

[First Reprint]

**SENATE, No. 2200**

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**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex and Hudson)**

**Senator NILSA I. CRUZ-PEREZ**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Senators Singleton, Turner, Space and Zwicker**

**SYNOPSIS**

Creates pilot program to provide corporation business tax and gross income tax credits for value of certain fruit and vegetable donations made by commercial farm operators.

**CURRENT VERSION OF TEXT**

As reported by the Senate Economic Growth Committee on June 10, 2024, with amendments.



**(Sponsorship Updated As Of: 6/13/2024)**

1 AN ACT <sup>1</sup>**[providing]** creating a pilot program to provide<sup>1</sup> credits  
2 against the corporation business tax and the gross income tax for  
3 the value of certain fruit and vegetable donations made by  
4 commercial farm operators <sup>1</sup>**[,]** and<sup>1</sup> supplementing P.L.1945,  
5 c.162 (C.54:10A-1 et seq.) and Title 54A of the New Jersey  
6 Statutes.

7  
8 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
9 *of New Jersey:*

10  
11 1. a. For <sup>1</sup>the first three<sup>1</sup> privilege periods beginning on or  
12 after January 1 <sup>1</sup>**[, 2024 but before January 1, 2029]** of the year  
13 next following the date of enactment of P.L. , c. (C. )  
14 (pending before the Legislature as this bill), as part of a pilot  
15 program<sup>1</sup>, a commercial farm operator that makes a donation of  
16 fruits or vegetables fit for human consumption to a charitable  
17 organization located in this State shall be allowed credit against the  
18 corporation business tax imposed pursuant to section 5 of P.L.1945,  
19 c.162 (C.54:10A-5), in an amount equal to <sup>1</sup>**[10]** 50<sup>1</sup> percent of the  
20 wholesale value of the fruits or vegetables that are donated to the  
21 charitable organization <sup>1</sup>, but not to exceed the value of \$5,000<sup>1</sup>  
22 during <sup>1</sup>**[the]** each<sup>1</sup> privilege period of donation.

23 b. In order to claim the credit allowed pursuant to this section,  
24 a commercial farm operator shall obtain a written statement from  
25 the charitable organization substantiating each donation of fruits or  
26 vegetables made during the privilege period for which the credit is  
27 allowed. At the time a donation is made, the commercial farm  
28 operator shall provide to the charitable organization the wholesale  
29 value of the donated fruits or vegetables and information  
30 identifying the location where the fruits or vegetables were grown.  
31 The charitable organization, upon receipt of the donated fruits or  
32 vegetables, shall issue to the commercial farm operator making the  
33 donation a written statement, signed and dated by an individual  
34 authorized to accept the donation on behalf of the charitable  
35 organization, that contains the variety, grade, and quantity of the  
36 donated fruits or vegetables, the name and address of the  
37 commercial farm operator making the donation, the name and  
38 address of the charitable organization, and, as provided by the  
39 commercial farm operator, the wholesale value of and the location  
40 where the donated fruits or vegetables were grown. When filing a  
41 return that includes a claim for the credit allowed pursuant to this  
42 section, the commercial farm operator shall include a copy of each  
43 written statement issued to the commercial farm operator by a

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEG committee amendments adopted June 10, 2024.

1 charitable organization during the privilege period for which the  
2 credit is allowed.

3 c. The order of priority of the application of the credit allowed  
4 pursuant to this section and any other credits allowed by law shall  
5 be as prescribed by the <sup>1</sup>**[director]** Director of the Division of  
6 Taxation<sup>1</sup>. The amount of the credit applied under this section  
7 against the corporation business tax liability of the taxpayer for a  
8 privilege period, together with any other credits allowed by law,  
9 shall not exceed 50 percent of the tax liability otherwise due and  
10 shall not reduce the tax liability to an amount less than the statutory  
11 minimum provided in subsection (e) of section 5 of P.L.1945, c.162  
12 (C.54:10A-5). The amount of the credit allowable under this  
13 section which cannot be used to reduce the taxpayer's corporation  
14 business tax liability for the privilege period due to the limitations  
15 of this section may be carried forward and applied to the earliest  
16 available use within the five privilege periods immediately  
17 following the privilege period for which the credit is allowed. The  
18 wholesale value of any donated fruits or vegetables that are  
19 included in the calculation of the credit allowed pursuant to this  
20 section shall not be allowed as an amount calculated or claimed  
21 pursuant to any other deduction or credit allowed under the  
22 corporation business tax.

