HUNGER RELIEF INCOME TAX CREDIT & CROP AND LIVESTOCK CONTRIBUTION CORPORATE INCOME TAX CREDIT

EVALUATION SUMMARY

SEPTEMBER 2018
2018-TE4

THESE EVALUATIONS ARE INCLUDED IN COMPILATION REPORT SEPTEMBER 2018

	HUNGER RELIEF INCOME TAX CREDIT CALENDAR YEAR 2016	CROP AND LIVESTOCK CONTRIBUTION CORPORATE INCOME TAX CREDIT CALENDAR YEARS 2012–2016
YEAR ENACTED	2014	1982
REPEAL/EXPIRATION DATE	January 1, 2020	None
REVENUE IMPACT	$71,000	Minimal
NUMBER OF TAXPAYERS	353	Too few to report
AVERAGE TAXPAYER BENEFIT	$201	Too few taxpayers to report
IS IT MEETING ITS PURPOSE?	Yes, but the impact is relatively small	No, because it has been used infrequently

WHAT DO THESE TAX EXPENDITURES DO?

The Hunger Relief Income Tax Credit (Hunger Relief Credit) allows a farmer or rancher to claim an income tax credit equivalent to 25 percent of the value of food donations to hunger relief organizations, up to a maximum of $5,000 per year.

The Crop and Livestock Contribution Corporate Income Tax Credit (Crop and Livestock Corporate Credit) allows agricultural C-corporations to claim an income tax credit of 25 percent of the value of food donations, up to a maximum of $1,000 per year.

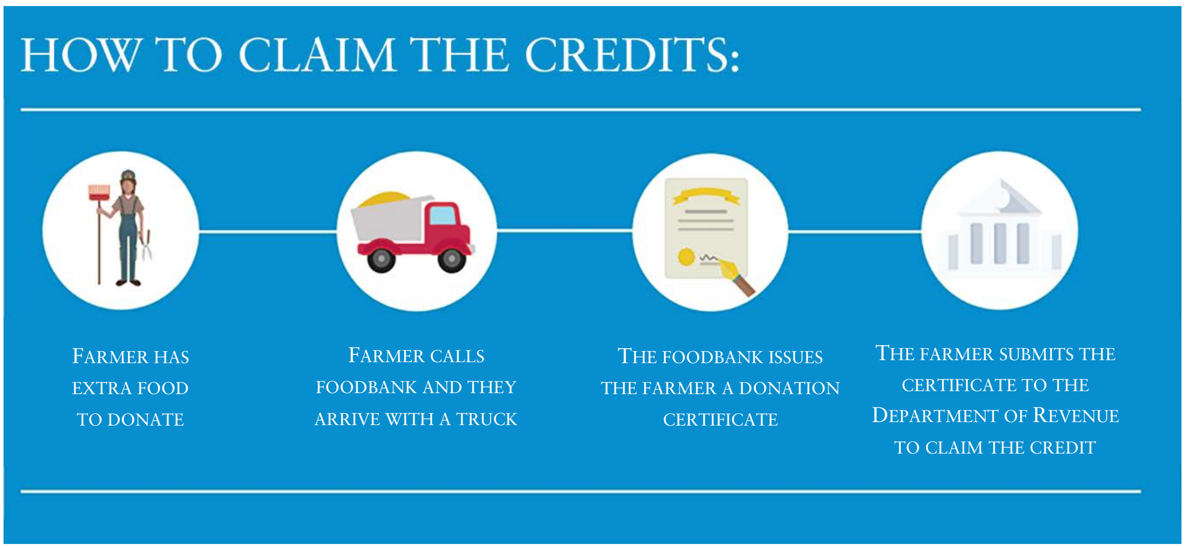
WHAT IS THE PURPOSE OF THESE TAX EXPENDITURES?

Statute does not explicitly state a purpose for either of the tax expenditures. However, we inferred that the purpose of the credits is to incentivize Colorado agricultural producers to donate more fresh produce, meat, dairy, and eggs to hunger relief organizations.

WHAT DID THE EVALUATION FIND?

The Hunger Relief Credit is meeting its purpose of providing an incentive for agricultural producers to donate food and may have resulted in a relatively small increase in food donations of healthy, fresh produce.

The Crop and Livestock Corporate Credit has only been used infrequently in recent years, and is doing little to meet its purpose.



WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

- Some non-corporate agricultural producers are unaware of the Hunger Relief Credit and therefore have not used it because it has only been available since Calendar Year 2015.
- Constraints, such as the cost to harvest crops, low tax liabilities among agricultural producers, and federal filing status, likely limit the financial incentive provided by the credits and the ability of some food donors to use them.
- The $1,000 annual cap on the Crop and Livestock Corporate Credit may be too low for it to provide an adequate incentive for C-corporations.

HUNGER RELIEF INCOME TAX CREDIT & CROP AND LIVESTOCK CONTRIBUTION CORPORATE INCOME TAX CREDIT

EVALUATION RESULTS

WHAT ARE THE TAX EXPENDITURES?

This report includes our evaluation of the two tax credits currently in place related to the donation of food by agricultural producers: the Hunger Relief Income Tax Credit (Hunger Relief Credit), which was created in 2014, and the Crop and Livestock Contribution Corporate Income Tax Credit (Crop and Livestock Corporate Credit), which has existed in its current form since 1987.

House Bill 14-1119 [Section 39-22-536, C.R.S.] created the Hunger Relief Credit, which was effective beginning in 2015 and allows farmers and ranchers who donate grains, fruits, vegetables, or other crops, as well as milk, eggs, livestock, or big game, to claim a credit against their state income tax liability. To qualify, taxpayers must donate the food to "hunger-relief charitable [organizations]" that "[use] food contributions for hunger-relief" in their communities (e.g., food banks, food pantries, soup kitchens, etc.). The bill permits all individuals or business entities, other than C-corporations or fiduciaries, to claim the credit, as long as they have filed a federal Schedule F tax form, which indicates profit or loss from agricultural operations. The amount of the credit is 25 percent of the value of their food donation, up to a maximum of $5,000 per year. If the credit exceeds a taxpayer's tax liability, it is not refundable; however, taxpayers may carryforward credits and apply them against their future tax liabilities for 5 years.

The Crop and Livestock Corporate Credit [Section 39-22-301(3), C.R.S.] was established in 1982 and was the State's first tax expenditure covering agricultural donations to qualified charities. Initially, it was available to all agricultural businesses, but in 1987, the General Assembly limited it to C-corporations. The Crop and Livestock Corporate Credit has a similar structure as the Hunger Relief Credit in that it provides a credit to taxpayers based on their charitable donations of food, but it has a more limited definition of what type of donations qualify. The Crop and Livestock Corporate Credit allows all of the same types of donations as the Hunger Relief Credit, with the exception of eggs, milk, and big game. Like the Hunger Relief Credit, the amount of the Crop and Livestock Corporate Credit is equivalent to 25 percent of the value of the food donation, but only up to an annual maximum of $1,000. It is also not refundable, but can be carried forward for 5 years to be applied against future tax liabilities.

To claim either credit, taxpayers must obtain a receipt from the charitable organization that confirms the donation. For the Hunger Relief Credit, taxpayers must submit the receipt to the Department of Revenue when filing their tax return and for the Crop and Livestock Corporate Credit, taxpayers must retain the receipt and provide it to the Department upon request. The taxpayer is then able to claim 25 percent of the donation's "most recent sale price" or "wholesale market price," as estimated by the taxpayer, as a credit on their state income taxes.

There is an interplay between the Hunger Relief Credit and the enhanced federal deduction for charitable contributions allowed by Section 170 of the Internal Revenue Code (for taxpayers who choose to itemize). Taxpayers making eligible food donations are allowed to take both the federal deduction and the state credit. However, to prevent "double dipping," when taxpayers complete their Colorado state tax return, they must add back an amount equal to the value of the donation for which they claimed the federal deduction to their federal taxable income, which is the starting point for calculating Colorado taxable income. Taxpayers also cannot claim both the Hunger Relief Credit and the state deduction for charitable giving for the same donation. None of these restrictions apply to the Crop and Livestock Corporate Credit.

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURES?

According to the legislative declaration in House Bill 14-1119, which established the Hunger Relief Credit, the intended beneficiaries of the credit are individuals who are experiencing food insecurity; hunger relief organizations, such as food banks and food pantries; and agricultural producers, including farmers and ranchers who file individual tax returns. Although the Crop and Livestock Corporate Credit does not include a similar legislative declaration, we inferred that it has a similar set of beneficiaries, with the primary difference being that it is intended to benefit agricultural producers who file as C-corporations, as opposed to individual filers.

