

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0792.02 Alison Killen x4350

SENATE BILL 24-152

SENATE SPONSORSHIP

Simpson and Roberts, Bridges, Cutter, Fenberg, Gonzales, Kirkmeyer, Marchman, Pelton R., Priola, Winter F.

HOUSE SPONSORSHIP

McCormick,

Senate Committees

Agriculture & Natural Resources
Finance
Appropriations

House Committees

Agriculture, Water & Natural Resources
Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AN INCOME TAX CREDIT FOR QUALIFYING FOOD AND**
102 **BEVERAGE RETAILERS IN THE STATE THAT SOURCE INGREDIENTS**
103 **FROM LOCAL PRODUCERS PRACTICING REGENERATIVE**
104 **AGRICULTURE.**

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://leg.colorado.gov>.)

The bill creates a tax incentive program to be administered by the department of agriculture and the department of revenue to encourage local food and beverage retailers to purchase agricultural commodities

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
April 17, 2024

SENATE
Amended 2nd Reading
April 16, 2024

from local producers practicing regenerative agriculture. For income tax years commencing on or after January 1, 2024, but before January 1, 2029, qualifying retailers that purchase produce and animal products from qualifying local producers are allowed an income tax credit in an amount equal to 25% of the total amount paid for all such purchases by the qualifying retailer in the income tax year in accordance with the requirements and limitations set forth in **section 2** of the bill.

Section 3 makes a conforming amendment to allow the exchange between the department of agriculture and the department of revenue of otherwise confidential tax information pertinent to an income tax credit claim allowed pursuant to **section 2**.

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

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

4 (a) Conserving and enhancing Colorado's agricultural resources
5 is critical to maintaining and increasing the economic and environmental
6 sustainability and vitality of agriculture in this state;

7 (b) Colorado has a robust legacy of environmental stewardship led
8 by the state's farmers and ranchers;

9 (c) As part of their stewardship, many local farmers and ranchers
10 have begun practicing regenerative agriculture, which is a
11 conservation-based approach to farming and ranching using a variety of
12 sustainable agriculture techniques;

13 (d) The benefits of regenerative agriculture include strengthening
14 the health and vitality of farm soil, facilitating topsoil regeneration,
15 increasing biodiversity, improving the water cycle, and increasing
16 resilience to drought and other climate changes; and

17 (e) To encourage and expand these beneficial practices, the
18 Colorado department of agriculture provides technical assistance,
19 nonregulatory programs, and financial incentives, including grants, to

1 local farmers and ranchers practicing regenerative agriculture, including
2 through the department's agricultural drought and climate resilience office
3 and the Colorado soil health program.

4 (2) The general assembly further finds and declares that it is a
5 matter of statewide economic and environmental concern to build on
6 these past successes and facilitate growing markets for local farmers and
7 ranchers practicing regenerative agriculture by offering a limited tax
8 incentive in the form of an income tax credit to qualifying food and
9 beverage retailers that purchase produce or animal products from
10 qualifying local producers practicing regenerative agriculture.

11 **SECTION 2.** In Colorado Revised Statutes, **add** 39-22-560 as
12 follows:

13 **39-22-560. Tax credit for regenerative agriculture product**
14 **purchases - tax preference performance statement - rules - definitions**
15 **- repeal.** (1) IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH
16 REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE
17 A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY
18 LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND
19 DECLARES THAT:

20 (a) THE GENERAL LEGISLATIVE PURPOSE OF THE INCOME TAX
21 CREDIT ALLOWED BY THIS SECTION IS TO INDUCE CERTAIN DESIGNATED
22 BEHAVIOR BY TAXPAYERS;

23 (b) THE SPECIFIC LEGISLATIVE PURPOSE OF THE INCOME TAX
24 CREDIT ALLOWED BY THIS SECTION IS TO PROVIDE A FINANCIAL INCENTIVE
25 FOR QUALIFYING FOOD AND BEVERAGE RETAILERS TO PURCHASE PRODUCE
26 AND ANIMAL PRODUCTS FROM LOCAL PRODUCERS PRACTICING
27 REGENERATIVE AGRICULTURE; AND

1 (c) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
2 MEASURE THE EFFECTIVENESS OF THE INCOME TAX CREDIT ALLOWED IN
3 ACHIEVING THE PURPOSE SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION
4 BASED ON THE INFORMATION REQUIRED TO BE MAINTAINED BY AND
5 REPORTED TO THE STATE AUDITOR BY THE DEPARTMENT OF AGRICULTURE
6 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "ALCOHOLIC BEVERAGE DRINKING PLACES INDUSTRY" HAS THE
10 SAME MEANING AS SET FORTH IN SECTION 39-26-105 (1.3)(a)(I).