23 d. <sup>1</sup>The aggregate value of tax credit amounts awarded  
24 pursuant to sections 1 and 2 of P.L. , c. (C. ) (pending  
25 before the Legislature as this bill) shall not exceed \$100,000 in any  
26 fiscal year.

27 e.<sup>1</sup> As used in this section:

28 "Charitable organization" includes any organization that is  
29 incorporated under the provisions of Title 15 or Title 16 of the  
30 Revised Statutes or Title 15A of the New Jersey Statutes <sup>1</sup>**[,]** <sup>1</sup><sub>;</sub> any  
31 organization that is exempt from taxation under section 501(c)(3) of  
32 the Internal Revenue Code, <sup>1</sup>26 U.S.C. s.501(c)(3); <sup>1</sup> any entity to  
33 which a charitable contribution as defined under subsection (c) of  
34 section 170 of the Internal Revenue Code <sup>1</sup>, 26 U.S.C. s.170(c), <sup>1</sup> is  
35 deductible under section 170 <sup>1</sup>**[,]** <sup>1</sup><sub>;</sub> and any food bank as defined in  
36 section 2 of P.L.1982, c.178 (C.24:4A-2).

37 "Commercial farm" means "commercial farm" as that term is  
38 defined by section 3 of P.L.1983, c.31 (C.4:1C-3).

39 "Commercial farm operator" means the taxpayer primarily  
40 responsible for the on-site, day-to-day operation of a commercial  
41 farm, at which farm fruits or vegetables are planted, managed, and  
42 harvested for donation.

43 "Wholesale value" means:

44 the value calculated by using a quantity-weighted average  
45 wholesale sales price of the donated fruits or vegetables as  
46 determined based on the wholesale sales price paid for each  
47 wholesale sale of fruits or vegetables made by the commercial farm

1 operator during the calendar month of the commercial farm  
2 operator's donation that are the same variety and grade as the  
3 donated fruits or vegetables and the respective weight, volume, or  
4 other standard unit of measure of each wholesale sale; or

5 if no wholesale sales of fruits or vegetables that are the same  
6 variety and grade as the donated fruits and vegetables are made by  
7 the commercial farm operator during the calendar month of the  
8 commercial farm operator's donation, the wholesale value shall be  
9 equal to the overall average price paid for fruits or vegetables that  
10 are the same variety and grade as the donated fruits or vegetables at  
11 the nearest terminal market located the fewest miles from the  
12 commercial farm operator's commercial farm during the calendar  
13 month of the commercial farm operator's donation as determined  
14 using the Fruit and Vegetable <sup>1</sup>【Market News】<sup>1</sup> Custom Average  
15 Tool maintained by the United States Department of Agriculture's  
16 Agricultural Marketing Service, or another similar source of  
17 average price data as may be prescribed by the director.

18

19 2. a. For <sup>1</sup>the first three<sup>1</sup> taxable years beginning on or after  
20 January 1 <sup>1</sup>【2024 but before January 1, 2029】<sup>1</sup> of the year next  
21 following the date of enactment of P.L. , c. (C. ) (pending  
22 before the Legislature as this bill), as part of a pilot program<sup>1</sup>, a  
23 commercial farm operator that makes a donation of fruits or  
24 vegetables fit for human consumption to a charitable organization  
25 located in this State shall be allowed credit against the tax otherwise  
26 due under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1  
27 et seq., in an amount equal to <sup>1</sup>【10】<sup>1</sup> 50<sup>1</sup> percent of the wholesale  
28 value of the fruits or vegetables that are donated to the charitable  
29 organization <sup>1</sup>, but not to exceed the value of \$5,000<sup>1</sup> during <sup>1</sup>【the】  
30 each<sup>1</sup> taxable year of donation.

