

STATE OF NEW YORK

8878--A

IN SENATE

January 13, 2026

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law and the agriculture and markets law, in relation to enacting the "New York state food rescue tax credit act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state food rescue tax credit act".

3 § 2. Legislative findings and intent. The legislature finds and
4 declares that:

5 1. New York generates over four million tons of food waste each year,
6 a significant portion of which is edible and suitable for donation.

7 2. Food rescue and recovery operations provide critical health,
8 economic, environmental, and social benefits, including reductions in
9 landfill waste, greenhouse gas emissions, and disposal costs.

10 3. Targeted tax incentives, combined with standardized operational
11 practices, transparent reporting systems, and nutritional quality safe-
12 guards, will strengthen New York's food rescue ecosystem, improve
13 program integrity, and ensure equitable utilization of state resources.

14 4. Existing programs, including Nourish New York and the Hunger
15 Prevention and Nutrition Assistance Program (HPNAP), provide important
16 benefits and serve critical roles within the state's food assistance
17 framework; however, such programs do not sufficiently address overall
18 food demand, do not directly reduce food waste or advance positive envi-
19 ronmental outcomes, provide limited statewide data collection capabili-
20 ties, and are primarily available only to a defined subset of eligible
21 organizations.

22 5. Current tax law favors disposal over donation, as deductions for
23 waste disposal are often more financially advantageous than charitable
24 incentives for food donation.

25 6. Food insecurity affects more than 11 percent of New York house-
26 holds, a rate that has grown in recent years and is expected to rise

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 further due to federal reductions in SNAP benefits and potential
2 disruptions in federal nutrition programs.

3 7. It is therefore the intent of the legislature to establish a
4 refundable and transferable state tax credit to encourage businesses of
5 all sizes to donate surplus food and to offset the costs of storage,
6 transportation, and distribution.

7 8. This credit will strengthen New York's food assistance network,
8 reduce landfill waste and methane emissions, and ensure that nutritious
9 food reaches families in need instead of being discarded.

10 § 3. Section 210-B of the tax law is amended by adding a new subdivi-
11 sion 63 to read as follows:

12 63. Food rescue tax credit. (a) Definitions. For the purposes of this
13 subdivision, the following terms shall have the following meanings:

14 (i) "Eligible nonprofit food assistance organization" means a nonpro-
15 fit entity recognized under section 501(c)(3) of the United States
16 internal revenue code, or similarly recognized organization, that
17 engages primarily in food rescue, recovery, or distribution to individ-
18 uals or families in need.

19 (ii) "Eligible taxpayer" includes food businesses, farmers, manufac-
20 turers, distributors, wholesalers, retailers, and any other business
21 entity engaged in the sale, manufacture, or distribution of food within
22 New York state.

23 (iii) "Eligible food" means food fit for human consumption at the time
24 of donation and compliant with applicable federal, state, and local food
25 safety laws.

26 (iv) "Good food nutrition standards" means nutrition and food quality
27 standards established, adopted, or recognized by the department of agri-
28 culture and markets consistent with federal and state dietary guidance
29 and public health objectives, including but not limited to:

30 (A) foods fit for human consumption and compliant with applicable food
31 safety laws;

32 (B) foods aligned with science-based dietary guidance issued by:

33 (1) the United States department of agriculture;

34 (2) the United States department of health and human services; or

35 (3) the department of health;

36 (C) foods supporting positive public health outcomes, including
37 nutrient-dense foods, fruits, vegetables, whole grains, and lean prote-
38 ins; and

39 (D) additional criteria established by rule or guidance.

40 (v) "Qualified food donation" means any eligible food meeting good
41 food nutrition standards, including perishable and prepared foods,
42 donated in compliance with applicable state and federal food safety laws
43 as certified, measured, and accepted by a New York state charitable
44 organization in good standing as defined by article seven-A of the exec-
45 utive law.

46 (b) Allowance of credit. An eligible taxpayer subject to tax under
47 this article shall be allowed a credit against such tax in an amount
48 equal to:

49 (i) sixty-five percent of the fair market value of qualified food
50 donations made during the taxable year to an eligible nonprofit food
51 assistance organization; and

52 (ii) one hundred percent of documented transportation and storage
53 expenses directly attributable to such donations.