According to the non-profit, Feeding America, as of 2016, over 627,000 Coloradans were experiencing hunger, which represents about 11 percent of all residents in the state. To help address this problem, a network of non-profit organizations operate in the state with the mission of encouraging food donations and distributing food to those in need. These organizations include Feeding Colorado, which coordinates the operations of five large food banks. These food banks handle a large volume of the food donated in the state and are a significant place for agricultural producers to donate food. In addition to receiving donations from agricultural producers, the food banks receive donations of food from individuals and food retailers, and also accept monetary donations which they use to purchase food. The food banks then distribute food into communities throughout Colorado through about 1,500 organizations, such as food pantries, churches, and community centers. This network of hunger relief organizations distributed 110 million pounds of food to Colorado residents in Calendar Year 2017. According to Feeding Colorado, the State's five food banks report that they, and the organizations they distribute food to across the state, are experiencing historic demand, which they are unable to keep up with—particularly for produce, meat, and dairy products.

According to the U.S. Department of Agriculture, the State's 34,000 agricultural producers (7 percent of which were C-corporations at the time of the most recent Colorado Agricultural Census in 2012) and are, according to Feeding Colorado, an important source of food donations because of the volume they can donate and because they can increase the supply of fresh, healthy food available to those needing food assistance. In addition to making donations based on a desire to help those in need, agricultural producers also have food available that cannot be sold, either due to a lack of demand or because of blemishes that make the food less marketable, though it is still healthy and suitable for consumption. The Food and Agriculture Organization estimates that 24 percent of all fruits and vegetables are wasted before they even reach the grocery store or restaurant. This includes food that is left in the field post-harvest and food that spoils or is unable to be sold by the agricultural producer. Food banks have been able to reduce this waste and obtain a source of healthy food, by accepting deliveries of excess food from producers, sending their own trucks to collect food from producers, and organizing volunteers to harvest excess crops that are left in the field post-harvest, a practice called "gleaning."

WHAT ARE THE PURPOSES OF THE TAX EXPENDITURES?

Statute does not explicitly state a purpose for the Hunger Relief Credit. However, based on the legislative declaration for House Bill 14-1119 [Section 39-22-536, C.R.S.], which established the credit, we inferred that the purpose of the credit is to:

- Incentivize Colorado agricultural producers to donate more produce, meat, dairy, and eggs to hunger relief organizations.

- Increase access to healthy, fresh foods, in greater variety for Coloradans who require food assistance.

Statute does not explicitly state a purpose for the Crop and Livestock Corporate Credit. However, given its similarity to the Hunger Relief Credit, we inferred the same purpose, limited to donations from C-corporations.

ARE THE TAX EXPENDITURES MEETING THEIR PURPOSES AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

HUNGER RELIEF CREDIT

We determined that the Hunger Relief Credit is meeting its purpose, but the impact of the credit has likely been small. Specifically, we found that the Hunger Relief Credit may provide an additional incentive for some agricultural producers to donate healthy, fresh food. However, the extent to which the credit has driven increased food donations in recent years is unclear. Given national food donation trends, the relatively small size of the credits claimed, and information we received from stakeholders, it appears that the Hunger Relief Credit has had, at most, a relatively modest impact on food donations.

Statute does not provide quantifiable performance measures for this expenditure. Therefore, we evaluated the Hunger Relief Credit using the following performance measures that we inferred from the legislative declaration in House Bill 14-1119.

PERFORMANCE MEASURE #1: *The extent to which the Hunger Relief Credit has directly resulted in an increase in the total pounds of food donations from Colorado farmers and ranchers to food banks.*

RESULT: Agricultural food donations have increased significantly since 2014, when the Hunger Relief Credit was enacted, but only a small portion of the increase can potentially be attributed to the Hunger Relief Credit. The five major food banks in Colorado track how many pounds of produce, dairy, and meat have been donated by agricultural producers. The Calendar Years 2014 to 2016 totals for each food bank are shown in EXHIBIT 1.1.