31 b. In order to claim the credit allowed pursuant to this section,  
32 a commercial farm operator shall obtain a written statement from  
33 the charitable organization substantiating each donation of fruits or  
34 vegetables made during the taxable year for which the credit is  
35 allowed. At the time a donation is made, the commercial farm  
36 operator shall provide to the charitable organization the wholesale  
37 value of the donated fruits or vegetables and information  
38 identifying the location where the fruits or vegetables were grown.  
39 The charitable organization, upon receipt of the donated fruits or  
40 vegetables, shall issue to the commercial farm operator making the  
41 donation a written statement, signed and dated by an individual  
42 authorized to accept the donation on behalf of the charitable  
43 organization, that contains the variety, grade, and quantity of the  
44 donated fruits or vegetables, the name and address of the  
45 commercial farm operator making the donation, the name and  
46 address of the charitable organization, and, as provided by the  
47 commercial farm operator, the wholesale value of and the location  
48 where the donated fruits or vegetables were grown. When filing a

1 return that includes a claim for the credit allowed pursuant to this  
2 section, the commercial farm operator shall include a copy of each  
3 written statement issued to the commercial farm operator by a  
4 charitable organization during the taxable year for which the credit  
5 is allowed.

6 c. (1) The order of priority of the application of the credit  
7 allowed pursuant to this section and any other credits allowed by  
8 law shall be as prescribed by the <sup>1</sup>**[director]** Director of the  
9 Division of Taxation<sup>1</sup>. The amount of the credit applied under this  
10 section against the gross income tax liability of the taxpayer for a  
11 taxable year, together with any other credits allowed by law, shall  
12 not exceed 50 percent of the tax liability otherwise due. The  
13 amount of the credit allowable under this section which cannot be  
14 used to reduce the taxpayer's gross income tax liability for the  
15 taxable year due to the limitations of this section may be carried  
16 forward and applied to the earliest available use within the five  
17 taxable years immediately following the taxable year for which the  
18 credit is allowed. The wholesale value of any donated fruits or  
19 vegetables that are included in the calculation of the credit allowed  
20 pursuant to this section shall not be allowed as an amount  
21 calculated or claimed pursuant to any other deduction or credit  
22 allowed under the gross income tax.

23 (2) A business entity classified as a partnership for federal  
24 income tax purposes shall not be allowed a credit directly under the  
25 gross income tax, but a taxpayer shall be allowed a credit in  
26 proportion to the taxpayer's distributive share of the business  
27 entity's donation of fruits or vegetables during the taxable year. A  
28 New Jersey S corporation shall not be allowed a credit directly  
29 under the gross income tax, but a taxpayer shareholder shall be  
30 allowed a credit in proportion to the taxpayer's distributive share of  
31 the New Jersey S corporation's donation of fruits or vegetables  
32 during the taxable year.

33 d. <sup>1</sup>The aggregate value of tax credit amounts awarded  
34 pursuant to sections 1 and 2 of P.L. , c. (C. ) (pending  
35 before the Legislature as this bill) shall not exceed \$100,000 in any  
36 fiscal year.

37 e.<sup>1</sup> As used in this section:

38 "Charitable organization" includes any organization that is  
39 incorporated under the provisions of Title 15 or Title 16 of the  
40 Revised Statutes or Title 15A of the New Jersey Statutes <sup>1</sup>**[.]**<sup>1</sup> any  
41 organization that is exempt from taxation under section 501(c)(3)  
42 of the Internal Revenue Code, <sup>1</sup>26 U.S.C. s.501(c)(3);<sup>1</sup> any entity to  
43 which a charitable contribution as defined under subsection (c) of  
44 section 170 of the Internal Revenue Code <sup>1</sup>, 26 U.S.C. s.170(c),<sup>1</sup> is  
45 deductible under section 170 <sup>1</sup>**[.]**<sup>1</sup> and any food bank as defined in  
46 section 2 of P.L.1982, c.178 (C.24:4A-2).

1 “Commercial farm” means “commercial farm” as that term is  
2 defined by section 3 of P.L.1983, c.31 (C.4:1C-3).

3 “Commercial farm operator” means the taxpayer primarily  
4 responsible for the on-site, day-to-day operation of a commercial  
5 farm, at which farm fruits or vegetables are planted, managed, and  
6 harvested for donation.

