

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0792.02 Alison Killen x4350

SENATE BILL 24-152

SENATE SPONSORSHIP

Simpson and Roberts,

HOUSE SPONSORSHIP

McCormick,

Senate Committees

Agriculture & Natural Resources

House Committees

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.

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) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

12 (c) "QUALIFYING LOCAL PRODUCER" MEANS A COLORADO-BASED
13 AGRICULTURAL PRODUCER PRACTICING REGENERATIVE AGRICULTURE.

14 (d) "QUALIFYING RETAILER" MEANS A RETAILER DOING BUSINESS
15 IN THE STATE THAT:

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

17 (II) OPERATES IN THE ALCOHOLIC BEVERAGES DRINKING PLACES
18 INDUSTRY OR THE RESTAURANT AND OTHER EATING PLACES INDUSTRY.

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

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

27 (g) "VERIFIED PURCHASE" MEANS A PURCHASE OF PRODUCE OR

1 ANIMAL PRODUCTS PRODUCED USING REGENERATIVE AGRICULTURE
2 TECHNIQUES AND THAT SATISFIES THE REQUIREMENTS ADOPTED BY THE
3 DEPARTMENT OF AGRICULTURE PURSUANT TO SUBSECTION (4)(c)(II) OF
4 THIS SECTION.

5 (3) (a) SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION
6 (3)(b) OF THIS SECTION, FOR INCOME TAX YEARS COMMENCING ON OR
7 AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2029, A QUALIFYING
8 RETAILER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY
9 THIS ARTICLE 22 IN AN AMOUNT EQUAL TO TWENTY-FIVE PERCENT OF THE
10 TOTAL AMOUNT PAID BY THE QUALIFYING RETAILER IN THE INCOME TAX
11 YEAR TO ONE OR MORE QUALIFYING LOCAL PRODUCERS FOR THE VERIFIED
12 PURCHASE OF PRODUCE OR ANIMAL PRODUCTS PRODUCED USING
13 REGENERATIVE AGRICULTURE TECHNIQUES.

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

21 (c) THE DEPARTMENT OF AGRICULTURE SHALL NOT ISSUE TAX
22 CREDIT CERTIFICATES TO QUALIFYING RETAILERS INDICATING ELIGIBILITY
23 FOR A TOTAL AMOUNT OF TAX CREDITS EXCEEDING TWO AND ONE HALF
24 MILLION DOLLARS PER INCOME TAX YEAR.

25 (4) (a) (I) A QUALIFYING RETAILER MUST SUBMIT AN APPLICATION
26 TO THE DEPARTMENT OF AGRICULTURE FOR A TAX CREDIT CERTIFICATE TO
27 CLAIM THE INCOME TAX CREDIT ALLOWED BY THIS SECTION ON A FORM

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

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

16 (b) (I) THE DEPARTMENT OF AGRICULTURE SHALL MAINTAIN A
17 DATABASE OF ANY INFORMATION DETERMINED NECESSARY BY THE
18 DEPARTMENT OF AGRICULTURE TO EVALUATE THE EFFECTIVENESS OF THE
19 INCOME TAX CREDIT ALLOWED BY THIS SECTION IN ACHIEVING THE
20 PURPOSES SET FORTH IN SUBSECTIONS (1)(a) AND (1)(b) OF THIS SECTION
21 AND SHALL PROVIDE SUCH INFORMATION, AND ANY OTHER INFORMATION
22 THAT MAY BE NEEDED, IF AVAILABLE, TO THE STATE AUDITOR AS PART OF
23 THE STATE AUDITOR'S EVALUATION OF THIS TAX EXPENDITURE REQUIRED
24 BY SECTION 39-21-305.

