

SENATE, No. 2215

STATE OF NEW JERSEY

222nd LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2026 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 with technical review.



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

6

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

9

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

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

39 c. During each month of the pilot program, the Secretary of
40 Agriculture shall establish and publish the wholesale value of fruits
41 or vegetables for purposes of calculating the tax credit allowed
42 pursuant to this section. The Secretary of Agriculture shall prepare
43 a written statement form for use by individuals authorized to accept
44 donations on behalf of the charitable organization.

45 d. In order to receive the tax credit allowed pursuant to this
46 section, a commercial farm operator shall submit to the Department
47 of Agriculture the written statement received from a charitable
48 organization pursuant to subsection b. of this section. Upon

1 approval of the written statement, the Department of Agriculture
2 shall notify the Director of the Division of Taxation as to the
3 eligibility of the commercial farm operator for a tax credit in the
4 amount approved by the department.

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

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

29 g. As used in this section:

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

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

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

45 "Wholesale value" means:

46 the value calculated by using a quantity-weighted average
47 wholesale sales price of the donated fruits or vegetables as
48 determined based on the wholesale sales price paid for each

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

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

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

1 c. During each month of the pilot program, the Secretary of
2 Agriculture shall establish and publish the wholesale value of fruits
3 or vegetables for purposes of calculating the tax credit allowed
4 pursuant to this section. The Secretary of Agriculture shall prepare
5 a written statement form for use by individuals authorized to accept
6 donations on behalf of the charitable organization.

7 d. In order to claim the tax credit allowed pursuant to this
8 section, a commercial farm operator shall submit to the Department
9 of Agriculture the written statement received from a charitable
10 organization pursuant to subsection b. of this section. Upon
11 approval of the written statement, the Department of Agriculture
12 shall notify the Director of the Division of Taxation as to the
13 eligibility of the commercial farm operator for a tax credit in the
14 amount approved by the department.

15 e. (1) The order of priority of the application of the credit
16 allowed pursuant to this section and any other credits allowed by
17 law shall be as prescribed by the Director of the Division of
18 Taxation. The amount of the credit applied under this section
19 against the gross income tax liability of the taxpayer for a taxable
20 year, together with any other credits allowed by law, shall not
21 exceed 50 percent of the tax liability otherwise due. The amount of
22 the credit allowable under this section which cannot be used to
23 reduce the taxpayer's gross income tax liability for the taxable year
24 due to the limitations of this section may be carried forward and
25 applied to the earliest available use within the five taxable years
26 immediately following the taxable year for which the credit is
27 allowed. The wholesale value of any donated fruits or vegetables
28 that are included in the calculation of the credit allowed pursuant to
29 this section shall not be allowed as an amount calculated or claimed
30 pursuant to any other deduction or credit allowed under the gross
31 income tax.

32 (2) A business entity classified as a partnership for federal
33 income tax purposes shall not be allowed a credit directly under the
34 gross income tax, but a taxpayer shall be allowed a credit in
35 proportion to the taxpayer's distributive share of the business
36 entity's donation of fruits or vegetables during the taxable year. A
37 New Jersey S corporation shall not be allowed a credit directly
38 under the gross income tax, but a taxpayer shareholder shall be
39 allowed a credit in proportion to the taxpayer's distributive share of
40 the New Jersey S corporation's donation of fruits or vegetables
41 during the taxable year.

42 f. The aggregate value of tax credit amounts awarded pursuant
43 to sections 1 and 2 of P.L. , c. (C. and C.) (pending
44 before the Legislature as this bill) shall not exceed \$100,000 in any
45 fiscal year.

46 g. As used in this section:

47 "Charitable organization" includes any organization that is
48 incorporated under the provisions of Title 15 or Title 16 of the

1 Revised Statutes or Title 15A of the New Jersey Statutes; any
2 organization that is exempt from taxation under section 501(c)(3) of
3 the Internal Revenue Code, 26 U.S.C. s.501(c)(3); any entity to
4 which a charitable contribution as defined under subsection (c) of
5 section 170 of the Internal Revenue Code, 26 U.S.C. s.170(c), is
6 deductible under section 170; and any food bank as defined in
7 section 2 of P.L.1982, c.178 (C.24:4A-2).