EXHIBIT 1.1.
AGRICULTURAL FOOD DONATIONS TO FOOD BANKS
CALENDAR YEARS 2014-2016
(IN MILLIONS OF POUNDS)

FOOD BANK	2014	2015	2016	PERCENT CHANGE
Community Food Share (Louisville)	5.4	5.2	6.2	14%
Weld Food Bank (Greeley)	3.6	5.1	5.8	63%
Food Bank for Larimer County (Fort Collins)	2.0	2.3	2.6	26%
Care and Share Food Bank (Colorado Springs)	7.9	7.5	10.2	29%
Food Bank of the Rockies (Denver and Palisade)	4.9	7.0	10.3	109%
TOTAL	23.8	27.1	35.1	47%

SOURCE: Office of the State Auditor analysis of data provided by Feeding Colorado.

Agricultural food donations at the five food banks have increased by 47 percent, or 11.2 million pounds, from Calendar Years 2014, the year before the Hunger Relief Credit came into effect, and 2016. We found that this increase was consistent across food types: 47 percent for produce, 47 percent for dairy, and 52 percent for meat from Calendar Years 2014 to 2016.

Though the increase in total donations may suggest that the Hunger Relief Credit has increased donations from Colorado farmers and ranchers to in-state food banks, it is unclear to what extent the increase has stemmed from the credit. There are several indications that most of the increase is due to other factors. Specifically, according to Department of Revenue data, the total value of all of the credits taken for Calendar Year 2016 was about $129,000. Applying an average price of $0.34 per pound for the food donated, which we calculated based on receipts provided by the food banks, we estimate that approximately 1.5 million pounds of food were donated by taxpayers who claimed the credits in Calendar Year 2016. Therefore, given the 11.2 million pound increase in agricultural donations reported by the food banks, at most, only about 13 percent of the annual increase could be attributed to the Hunger Relief Credit. However, the true impact is likely less since some of the agricultural producers who took the credit may have donated the food regardless of the incentive provided by the credit.

We considered the following factors to further assess the potential incentive provided by the Hunger Relief Credit: (1) national food donation trends, (2) the average amount of credit taken by taxpayers, and (3) information provided by food bank staff and agricultural industry representatives.

As shown in EXHIBIT 1.2, from Calendar Years 2014 to 2016, fresh fruit and vegetable distributions through the Feeding America charitable food distribution network rose by about 29 percent nationwide, despite the fact that only three other states and the District of Columbia created a similar credit during that time period. Therefore, it appears that factors outside of the Hunger Relief Credit are providing incentives to increase donations. Notably the federal deduction available for crop donations was increased in 2015, which could have increased donations nationwide.

EXHIBIT 1.2.
POUNDS OF FRESH FRUITS AND VEGETABLES SOURCED AND DISTRIBUTED ACROSS FEEDING AMERICA NETWORK OF FOOD BANKS
CALENDAR YEARS 2014-2016

YEAR	POUNDS OF PRODUCE[1]
2014	970 million
2015	1.1 billion
2016	1.25 billion
Percent Change 2014–2016	29%

SOURCE: Information obtained from Feeding America.
[1]Includes food obtained through donations and purchased by hunger relief organizations with monetary donations.

In addition, we found that the average value of the tax credits claimed was not high enough to provide a strong incentive to donate food. On average, taxpayers who took the credit in 2016 received an annual tax benefit of just over $200 and had a federal taxable income of about $58,000. This indicates that the credit may be enough to incentivize taxpayers to donate food in situations where the additional cost of doing so is low; for example, when a food bank offers to pick up excess crops (according to the food banks we interviewed this is a common service they offer). Furthermore, 28 percent of the taxpayers who took the credit in Tax Year 2015 or 2016 did not have sufficient tax liability to take the full amount available. This indicates that the credit's effectiveness in incentivizing larger donations is limited among the group who have claimed the credit, since taxpayers who have already offset their entire tax liability would not be able to claim additional tax benefits even if they donated more crops.

Stakeholders from food banks, food pantries, and organizations representing agricultural producers generally indicated that the Hunger Relief Credit has only had, at most, a modest impact on food donations. Specifically, a representative from one food bank thought the credit may incentivize food donations of already harvested crops, but that it was not large enough to encourage farmers to go back and re-harvest their land. Other food bank and food pantry representatives indicated that they were unsure of whether the credit was providing any incentive at all, although some thought that could be due to lack of awareness of the credit. Representatives of agricultural producers and the farmers we spoke with also reported that many farmers would donate food regardless of the credit, in particular crops that were already harvested but not as marketable due to blemishes, though the credit could potentially provide an additional incentive in some cases.