54 (c) Refundability and transferability. If the amount of credit allow-
55 able under this subdivision exceeds the eligible taxpayer's tax liabil-
56 ity for the taxable year, the excess shall be refundable. Alternatively,

1 an eligible taxpayer may transfer or assign the unused portion of such
2 credit to another eligible taxpayer, subject to regulations promulgated
3 by the commissioner.

4 (d) Limitations. (i) The aggregate amount of credits allowed under
5 this subdivision for all eligible taxpayers in any fiscal year shall not
6 exceed seventy-five million dollars statewide, unless increased by
7 appropriation.

8 (ii) No individual eligible taxpayer may claim more than one million
9 five hundred thousand dollars in total credit pursuant to this subdivi-
10 sion in any taxable year.

11 (iii) The commissioner shall adopt rules and regulations governing
12 documentation, substantiation, transfer and application procedures to
13 ensure program integrity.

14 (iv) The department shall coordinate with the department of agricul-
15 ture and markets to verify the eligibility of nonprofit food recipients
16 and ensure donated food meets safety and quality standards.

17 (e) Quality certification and substantiation. (i) A taxpayer claiming
18 the credit established pursuant to this subdivision shall obtain a food
19 donation quality certification form completed by the receiving eligible
20 nonprofit food assistance organization.

21 (ii) The commissioner, in consultation with the department of agricul-
22 ture and markets, shall prescribe such form, which shall include but not
23 be limited to:

24 (A) total poundage of food received;

25 (B) poundage fit for human consumption;

26 (C) poundage meeting good food nutrition standards;

27 (D) poundage diverted to composting or waste diversion methods;

28 (E) poundage diverted for animal feed, where applicable; and

29 (F) any additional required data elements specified by the commission-
30 er.

31 (iii) The certification shall be signed under penalties of perjury by
32 an authorized representative of the receiving entity.

33 (iv) A taxpayer shall retain such documentation as a condition of
34 claiming the credit pursuant to this subdivision.

35 (v) Relevant agencies, as specified by the commissioner, in consulta-
36 tion with the department of agriculture, may utilize collected data for
37 audit, compliance, reporting, and program evaluation.

38 § 4. Section 606 of the tax law is amended by adding a new subsection
39 (www) to read as follows:

40 (www) Food rescue tax credit. (1) Definitions. For the purposes of
41 this subsection, the following terms shall have the following meanings:

42 (A) "Eligible nonprofit food assistance organization" means a nonpro-
43 fit entity recognized under section 501(c)(3) of the United States
44 internal revenue code, or similarly recognized organization, in good
45 standing with the state of New York's charities bureau, that engages
46 primarily in food rescue, recovery, or distribution to individuals or
47 families in need.

48 (B) "Eligible taxpayer" includes food businesses, farmers, manufactur-
49 ers, distributors, wholesalers, retailers, and any other business entity
50 engaged in the sale, manufacture, or distribution of food within New
51 York state.

52 (C) "Eligible food" means food fit for human consumption at the time
53 of donation and compliant with applicable federal, state, and local food
54 safety laws.

55 (D) "Good food nutrition standards" means nutrition and food quality
56 standards established, adopted, or recognized by the department of agri-

1 culture and markets consistent with federal and state dietary guidance
2 and public health objectives, including but not limited to:

3 (i) foods fit for human consumption and compliant with applicable food
4 safety laws;

5 (ii) foods aligned with science-based dietary guidance issued by:

6 (1) the United States department of agriculture;

7 (2) the United States department of health and human services; or

8 (3) the department of health;

9 (iii) foods supporting positive public health outcomes, including
10 nutrient-dense foods, fruits, vegetables, whole grains, and lean prote-
11 ins; and

12 (iv) additional criteria established by rule or guidance.

13 (E) "Qualified food donation" means eligible food meeting good food
14 nutrition standards, including perishable and prepared foods, donated in
15 compliance with applicable state and federal food safety laws as certi-
16 fied, measured, and accepted by a New York state charitable organization
17 in good standing as defined by article seven-A of the executive law.

18 (2) Allowance of credit. An eligible taxpayer subject to tax under
19 this article shall be allowed a credit against such tax in an amount
20 equal to:

21 (A) sixty-five percent of the fair market value of qualified food
22 donations made during the taxable year to an eligible nonprofit food
23 assistance organization; and

24 (B) one hundred percent of documented transportation and storage
25 expenses directly attributable to such donations.