25 (II) THE DEPARTMENT OF AGRICULTURE SHALL, IN A SUFFICIENTLY
26 TIMELY MANNER TO ALLOW THE DEPARTMENT TO PROCESS RETURNS
27 CLAIMING THE INCOME TAX CREDIT ALLOWED BY THIS SECTION, PROVIDE

1 THE DEPARTMENT WITH AN ELECTRONIC REPORT FOR THE PRECEDING TAX
2 YEAR LISTING EACH QUALIFYING RETAILER TO WHICH THE DEPARTMENT OF
3 AGRICULTURE ISSUED A TAX CREDIT CERTIFICATE AND THAT INCLUDES THE
4 FOLLOWING INFORMATION:

5 (A) THE NAME OF THE QUALIFYING RETAILER;

6 (B) THE AMOUNT OF THE INCOME TAX CREDIT THAT THE
7 CERTIFICATE INDICATES THE QUALIFYING RETAILER IS ELIGIBLE TO CLAIM;
8 AND

9 (C) THE QUALIFYING RETAILER'S SOCIAL SECURITY NUMBER OR
10 COLORADO ACCOUNT NUMBER AND FEDERAL EMPLOYER IDENTIFICATION
11 NUMBER.

12 (c) THE DEPARTMENT OF AGRICULTURE SHALL PROMULGATE RULES
13 IN ACCORDANCE WITH THIS SECTION THAT INCLUDE:

14 (I) ELIGIBILITY REQUIREMENTS FOR QUALIFYING RETAILERS AND
15 QUALIFYING LOCAL PRODUCERS;

16 (II) VERIFICATION REQUIREMENTS FOR THE PURCHASE OF PRODUCE
17 AND ANIMAL PRODUCTS PRODUCED USING REGENERATIVE AGRICULTURE
18 TECHNIQUES;

19 (III) TAX CREDIT CERTIFICATE APPLICATION PROCEDURES;

20 (IV) PRIORITIZATION OF APPLICATIONS; AND

21 (V) PROVISIONS FOR THE CANCELLATION OR MODIFICATION OF A
22 TAX CREDIT CERTIFICATE ISSUED IN RELIANCE ON ERRONEOUS OR FALSE
23 INFORMATION.

24 (5) TO CLAIM THE INCOME TAX CREDIT ALLOWED BY THIS SECTION,
25 A QUALIFYING RETAILER SHALL FILE THE TAX CREDIT CERTIFICATE ISSUED
26 BY THE DEPARTMENT OF AGRICULTURE WITH THE QUALIFYING RETAILER'S
27 STATE INCOME TAX RETURN. THE AMOUNT OF THE CREDIT THAT THE

1 QUALIFYING RETAILER MAY CLAIM PURSUANT TO THIS SECTION IS THE
2 AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

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

7 (7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY
8 PROMULGATE RULES AS NECESSARY, IN THE EXECUTIVE DIRECTOR'S
9 DISCRETION, TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS
10 SECTION.

11 (8) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2033.

12 **SECTION 3.** In Colorado Revised Statutes, 39-21-113, **add** (34)
13 as follows:

14 **39-21-113. Reports and returns - rule - repeal.**

15 (34) NOTWITHSTANDING THE CONFIDENTIALITY REQUIREMENTS OF THIS
16 SECTION, THE EXECUTIVE DIRECTOR SHALL SHARE WITH THE DEPARTMENT
17 OF AGRICULTURE PERTINENT INFORMATION NECESSARY TO ADMINISTER
18 THE INCOME TAX CREDIT AND SALES TAX DEDUCTION ALLOWED IN
19 SECTION 39-22-560. ANY INFORMATION PROVIDED TO THE DEPARTMENT
20 OF AGRICULTURE PURSUANT TO THIS SUBSECTION (34) REMAINS
21 CONFIDENTIAL, AND ALL AGENTS, CLERKS, AND EMPLOYEES OF THE
22 DEPARTMENT OF AGRICULTURE ARE SUBJECT TO THE LIMITATIONS SET
23 FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES IN
24 SUBSECTION (6) OF THIS SECTION.

25 **SECTION 4. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly; except

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