PERFORMANCE MEASURE #2: *The proportion of food donations that were healthy, fresh food. We considered food to meet this standard if it was fresh produce, meat, eggs, or dairy.*

RESULT: The food donated by producers who took the credit was healthy and fresh. To determine the type of food donated to food banks, we reviewed donation receipts for Calendar Years 2015 and 2016 provided by the five major food banks in the state. Although this was not a complete set of all food donation receipts, it included all of the receipts maintained by the food banks and we considered it to provide a reliable sample of the types of donations received. Of the available 188 food bank receipts that contained descriptions of the items donated, almost all (98 percent) of the items donated were fruits and vegetables and the remaining donations were eggs and legumes. Many of these donations were not supermarket or restaurant-quality due to blemishes or size, and they were not always as fresh as supermarket goods. However, the food banks reported that the vast majority was of good quality and suitable for consumption.

CROP AND LIVESTOCK CORPORATE CREDIT

We determined that the Crop and Livestock Corporate Credit is not meeting its purpose. Specifically, we found that it is used too infrequently to have had any meaningful impact on food donations or the agricultural industry, with too few taxpayers taking the credit for us to be able to report the number who took the credit or the amount they claimed without compromising confidentiality of the taxpayers' data. Section 39-21-305(2)(b), C.R.S. requires us to maintain the confidentiality of taxpayer information.

Statute does not provide quantifiable performance measures for this expenditure. Therefore, we created and applied the same performance measures that we used to evaluate the Hunger Relief Credit.

PERFORMANCE MEASURE #1: *The extent to which the Crop and Livestock Corporate Credit has directly resulted in an increase in the total pounds of food donations from Colorado farmers and ranchers to food banks.*

RESULT: Due to its limited use, we found that the Crop and Livestock Corporate Credit has not resulted in a measurable increase in food donations.

PERFORMANCE MEASURE #2: *The proportion of food donations that were healthy, fresh food. We considered food to meet this standard if it was fresh produce, meat, eggs, or dairy.*

RESULT: We were not able to obtain information on the type of food donated for this credit.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURES?

HUNGER RELIEF CREDIT REVENUE IMPACT

The Hunger Relief Credit has directly reduced state tax revenue by an average of about $71,000 annually and provided an average benefit of about $206 per year to taxpayers who used it. EXHIBIT 1.3 shows the number of taxpayers claiming the credit, the credit amount available, and the credits actually claimed for Calendar Years 2015 and 2016. The amount of credits used is less than those available because some taxpayers had tax liabilities less than the credit available during each year. These taxpayers may carry forward the credits for 5 years to offset future tax liabilities.

EXHIBIT 1.3.
HUNGER RELIEF CREDITS CLAIMED
CALENDAR YEARS 2015 AND 2016

	2015	2016
Total Credits Used	$71,000	$71,000
Total Credits Available	$118,000	$129,000
Average Credit Available	$351	$367
Average Credit Claimed	$211	$201
Total Taxpayers	337	353

SOURCE: Office of the State Auditor analysis of Department of Revenue taxpayer data.

As shown, the average total amount claimed has been about $71,000 per year. However, the revenue impact to the State may be less than the amount claimed because, according to Section 39-22-104(3)(j), C.R.S., to take the credit, taxpayers have to add back to their state taxable income any amount deducted on their federal return that was based on the same donation of food, which increases state revenue. Although we were unable to obtain federal taxpayer data due to federal confidentiality requirements, we estimate that if all of the taxpayers had to add back federal deductions, the revenue impact to the State would be $59,000 (i.e., approximately $12,000 would be added back to state revenues). If none of the taxpayers had to add back federal deductions, the revenue impact would be $71,000, or the total amount claimed for the credit.

Although the fiscal impact of the credit has been small, it is important to note that this amount could grow in future years if more taxpayers begin taking the credit. Based on our interviews with stakeholders and our survey of farmers and ranchers, most agricultural producers are not aware of the credit, especially since it had only been in place for 2 years at the time of our review. Furthermore, the revenue impact could increase over time if more taxpayers apply unused credits from previous years.