11 (b) "CATERING INDUSTRY" HAS THE SAME MEANING AS SET FORTH
12 IN SECTION 39-26-105 (1.3)(a)(I.3).

13 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

14 (d) "QUALIFYING LOCAL PRODUCER" MEANS A COLORADO-BASED
15 AGRICULTURAL PRODUCER PRACTICING REGENERATIVE AGRICULTURE.

16 (e) "QUALIFYING RETAILER" MEANS A RETAILER DOING BUSINESS
17 IN THE STATE THAT:

18 (I) IS SUBJECT TO TAX PURSUANT TO ARTICLE 22 OF TITLE 39; AND

19 (II) OPERATES IN THE ALCOHOLIC BEVERAGES DRINKING PLACES
20 INDUSTRY, THE CATERING INDUSTRY, OR THE RESTAURANT AND OTHER
21 EATING PLACES INDUSTRY.

22 (f) "REGENERATIVE AGRICULTURE" MEANS A CONSERVATION AND
23 REHABILITATION APPROACH TO FOOD AND FARMING SYSTEMS FOCUSED ON
24 TOPSOIL REGENERATION, INCREASING BIODIVERSITY, IMPROVING THE
25 WATER CYCLE, ENHANCING ECOSYSTEM SERVICES, SUPPORTING
26 BIOSEQUESTRATION, INCREASING RESILIENCE TO CLIMATE CHANGE, AND
27 STRENGTHENING THE HEALTH AND VITALITY OF FARM SOIL.

1 (g) "RESTAURANT AND OTHER EATING PLACES INDUSTRY" HAS THE
2 SAME MEANING AS SET FORTH IN SECTION 39-26-105 (1.3)(a)(IV).

3 (h) "VERIFIED PURCHASE" MEANS A PURCHASE OF PRODUCE OR
4 ANIMAL PRODUCTS PRODUCED USING REGENERATIVE AGRICULTURE
5 TECHNIQUES AND THAT SATISFIES THE REQUIREMENTS ADOPTED BY THE
6 DEPARTMENT OF AGRICULTURE PURSUANT TO SUBSECTION (4)(c)(II) OF
7 THIS SECTION.

8 (3) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION
9 (3)(b) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR
10 AFTER JANUARY 1, 2026, BUT BEFORE JANUARY 1, 2031, A QUALIFYING
11 RETAILER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY
12 THIS ARTICLE 22 IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE
13 TOTAL AMOUNT PAID BY THE QUALIFYING RETAILER IN THE INCOME TAX
14 YEAR TO ONE OR MORE QUALIFYING LOCAL PRODUCERS FOR THE VERIFIED
15 PURCHASE OF PRODUCE OR ANIMAL PRODUCTS PRODUCED USING
16 REGENERATIVE AGRICULTURE TECHNIQUES.

17 (b) TO CLAIM THE CREDIT, THE QUALIFYING RETAILER MUST
18 ANNUALLY APPLY FOR AND RECEIVE A TAX CREDIT CERTIFICATE FROM THE
19 DEPARTMENT OF AGRICULTURE PURSUANT TO SUBSECTION (4) OF THIS
20 SECTION. IF THE DEPARTMENT OF AGRICULTURE DETERMINES THAT AN
21 APPLICANT IS NOT ENTITLED TO A TAX CREDIT CERTIFICATE UNDER THIS
22 SECTION, THE DEPARTMENT OF AGRICULTURE SHALL NOTIFY THE
23 APPLICANT OF ITS DISAPPROVAL IN WRITING.

24 (c) THE DEPARTMENT OF AGRICULTURE SHALL NOT ISSUE TAX
25 CREDIT CERTIFICATES THAT EXCEED AN AGGREGATE AMOUNT OF TWO
26 MILLION FIVE HUNDRED THOUSAND DOLLARS IN A CALENDAR YEAR.