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

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

14 “Wholesale value” means:

15 the value calculated by using quantity-weighted average
16 wholesale sales price of the donated fruits or vegetables as
17 determined based on the wholesale sales price paid for each
18 wholesale sale of fruits or vegetables made by the commercial farm
19 operator during the calendar month of the commercial farm
20 operator’s donation that are the same variety and grade as the
21 donated fruits or vegetables and the respective weight, volume, or
22 other standard unit of measure of each wholesale sale; or

23 if no wholesale sales of fruits or vegetables that are the same
24 variety and grade as the donated fruits and vegetables are made by
25 the commercial farm operator during the calendar month of the
26 commercial farm operator’s donation, the wholesale value shall be
27 equal to the overall average price paid for fruits or vegetables that
28 are the same variety and grade as the donated fruits or vegetables at
29 the nearest terminal market located the fewest miles from the
30 commercial farm operator’s commercial farm during the calendar
31 month of the commercial farm operator’s donation as determined
32 using the Fruit and Vegetable Custom Average Tool maintained by
33 the United States Department of Agriculture’s Agricultural
34 Marketing Service, or another similar source of average price data
35 as may be prescribed by the director.

36
37 3. a. The Secretary of Agriculture, in consultation with the
38 Director of the Division of Taxation in the Department of the
39 Treasury, shall prepare an annual report regarding the utilization of
40 the tax credits allowed pursuant to sections 1 and 2 of P.L. , c.
41 (C. and C.) (pending before the Legislature as this bill), on
42 or before December 1 of the year next following the first year in
43 which the utilization of tax credits is permitted pursuant to P.L. ,
44 c. (C.) (pending before the Legislature as this bill) and on or
45 before that date each year thereafter for each of the two
46 immediately following calendar years.

47 b. The annual report shall be separate and in addition to the
48 report required to be prepared pursuant to section 1 of P.L.2009,

1 c.189 (C.52:27B-20a), and shall, at a minimum, describe the
2 following for tax periods that begin in the calendar year
3 immediately preceding the calendar year in which the report is
4 required to be prepared:

5 (1) the number of taxpayers claiming the tax credits allowed
6 pursuant to sections 1 and 2 of P.L. , c. (C. and C.)
7 (pending before the Legislature as this bill);

8 (2) the total dollar value of tax credits claimed by commercial
9 farm operators;

10 (3) the wholesale value of all fruits and vegetables donated to
11 charitable organizations;

12 (4) the counties in which the greatest percentage of donated
13 fruits or vegetables were grown by commercial farm operators;

14 (5) the months in which the greatest percentage of fruits and
15 vegetables were donated to charitable organizations; and

16 (6) the charitable organizations benefiting from the donated
17 fruits and vegetables.

18 c. The annual report shall be submitted to the Governor and the
19 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
20 19.1), and shall be made available to the public in electronic form
21 through a link prominently displayed on the official Internet
22 website of the Division of Taxation in the Department of the
23 Treasury and the Department of Agriculture, within 10 calendar
24 days of the date the report is required to be prepared.

25 d. In addition to the information required pursuant to
26 subsection b. of this section, the Secretary of Agriculture shall
27 include recommendations within the final annual report required
28 pursuant to this section on whether:

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

32 (2) the percentage of the wholesale value of the fruits or
33 vegetables donated to a charitable organization used to determine
34 amounts of tax credits should be increased, and if so to what
35 percentage, in the event that the allowance of tax credits pursuant to
36 P.L. , c. (C.) (pending before the Legislature as this bill) is
37 continued.

38
39 4. This act shall take effect immediately and apply to taxable
40 years and privilege periods beginning on and after January 1 of the
41 year next following the date of enactment.