IT IS UNCLEAR WHETHER THE HUNGER RELIEF CREDIT IS COST-EFFECTIVE. To assess the cost effectiveness of the credit, we calculated the potential cost per pound to the State of food donations attributable to the credit (i.e., the donations that would not have occurred but for the incentive provided by the credit). Because we did not have a source of data to determine what proportion of the donations were actually attributable to the credit, as opposed to other factors such as taxpayer altruism and the federal charitable deduction, in EXHIBIT 1.4 we provide several scenarios that assume varying percentages of donations being attributable to the credit.

For each scenario, we took the cost of the credits to the State (estimated at $211,000 based on the total credits available for Tax Years 2015 and 2016 and assuming 15 percent of available credits are never claimed) and calculated the pounds and cost per pound of donations attributable to the credit based on a total of about 2.9 million pounds of donations made using the credit in Calendar Years 2015 and 2016, which we estimated using food bank receipts.

EXHIBIT 1.4.
HUNGER RELIEF CREDIT SCENARIOS BY ADDITIONAL POUNDS DONATED IN CALENDAR YEARS 2015 AND 2016 AND DOLLARS-PER-POUND STATE IS "PAYING"

Percent of Donations Incentivized by Credit	Pounds Donated Attributable to Credit	Cost per pound to the State
5 Percent	146,000	$1.44
10 Percent	293,000	$0.72
20 Percent	585,000	$0.36
21 Percent	614,000	$0.34 (Break Even)
30 Percent	878,000	$0.24

SOURCE: Office of the State Auditor analysis of Department of Revenue data for Tax Years 2015 and 2016 and food bank receipts for Calendar Year 2015-2017.

As shown, the Hunger Relief Credit can be seen as more or less cost effective depending on the percentage of donations attributable to the credit, with the credit being more cost-effective the more it incentivizes donations. Based on the $0.34 per pound average fair market value of the donations and the revenue impact to the State from the credit, we estimate that about 21 percent of the donations would need to be attributable to the credit in order for the State to be "breaking even." If a smaller proportion of donations are incentivized by the credit, then the State could potentially provide the same funds to food banks to use to purchase the food and achieve a greater impact. For example, if 5 percent of the donations, about 146,000 pounds of food, are incentivized by the credit, at a cost to the State of $1.44 per pound ($211,000 total), the State could potentially instead provide the equivalent funds to food banks who could purchase over 620,000 pounds of food at the $0.34 average fair market value. Although it is possible that the credit could be incentivizing a high enough proportion of the donations to be cost-effective, the true proportion could also be less and we lacked data to form a reliable conclusion in this regard.

CROP AND LIVESTOCK CORPORATE CREDIT REVENUE IMPACT

During Fiscal Years 2012 through 2016, C-corporations claimed too little under the Crop and Livestock Corporate Credit for us to report under Section 39-21-305(2)(b), C.R.S without compromising taxpayers' confidentiality. Due to the low usage of the credit, its economic impact is likely insignificant and we performed no further analysis.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURES HAVE ON BENEFICIARIES?

Eliminating the Hunger Relief Credit would have a relatively small impact on hunger relief organizations, food insecure households, and agricultural producers. The credit has incentivized, at most, about 1.5 million pounds per year in food donations, and likely less than that given the other incentives agricultural producers have to donate crops. By comparison, food banks report distributing about 110 million pounds of food (from all sources) to Coloradans in need during Calendar Year 2017. Similarly, the average tax credit taken was relatively small in comparison to the average income of the taxpayers who took it, about 0.3 percent of their federal taxable income for the year. Further, an average of only 345 taxpayers took the credit for Tax Years 2015 and 2016, which is about 1 percent of the 34,000 agricultural producers in the state.

Eliminating the Crop and Livestock Corporate Credit would have no significant impact on beneficiaries because it has been very seldom used.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

We identified similar expenditures in several other states, although we did not conduct a comprehensive review of all states. Specifically, California, New York, Iowa, Oregon, West Virginia, and Missouri have enacted similar income tax credits, while Virginia, Arizona, and Maryland have introduced similar income tax deductions. South Carolina also has a similar credit, but it only applies to packers, butchers, or processors of deer meat.