27 (4) (a) (I) A QUALIFYING RETAILER MUST SUBMIT AN APPLICATION

1 TO THE DEPARTMENT OF AGRICULTURE FOR A TAX CREDIT CERTIFICATE TO
2 CLAIM THE INCOME TAX CREDIT ALLOWED BY THIS SECTION ON A FORM
3 AND IN A MANNER PRESCRIBED BY THE DEPARTMENT OF AGRICULTURE.
4 THE APPLICATION MUST INCLUDE INFORMATION TO ALLOW THE
5 DEPARTMENT OF AGRICULTURE TO MAKE A DETERMINATION THAT THE
6 QUALIFYING RETAILER MADE ONE OR MORE VERIFIED PURCHASES OF
7 PRODUCE OR ANIMAL PRODUCTS FROM A QUALIFYING LOCAL PRODUCER
8 DURING THE INCOME TAX YEAR FOR WHICH THE CREDIT IS CLAIMED AND
9 TO VERIFY THE AMOUNT FOR WHICH THE TAX CREDIT CERTIFICATE IS
10 APPLIED. A QUALIFYING RETAILER IS ENTITLED TO RECEIVE ONE TAX
11 CREDIT CERTIFICATE PER INCOME TAX YEAR.

12 (II) THE APPLICATION DESCRIBED IN SUBSECTION (4)(a)(I) OF THIS
13 SECTION MUST INCLUDE VERIFICATION FROM THE QUALIFYING PRODUCER
14 PASSED TO THE QUALIFYING RETAILER AT THE POINT OF SALE THAT THE
15 PRODUCE OR ANIMAL PRODUCTS PURCHASED BY THE QUALIFYING
16 RETAILER WERE PRODUCED USING REGENERATIVE AGRICULTURE
17 TECHNIQUES.

18 (b) THE DEPARTMENT OF AGRICULTURE SHALL ISSUE TAX CREDIT
19 CERTIFICATES TO QUALIFYING RETAILERS IN THE ORDER IN WHICH EACH
20 APPLICATION IS RECEIVED. IF THE DEPARTMENT OF AGRICULTURE ISSUES
21 TAX CREDIT CERTIFICATES THAT IN THE AGGREGATE TOTAL THE PROGRAM
22 LIMIT SPECIFIED IN SUBSECTION (3)(c) OF THIS SECTION BEFORE THE END
23 OF A CALENDAR YEAR, ANY ADDITIONAL APPLICATIONS FOR CREDIT
24 CERTIFICATES MUST BE PLACED ON A WAIT LIST FOR TAX CREDIT
25 CERTIFICATES ISSUED IN THE NEXT CALENDAR YEAR; EXCEPT THAT THE
26 DEPARTMENT OF AGRICULTURE SHALL NOT PLACE MORE THAN THE
27 AGGREGATE OF ONE MILLION DOLLARS OF TAX CREDIT CERTIFICATE

1 APPLICATIONS ON THE WAIT LIST IN ANY CALENDAR YEAR. THE
2 DEPARTMENT OF AGRICULTURE SHALL PRIORITIZE WAIT LISTED
3 APPLICATIONS FIRST TO A QUALIFYING RETAILER WHO WAS ISSUED A
4 CREDIT CERTIFICATE FOR A CALENDAR YEAR PRIOR TO BEING PLACED ON
5 THE WAIT LIST, AND SECOND TO A QUALIFYING RETAILER WHO WAS
6 PLACED ON THE WAIT LIST IN A PREVIOUS CALENDAR YEAR BUT WAS NOT
7 ISSUED A CREDIT CERTIFICATE.

8 (c) (I) THE DEPARTMENT OF AGRICULTURE SHALL MAINTAIN A
9 DATABASE OF ANY INFORMATION DETERMINED NECESSARY BY THE
10 DEPARTMENT OF AGRICULTURE TO EVALUATE THE EFFECTIVENESS OF THE
11 INCOME TAX CREDIT ALLOWED BY THIS SECTION IN ACHIEVING THE
12 PURPOSES SET FORTH IN SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION
13 AND SHALL PROVIDE SUCH INFORMATION, AND ANY OTHER INFORMATION
14 THAT MAY BE NEEDED, IF AVAILABLE, TO THE STATE AUDITOR AS PART OF
15 THE STATE AUDITOR'S EVALUATION OF THIS TAX EXPENDITURE REQUIRED
16 BY SECTION 39-21-305.

17 (II) THE DEPARTMENT OF AGRICULTURE SHALL, IN A SUFFICIENTLY
18 TIMELY MANNER TO ALLOW THE DEPARTMENT TO PROCESS RETURNS
19 CLAIMING THE INCOME TAX CREDIT ALLOWED BY THIS SECTION, PROVIDE
20 THE DEPARTMENT WITH AN ELECTRONIC REPORT FOR THE PRECEDING TAX
21 YEAR LISTING EACH QUALIFYING RETAILER TO WHICH THE DEPARTMENT OF
22 AGRICULTURE ISSUED A TAX CREDIT CERTIFICATE AND THAT INCLUDES THE
23 FOLLOWING INFORMATION:

- 24 (A) THE NAME OF THE QUALIFYING RETAILER;
- 25 (B) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE
- 26 CERTIFICATE INDICATES THE QUALIFYING RETAILER IS ELIGIBLE TO CLAIM;
- 27 AND

1 (C) THE QUALIFYING RETAILER'S SOCIAL SECURITY NUMBER OR
2 COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION
3 NUMBER.