26 (3) Refundability and transferability. If the amount of credit allow-
27 able under this subsection exceeds the eligible taxpayer's tax liability
28 for the taxable year, the excess shall be refundable. Alternatively, an
29 eligible taxpayer may transfer or assign the unused portion of such
30 credit to another eligible taxpayer, subject to regulations promulgated
31 by the commissioner.

32 (4) Limitations. (A) The aggregate amount of credits allowed under
33 this subsection for all eligible taxpayers in any fiscal year shall not
34 exceed seventy-five million dollars statewide, unless increased by
35 appropriation.

36 (B) No individual eligible taxpayer may claim more than one million
37 five hundred thousand dollars in total credit pursuant to this
38 subsection in any taxable year.

39 (C) The commissioner shall adopt rules and regulations governing
40 documentation, substantiation, transfer and application procedures to
41 ensure program integrity.

42 (D) The department shall coordinate with the department of agriculture
43 and markets to verify the eligibility of nonprofit food recipients and
44 ensure donated food meets safety and quality standards.

45 (5) Partnerships and S corporations. In the case of a partnership or S
46 corporation, the credit provided for under this subsection shall be
47 passed through to partners, members, or shareholders in proportion to
48 their ownership interests in the entity.

49 (6) Quality certification and substantiation. (A) A taxpayer claiming
50 the credit established pursuant to this subsection shall obtain a food
51 donation quality certification form completed by the receiving eligible
52 food rescue organization or qualified food recovery partner.

53 (B) The commissioner, in consultation with the department of agricul-
54 ture and markets, shall prescribe such form, which shall include but not
55 be limited to:

56 (i) total poundage of food received;

1 (ii) poundage fit for human consumption;
2 (iii) poundage meeting good food nutrition standards;
3 (iv) poundage diverted to composting or waste diversion methods;
4 (v) poundage diverted for animal feed, where applicable; and
5 (vi) any additional required data elements specified by the commis-
6 sioner.

7 (C) The certification shall be signed under penalties of perjury by an
8 authorized representative of the receiving entity.

9 (D) A taxpayer shall retain such documentation as a condition of
10 claiming the credit pursuant to this subsection.

11 (E) Relevant agencies, as specified by the commissioner, in consulta-
12 tion with the department of agriculture, may utilize collected data for
13 audit, compliance, reporting, and program evaluation.

14 § 5. The agriculture and markets law is amended by adding two new
15 sections 29 and 30 to read as follows:

16 § 29. Statewide food rescue training program. The commissioner, in
17 consultation with the department of taxation and finance, subject to an
18 appropriation therefor, shall procure professional services to develop a
19 standardized statewide food rescue training program. The program shall
20 include standardized operational procedures, logistics practices, food
21 safety protocols, outreach methodologies, and data reporting standards.
22 Requests for proposals shall prioritize entities or coalitions with
23 demonstrated food rescue expertise.

24 § 30. Statewide food rescue data dashboard. The department, in consul-
25 tation with the department of taxation and finance, subject to an appro-
26 priation therefor, shall procure professional services to design, devel-
27 op, and maintain a statewide food rescue data dashboard. The dashboard
28 shall track key metrics including pounds of food rescued, estimated
29 value, utilization of the tax credit established pursuant to subdivision
30 sixty-three of section two hundred ten-B of the tax law, emissions
31 diverted, water savings, and related indicators. Access shall be
32 provided to organizations authorized by the department and government
33 entities subject to applicable privacy protections.

34 § 6. The department of taxation and finance, in consultation with the
35 department of agriculture and markets, shall:

36 1. establish a standardized electronic reporting platform for busi-
37 nesses and eligible nonprofits to record accepted and usable donations,
38 transportation, and storage expenses eligible for the credit;

39 2. publish annual reports to the governor and the legislature includ-
40 ing:

41 (a) the total number of taxpayers claiming the credit;

42 (b) total food rescue tax credits claimed and amount refunded;

43 (c) pounds of food diverted from waste;

44 (d) estimated number of meals provided; and

45 (e) environmental and economic benefits achieved; and

46 3. develop an outreach and guidance program to inform eligible busi-
47 nesses and organizations of the availability of the food rescue tax
48 credit.

49 § 7. This act shall take effect on the first of January next succeed-
50 ing the date upon which it shall have become a law and shall apply to
51 taxable years beginning on or after such date. Effective immediately,
52 the addition, amendment and/or repeal of any rule or regulation neces-
53 sary for the implementation of this act on its effective date are
54 authorized to be made and completed on or before such effective date.