The percentage of the value of the donation (though calculated in different ways) that can be claimed as a tax credit or deduction ranges from 10 percent in California and Oregon to 100 percent in Arizona. The annual cap in other states ranges from $2,500 per taxpayer in Missouri to no cap in a number of states.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

The enhanced federal deduction for charitable contributions provided under Section 170 of the Internal Revenue Code provides agricultural producers with a similar incentive to donate food. Though the incentive varies based on individual circumstances, this deduction allows many agricultural producers to deduct 50 percent of the market value of the donated food from their federal taxable income.

To illustrate the relative potential benefit provided by both the federal deduction and the Hunger Relief Credit (assuming eligible taxpayers would take both), EXHIBIT 1.5 provides information on tax incentives for donating food for several hypothetical taxpayers. As shown, though the federal deduction is potentially more valuable for taxpayers with high taxable income amounts and very large donations (as illustrated by Taxpayer 4 in the table), the Hunger Relief Credit may be more valuable for other taxpayers with more typical income and donation amounts (in practice none of the donations we reviewed for 2015 and 2016 exceeded $35,000).

EXHIBIT 1.5.
EXAMPLE TAXPAYER BENEFIT FROM THE FEDERAL CHARITABLE DEDUCTION FOR FOOD DONATIONS AND THE HUNGER RELIEF CREDIT

	TAXPAYER 1	TAXPAYER 2	TAXPAYER 3	TAXPAYER 4
Federal Taxable Income	$10,000	$50,000	$100,000	$500,000
Donation Fair Market Value	$2,000	$10,000	$20,000	$100,000
Federal Deduction Tax Benefit	$100	$600	$2,200	$17,500
Hunger Relief Credit Tax Benefit[1]	$417	$2,084	$4,167	$4,537

SOURCE: Office of the State Auditor analysis.
1 The tax benefit of the Hunger Relief Credit is less than the available credit amount because taxpayers may not have sufficient tax liability to use the full credit amount, and because of the requirement that taxpayers add back to their state taxable income the amount they deducted on their federal returns that was related to the same donation.

As discussed previously, we were not able to obtain information on the number of taxpayers who claimed the federal deduction, or the total amount claimed.

In addition, in Colorado, the Supplemental Nutrition Assistance Program (SNAP), administered by the Department of Human Services serves a similar purpose of providing food to those in need. According to a 2014 survey of Feeding America food pantry recipients, 72 percent live in households with annual incomes at or below the federal poverty line, and 55 percent live in households currently receiving benefits from SNAP. A key difference between SNAP and food pantries is that SNAP has specific eligibility requirements and provides a consistent source of funds with which to purchase food. Conversely, food pantries generally do not have eligibility requirements (though some verify that recipients live in the area), but some may only operate a few days per week or even month.

Thus, they serve a broader population than SNAP and often act as a supplemental source of food for both SNAP recipients and those who may not qualify for SNAP, but who may periodically have difficulty affording adequate food. In comparison to the Hunger Relief and Crop and Livestock Corporate Credits, SNAP has a far larger fiscal impact on the State, $55 million in state administrative expenses and $728 million in benefits issued to recipients during Fiscal Year 2016, compared to the $71,000 average direct annual impact of the Hunger Relief Credit.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURES?

The Department of Revenue does not capture donation information for the Hunger Relief Credit in GenTax, its tax processing information system, in a format that allows for a comprehensive analysis. Specifically, the Department of Revenue requires taxpayers to submit donation certification forms that provide information relevant to the credit, including the amount and type of food donated, the market price, the hunger-relief organization receiving the donation, and donation date. The Department of Revenue maintains scanned images of the forms, which it can pull manually on a taxpayer-by-taxpayer basis; however, GenTax does not digitally capture the information from the form and does not clearly link the taxpayer's account to the form. As a result, the process to search and pull each form is time consuming. The Department of Revenue reported that it would take hundreds of hours to pull all of the forms for the 2 years included in our analysis, which was beyond the staff resources available.

We were able to conduct our analysis based on copies of donation receipts for the credits maintained by the food banks. However, these receipts did not cover all donations claimed by taxpayers and may include some donations for which taxpayers never actually claimed a credit. Therefore, our analysis was limited to estimating the type of food, and the average size and market price of the donations. With complete information from the certification forms received by the Department of Revenue, our analysis would be more reliable and could include additional information, such as the distribution of donations to hunger relief organizations across the state and the timing of the donations. According to the Department of Revenue, GenTax would need additional programming to be able to capture the information from the donation certification forms in a format that would allow for a comprehensive analysis (see the Tax Expenditures Overview section of this Compilation Report for details on the limitations of Department of Revenue data and potential costs of addressing these limitations).

