corporate taxpayers who donate food to hunger-relief charitable organizations. The credit in the bill is available to all taxpayers who, in the same year in which they claim the credit, also submit a federal Schedule F indicating profit or loss from farming.

The credit applies to food usable for consumption by human beings, including specifically livestock, eggs, milk, grains, fruits, and vegetables. The value of the credit is equal to 25 percent of either the wholesale market price or the most recent sale price of the contributed food. The value of the credit is capped at $5,000 per taxpayer each year. Any credit exceeding the claimant's tax liability may not be refunded but may be carried forward to a subsequent year, for up to five years.

In order to receive the credit, each taxpayer must include a credit certificate when filing the accompanying tax return. Credit certificates are to be issued by the recipient food banks and should:

- indicate that the food contribution was accepted;
- certify that the use of the food contribution is related to the function of the charitable organization constituting the basis for its tax-exempt status;
- specify the quantity of the contribution; and
- determine the wholesale market price or most recent sale price of the contribution.

A charitable organization is permitted to refuse a food contribution if it believes:

- the food is not fit for human consumption; or
- the charitable organization will not be able to use the food before it spoils.

The credit is available for tax years 2014 through 2018. Taxpayers may not claim the credit if they also subtract the value of their food donations from their state taxable income. Taxpayers who claim a standard deduction on their federal return are prohibited from claiming both the credit and the deduction for charitable contributions offered in current law.[1] Taxpayers who claim an itemized deduction and subtract the value of a food contribution from their federal taxable income are required to add back this deduction when calculating their state taxable income. Because changes to the definition of state taxable income cannot go into effect during the tax year in which they are made, this change will occur in tax year 2015.

Background

A tax credit for donations of crops and livestock was available to Colorado taxpayers for five years beginning in tax year 1982. During this period, the Department of Revenue tracked the total amount of tax credits claimed by individuals from year to year, but did not record the amount of credit claimed for crop or livestock contributions separately from other available credits. The credit sunset after tax year 1986 and did not affect state revenue after FY 1987-88. A corresponding tax credit for donations by C Corporations was established in 1987 and remains available today.[2] No C Corporations claimed this credit during either FY 2011-12 or FY 2012-13, the only two fiscal years for which data are available.

State Revenue

General Fund revenue will be reduced by $122,000 in FY 2013-14, $199,000 in FY 2014-15, and $154,000 in FY 2015-16. These estimates were derived from data on the number of food donations declared by taxpayers nationally, the number of Colorado taxpayers filing a Schedule F with their federal tax returns, and the experiences of states that have offered similar credits.

Assumptions. For the purposes of this fiscal note, the following is assumed:

- The number of Colorado taxpayers who donate food will be slightly more than 3,700, or approximately 1.7 percent of taxpayers claiming food donations nationally. This estimate is based on data retrieved from the Internal Revenue Service Statistics of Income program, which tracks the number of taxpayers who claim food donations on tax form 8283.[3]

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[1]Section 39-22-104 (4) (m), C.R.S.

[2]Section 39-22-301 (3), C.R.S., created in House Bill 87-1331.

[3]Statement of noncash charitable contributions.

- The number of taxpayers who claim the credit will equal about 3.3 percent of Colorado food donors, or just under 130 taxpayers annually. This estimate is based on the performance of Oregon's income tax credit for crop donations as reported by the Oregon Department of Revenue. It assumes that the proportion of Schedule F filers among food donors will exceed the proportion of Schedule F filers among all taxpayers.

- Approximately one quarter of the taxpayers claiming the credit in this bill will claim the maximum credit of $5,000. The mean credit received by claimants will be equal to approximately $1,900. The expected distribution is based on the distribution of crop donations in Oregon between 2006 and 2011, the $5,000 cap in the bill, and the expectation that the eligibility of livestock donations in this bill will cause the value of eligible donations to exceed the value of eligible donations in other states.

- All taxpayers who will claim the credit currently claim a federal income tax deduction equal to the full value of their food contribution. Because the bill requires taxpayers to reverse this deduction when computing their state taxable income, it is assumed that the loss of state revenue due to the credit will be decreased by an amount equal to the full value of eligible food contributions, multiplied by the state income tax rate. This adjustment begins after the change to the definition of state taxable income takes effect in tax year 2015.

State Expenditures

General Fund expenditures will increase by $23,411 and 0.1 FTE in FY 2014-15 and by $4,904 and 0.1 FTE in FY 2015-16. The Department of Revenue will incur a one-time programming cost of $18,540 in FY 2014-15 for the programming and testing of the new credit in the department's Colorado Integrated Tax Architecture (CITA) system. The department requires these expenditures in order to add the credit to the relevant tax forms and ensure its ability to process the credit when it is claimed. Additionally, the Department of Revenue will employ 0.1 additional FTE to process phone calls and information requests regarding the new credit. Table 1 on page 4 shows anticipated state expenditures under House Bill 14-1119.

Table 1. Expenditures Under HB14-1119

Cost Components	**FY 2014-15**	**FY 2015-16**
Personal Services	$4,134	$4,134
FTE - Tax Examiner I	0.1	0.1
Operating Expenses and Capital Outlay Costs	$18,540	$0
Centrally Appropriated Costs*	$737	$770
TOTAL	**$23,411**	**$4,904**

** Centrally appropriated costs are not included in the bill's appropriation.*

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB14-1119*		
Cost Components	**FY 2014-15**	**FY 2015-16**
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$450	$450
Supplemental Employee Retirement Payments	$287	$320
TOTAL	**$737**	**$770**

**More information is available at: http://colorado.gov/fiscalnotes*

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The income tax credit is effective beginning in tax year 2014. The requirement that taxable income include the value of affected donations is assumed to be effective tax year 2015.

State Appropriations

For FY 2014-15, the Department of Revenue requires a General Fund appropriation of $22,674 and 0.1 FTE.

State and Local Government Contacts

Agriculture Personnel and Administration Revenue