STATE OF NEW YORK

9329--A

2025-2026 Regular Sessions

IN ASSEMBLY

December 10, 2025

Introduced by M. of A. SEPTIMO -- read once and referred to the Committee on Ways and Means -- recommitted to the Committee on Ways and Means in accordance with Assembly Rule 3, sec. 2 -- 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:

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

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

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

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

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

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

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

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

6. Food insecurity affects more than 11 percent of New York households, a rate that has grown in recent years and is expected to rise further due to federal reductions in SNAP benefits and potential disruptions in federal nutrition programs.

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

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

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

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

(i) "Eligible nonprofit food assistance organization" means a nonprofit entity recognized under section 501(c)(3) of the United States internal revenue code, or similarly recognized organization, that engages primarily in food rescue, recovery, or distribution to individuals or families in need.

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

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

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

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

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

(1) the United States department of agriculture;

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

(3) the department of health;

(C) foods supporting positive public health outcomes, including nutrient-dense foods, fruits, vegetables, whole grains, and lean proteins; and

(D) additional criteria established by rule or guidance.

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

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

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

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

(c) Refundability and transferability. If the amount of credit allowable under this subdivision exceeds the eligible taxpayer's tax liability for the taxable year, the excess shall be refundable. Alternatively, an eligible taxpayer may transfer or assign the unused portion of such credit to another eligible taxpayer, subject to regulations promulgated by the commissioner.

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

(ii) No individual eligible taxpayer may claim more than one million five hundred thousand dollars in total credit pursuant to this subdivision in any taxable year.

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

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

(e) Quality certification and substantiation. (i) A taxpayer claiming the credit established pursuant to this subdivision shall obtain a food donation quality certification form completed by the receiving eligible food rescue organization or qualified food recovery partner.

(ii) The commissioner, in consultation with the department of agriculture and markets, shall prescribe such form, which shall include but not be limited to:

(A) total poundage of food received;

(B) poundage fit for human consumption;

(C) poundage meeting good food nutrition standards;

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

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

(F) any additional required data elements specified by the commissioner.

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

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

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

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

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

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

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

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

(D) "Good food nutrition standards" means nutrition and food quality standards established, adopted, or recognized by the department of agriculture and markets consistent with federal and state dietary guidance and public health objectives, including but not limited to:

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

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

(1) the United States department of agriculture;

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

(3) the department of health;

(iii) foods supporting positive public health outcomes, including nutrient-dense foods, fruits, vegetables, whole grains, and lean proteins; and

(iv) additional criteria established by rule or guidance.

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

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

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

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

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

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

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

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

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

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

(6) Quality certification and substantiation. (A) A taxpayer claiming the credit established pursuant to this subsection shall obtain a food

donation quality certification form completed by the receiving eligible food rescue organization or qualified food recovery partner.

(B) The commissioner, in consultation with the department of agriculture and markets, shall prescribe such form, which shall include but not be limited to:

(i) total poundage of food received;

(ii) poundage fit for human consumption;

(iii) poundage meeting good food nutrition standards;

(iv) poundage diverted to composting or waste diversion methods;

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

(vi) any additional required data elements specified by the commissioner.

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

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

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

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

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

§ 30. Statewide food rescue data dashboard. The department, in consultation with the department of taxation and finance, subject to an appropriation therefor, shall procure professional services to design, develop, and maintain a statewide food rescue data dashboard. The dashboard shall track key metrics including pounds of food rescued, estimated value, utilization of the tax credit established pursuant to subdivision sixty-three of section two hundred ten-B of the tax law, emissions diverted, water savings, and related indicators. Access shall be provided to organizations authorized by the department and government entities subject to applicable privacy protections.

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

1. establish a standardized electronic reporting platform for businesses and eligible nonprofits to record accepted and usable donations, transportation, and storage expenses eligible for the credit;

2. publish annual reports to the governor and the legislature including:

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

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

(c) pounds of food diverted from waste;

(d) estimated number of meals provided; and

(e) environmental and economic benefits achieved; and

3. develop an outreach and guidance program to inform eligible businesses and organizations of the availability of the food rescue tax credit.

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