7 “Wholesale value” means:

8 the value calculated by using quantity-weighted average  
9 wholesale sales price of the donated fruits or vegetables as  
10 determined based on the wholesale sales price paid for each  
11 wholesale sale of fruits or vegetables made by the commercial farm  
12 operator during the calendar month of the commercial farm  
13 operator’s donation that are the same variety and grade as the  
14 donated fruits or vegetables and the respective weight, volume, or  
15 other standard unit of measure of each wholesale sale; or

16 if no wholesale sales of fruits or vegetables that are the same  
17 variety and grade as the donated fruits and vegetables are made by  
18 the commercial farm operator during the calendar month of the  
19 commercial farm operator’s donation, the wholesale value shall be  
20 equal to the overall average price paid for fruits or vegetables that  
21 are the same variety and grade as the donated fruits or vegetables at  
22 the nearest terminal market located the fewest miles from the  
23 commercial farm operator’s commercial farm during the calendar  
24 month of the commercial farm operator’s donation as determined  
25 using the Fruit and Vegetable <sup>1</sup>【Market News】<sup>1</sup> Custom Average  
26 Tool maintained by the United States Department of Agriculture’s  
27 Agricultural Marketing Service, or another similar source of  
28 average price data as may be prescribed by the director.

29

30 3. a. The Director of the Division of Taxation in the  
31 Department of the Treasury shall prepare an annual report regarding  
32 the utilization of the tax credits allowed pursuant to <sup>1</sup>【section】  
33 sections<sup>1</sup> 1 and 2 of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill), on or before December 1 <sup>1</sup>【, 2025】 of the  
35 year next following the first year in which the utilization of tax  
36 credits is permitted pursuant to P.L. , c. (C. ) (pending  
37 before the Legislature as this bill)<sup>1</sup> and on or before that date each  
38 year thereafter for each of the <sup>1</sup>【four】 two<sup>1</sup> immediately following  
39 calendar years.

40 b. The annual report shall be separate and in addition to the  
41 report required to be prepared pursuant to section 1 of P.L.2009,  
42 c.189 (C.52:27B-20a), and shall, at a minimum, describe the  
43 following for tax periods that begin in the calendar year  
44 immediately preceding the calendar year in which the report is  
45 required to be prepared:

46 (1) the number of taxpayers claiming the tax credits allowed  
47 pursuant to <sup>1</sup>【section】 sections<sup>1</sup> 1 and 2 of P.L. , c. (C. )  
48 (pending before the Legislature as this bill);

- 1 (2) the total dollar value of tax credits claimed by commercial
- 2 farm operators;
- 3 (3) the wholesale value of all fruits and vegetables donated to
- 4 charitable organizations;
- 5 (4) the counties in which the greatest percentage of donated
- 6 fruits or vegetables were grown by commercial farm operators;
- 7 (5) the months in which the greatest percentage of fruits and
- 8 vegetables were donated to charitable organizations; and
- 9 (6) the charitable organizations benefiting from the donated
- 10 fruits and vegetables.

11 c. The annual report shall be submitted to the Governor and the  
12 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
13 19.1), and shall be made available to the public in electronic form  
14 through a link prominently displayed on the official Internet  
15 website of the Division of Taxation in the Department of the  
16 Treasury, within 10 calendar days of the date the report is required  
17 to be prepared.

18 d. If the Director of the Division of Taxation in the Department  
19 of the Treasury fails to prepare the annual report on or before the  
20 dates required under subsection a. of this section, the director shall  
21 testify before the Senate Economic Growth Committee or the  
22 Assembly <sup>1</sup>**【Agriculture and Food Security】** Commerce, Economic  
23 Development and Agriculture<sup>1</sup> Committee, or their successor  
24 committees, or any other legislative committee determined by the  
25 President of the Senate or the Speaker of the General Assembly. At  
26 a minimum, the director shall explain why the annual report was not  
27 prepared before the required date of completion and describe all  
28 actions taken by the division to prepare the annual report.

29 <sup>1</sup>e. In addition to the information required pursuant to  
30 subsection b. of this section, the Director of the Division of  
31 Taxation in the Department of the Treasury shall include  
32 recommendations within the final annual report required pursuant to  
33 this section on whether:

34 (1) the allowance of tax credits pursuant to sections 1 and 2 of  
35 P.L. , c. (C. ) (pending before the Legislature as this bill)  
36 should be continued; and

37 (2) the percentage of the wholesale value of the fruits or  
38 vegetables donated to a charitable organization used to determine  
39 amounts of tax credits should be increased, and if so to what  
40 percentage, in the event that the allowance of tax credits pursuant to  
41 P.L. , c. (C. ) (pending before the Legislature as this bill) is  
42 continued.<sup>1</sup>

43  
44

4. This act shall take effect immediately.