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

SOME AGRICULTURAL PRODUCERS ARE UNAWARE OF THE CREDITS AND HOW TO TAKE THEM. The food banks and the Colorado Farm Bureau both reported that some agricultural producers and the accounting firms they work with may not be aware of the credits and how to claim them. Furthermore, the food banks and Colorado Farm Bureau report that some farmers who have heard of the credit and do occasionally donate food do not know how to apply for the credits and they have a perception that it is "too much work" to do so, even though all that is required is weighing the donation (which food bank staff always do), estimating the donation's value, obtaining a signature from food bank staff, and submitting a form to the Department of Revenue when filing taxes. In addition, of the 28 agricultural producers that we surveyed who responded to the questions, 23 (82 percent) had not heard of the Hunger Relief Credit, and 24 (86 percent) had not heard of the Crop and Livestock Corporate Credit. Although greater public awareness of the credits may increase their impact, it could also lead to larger revenue impacts to the State.

MANY AGRICULTURAL PRODUCERS' STATE TAX LIABILITIES ARE TOO LOW TO BENEFIT FROM THE HUNGER RELIEF CREDIT. According to a 2015 study from the U.S. Department of Agriculture, 69 percent of all farms in the United States have operating profits that comprise less than 10 percent of their gross farm income, meaning that their federal and state tax liabilities may be low or negative. In addition, the Department of

Revenue's most recent data shows that in Tax Year 2013, the average Colorado taxpayer who reported a profit or loss from agricultural operations on their tax return reported a loss of almost $4,600. Although agricultural profits and losses can vary from year-to-year, based on this data, it appears that many agricultural producers in the state may not have any taxable income. Because the Hunger Relief Credit is not refundable, meaning the State will not issue a refund check to the taxpayer if the credit exceeds their state tax liability, individuals only receive a financial benefit from the credit to the extent that they have tax liability to offset.

SOME SMALL AGRICULTURAL PRODUCERS MAY NOT QUALIFY FOR THE HUNGER RELIEF CREDIT DUE TO FEDERAL FILING STATUS. Section 39-22-536(1)(e), C.R.S., limits the pool of eligible taxpayers who could claim the hunger relief credit to those who have filed a Schedule F with their federal tax returns, which is required for taxpayers who posted a profit or loss from crop production, animal production, forestry, or logging. Though the intent of this requirement may be to limit the credit to taxpayers who are professional agricultural producers, it may reduce the population of potential beneficiaries. While the Department of Revenue does not have data on how many state taxpayers have filed a Schedule F, food bank staff reported that many small agricultural producers, some of whom donate food, choose not to file the form. None of the relevant statutes and guidance documents that we examined from the other 10 states with similar tax expenditures indicated that donors had to file a Schedule F in order to claim the expenditure.

THE CROP AND LIVESTOCK CORPORATE CREDIT, CAPPED AT $1,000, IS LIKELY TOO LOW TO PROVIDE A MEANINGFUL INCENTIVE TO C-CORPORATIONS. According to the most recent Colorado Agricultural Census, conducted in Calendar Year 2012, 7 percent of in-state agricultural operations are incorporated as C-corporations. Incorporating as a C-corporation has tended to be more beneficial for larger-scale agricultural operations, which might not be highly incentivized by a tax credit that is capped at only $1,000 per year, in comparison to the $5,000 cap for the Hunger Relief Credit. Further, agricultural C-corporations tend to be more focused on growing grain and commodity crops, as opposed to food that is suitable for donation.

Federal tax reform could shift the balance of agricultural producers who incorporate as C-corporations, which could impact their eligibility for both the Hunger Relief and Crop and Livestock Corporate Credit. Federal corporate tax rate changes, effective starting in Tax Year 2018, lower the top tax rate for corporations from 35 percent to 21 percent. This may provide an incentive for some agricultural producers who currently file as individuals to incorporate. Though the incentive to incorporate would still be stronger for larger-scale operations, these taxpayers would no longer be able to claim the Hunger Relief Credit and would become eligible for the Crop and Livestock Corporate Credit. This could cause the Crop and Livestock Corporate Credit to be used more often in the future, though these taxpayers would be subject its $1,000 cap.