4 (d) THE DEPARTMENT OF AGRICULTURE SHALL PROMULGATE
5 RULES IN ACCORDANCE WITH THIS SECTION THAT INCLUDE:

6 (I) ELIGIBILITY REQUIREMENTS FOR QUALIFYING RETAILERS AND
7 QUALIFYING LOCAL PRODUCERS;

8 (II) VERIFICATION REQUIREMENTS FOR THE PURCHASE OF PRODUCE
9 AND ANIMAL PRODUCTS PRODUCED USING REGENERATIVE AGRICULTURE
10 TECHNIQUES;

11 (III) TAX CREDIT CERTIFICATE APPLICATION PROCEDURES;

12 (IV) PRIORITIZATION OF APPLICATIONS; AND

13 (V) PROVISIONS FOR THE CANCELLATION OR MODIFICATION OF A
14 TAX CREDIT CERTIFICATE ISSUED IN RELIANCE ON ERRONEOUS OR FALSE
15 INFORMATION.

16 (5) TO CLAIM THE INCOME TAX CREDIT ALLOWED BY THIS SECTION,
17 A QUALIFYING RETAILER SHALL FILE THE TAX CREDIT CERTIFICATE ISSUED
18 BY THE DEPARTMENT OF AGRICULTURE WITH THE QUALIFYING RETAILER'S
19 STATE INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE
20 QUALIFYING RETAILER MAY CLAIM PURSUANT TO THIS SECTION IS THE
21 AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

22 (6) IF AN INCOME TAX CREDIT CLAIM EXCEEDS THE INCOME TAX
23 DUE ON THE INCOME OF THE QUALIFYING RETAILER FOR THE TAXABLE
24 YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND MUST BE
25 REFUNDED TO THE TAXPAYER.

26 (7) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
27 SECTION, IF THE JUNE 2025 REVENUE FORECAST AND EACH JUNE REVENUE

1 FORECAST THEREAFTER THROUGH THE JUNE 2029 REVENUE FORECAST, AS
2 PREPARED BY EITHER LEGISLATIVE COUNCIL STAFF OR THE OFFICE OF
3 STATE PLANNING AND BUDGETING, PROJECTS THAT STATE REVENUES, AS
4 DEFINED IN SECTION 24-77-103.6 (6)(c), WILL NOT INCREASE BY AT LEAST
5 FOUR PERCENT FOR THE NEXT FISCAL YEAR, THE AMOUNT OF THE CREDIT
6 A QUALIFYING RETAILER MAY CLAIM PURSUANT TO THIS SECTION FOR ANY
7 TAX YEAR COMMENCING IN THE CALENDAR YEAR THAT BEGINS DURING
8 SAID NEXT FISCAL YEAR IS REDUCED BY FIFTY PERCENT; EXCEPT THAT, IF
9 THE AMOUNT OF A REDUCED TAX CREDIT IS EQUAL TO OR LESS THAN FIVE
10 HUNDRED DOLLARS, THEN THE DEPARTMENT SHALL NOT ISSUE A TAX
11 CREDIT CERTIFICATE.

12 (b) FOR PURPOSES OF DETERMINING THE ESTIMATE OF STATE
13 REVENUES AS SET FORTH IN SUBSECTION (7)(a) OF THIS SECTION, IN THE
14 JUNE 2025 REVENUE FORECAST AND EACH JUNE REVENUE FORECAST
15 THEREAFTER THROUGH THE JUNE 2029 REVENUE FORECAST, LEGISLATIVE
16 COUNCIL STAFF OR THE OFFICE OF STATE PLANNING AND BUDGETING
17 SHALL EXCLUDE THE PROJECTED AGGREGATE AMOUNT OF THE CREDIT
18 ALLOWED BY THIS SECTION FOR THE TAX YEAR IN THEIR ESTIMATE OF
19 FISCAL YEAR SPENDING FOR THE STATE FISCAL YEAR.

20 (8) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
21 PROMULGATE RULES AS NECESSARY, IN THE EXECUTIVE DIRECTOR'S
22 DISCRETION, TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS
23 SECTION.

24 (9) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2035.

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26 **SECTION 3. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2024 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.