

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0529.01 Esther van Mourik x4215

HOUSE BILL 16-1194

HOUSE SPONSORSHIP

Mitsch Bush and Becker J., Priola, Dore, Rankin, Arndt, Lebsock, Williams, Pabon, Brown, Danielson, Duran, Esgar, Ginal, Vigil

SENATE SPONSORSHIP

Sonnenberg,

House Committees

Agriculture, Livestock, & Natural Resources
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A TEMPORARY INCOME TAX DEDUCTION FOR A PORTION**
102 **OF LEASE PAYMENTS RECEIVED BY A QUALIFIED TAXPAYER FOR**
103 **LEASING THE TAXPAYER'S AGRICULTURAL ASSET TO AN**
104 **ELIGIBLE BEGINNING FARMER OR RANCHER.**

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://www.leg.state.co.us/billsummaries>.)

The bill allows an income tax deduction for specified income tax years if a qualified taxpayer enters into a qualified lease with an eligible beginning farmer or rancher, in an amount specified in a deduction

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

certificate issued by the Colorado agricultural development authority that is equal to 20% of the lease payments received from the eligible beginning farmer or rancher as specified in the qualified lease, not to exceed a specified amount per income tax year, for a maximum of 3 income tax years. The bill also specifies that the Colorado agricultural development authority may not issue more than 100 deduction certificates in an income tax year and that the authority must require that a copy of the schedule F that the eligible beginning farmer or rancher filed with the eligible beginning farmer's or rancher's federal income tax return be included as part of the application for a deduction certificate.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-104, **add** (4)

3 (v) as follows:

4 **39-22-104. Income tax imposed on individuals, estates, and**
5 **trusts - single rate - legislative declaration - definitions - repeal.**

6 (4) There shall be subtracted from federal taxable income:

7 (v) (I) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
8 THAT:

9 (A) THE STATE IS SEEING A CONTINUED TREND OF AGING FARMERS
10 AND RANCHERS;

11 (B) THE CURRENT AVERAGE AGE OF A FAMILY FARM OR RANCH
12 OPERATOR IN COLORADO IS FIFTY-NINE;

13 (C) THERE IS A NATIONAL AND LOCAL FOCUS ON THE BENEFITS OF
14 LOCAL FOODS, AND AT THE SAME TIME A NEW GENERATION OF FARMER IS
15 EMERGING, BUT THE BEGINNING FARMERS OR RANCHERS ARE HAVING
16 TROUBLE FINDING LAND TO LEASE; AND

17 (D) THE INCOME TAX DEDUCTION ALLOWED IN THIS PARAGRAPH
18 (v) IS INTENDED TO BE AN INCENTIVE FOR AGING FARMERS OR RANCHERS
19 TO LEASE THEIR AGRICULTURAL ASSETS TO BEGINNING FARMERS OR
20 RANCHERS IN ORDER TO GIVE THE BEGINNERS A CHANCE TO GET STARTED

1 IN THE INDUSTRY.

2 (II) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
3 2017, BUT BEFORE JANUARY 1, 2020, IF A QUALIFIED TAXPAYER ENTERS
4 INTO A QUALIFIED LEASE WITH AN ELIGIBLE BEGINNING FARMER OR
5 RANCHER, AN AMOUNT SPECIFIED IN A DEDUCTION CERTIFICATE ISSUED BY
6 THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY THAT IS EQUAL
7 TO TWENTY PERCENT OF THE LEASE PAYMENTS RECEIVED FROM AN
8 ELIGIBLE BEGINNING FARMER OR RANCHER AS SPECIFIED IN THE QUALIFIED
9 LEASE, NOT TO EXCEED THE QUALIFIED TAXPAYER'S INCOME AND NOT TO
10 EXCEED THE AMOUNT SPECIFIED IN SUBPARAGRAPH (III) OF THIS
11 PARAGRAPH (V).

12 (III) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
13 MAY ISSUE MORE THAN ONE DEDUCTION CERTIFICATE TO EACH QUALIFIED
14 TAXPAYER IF SUCH QUALIFIED TAXPAYER ENTERS INTO MORE THAN ONE
15 QUALIFIED LEASE WITH MORE THAN ONE ELIGIBLE BEGINNING FARMER OR
16 RANCHER; EXCEPT THAT THE TOTAL AMOUNT SPECIFIED IN ALL DEDUCTION
17 CERTIFICATES ISSUED TO A QUALIFIED TAXPAYER MAY NOT EXCEED
18 TWENTY-FIVE THOUSAND DOLLARS PER INCOME TAX YEAR FOR A
19 MAXIMUM OF THREE INCOME TAX YEARS, AND EXCEPT THAT THE
20 COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY SHALL NOT ISSUE
21 MORE THAN THE NUMBER OF DEDUCTION CERTIFICATES PER INCOME TAX
22 YEAR SET FORTH IN SECTION 35-75-107 (1) (u), C.R.S.

23 (IV) FOR PURPOSES OF THIS PARAGRAPH (V):

24 (A) "AGRICULTURAL ASSET" MEANS LAND, CROPS, LIVESTOCK AND
25 LIVESTOCK FACILITIES, FARM EQUIPMENT AND MACHINERY, GRAIN
26 STORAGE, OR IRRIGATION EQUIPMENT.

27 (B) "COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY"

1 MEANS THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
2 CREATED IN SECTION 35-75-104, C.R.S.

3 (C) "DEDUCTION CERTIFICATE" MEANS A CERTIFICATE ISSUED BY
4 THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY CERTIFYING
5 THAT A QUALIFIED TAXPAYER QUALIFIES FOR THE INCOME TAX DEDUCTION
6 AUTHORIZED IN THIS SECTION AND SPECIFYING THE AMOUNT OF THE
7 DEDUCTION ALLOWED.

8 (D) "ELIGIBLE BEGINNING FARMER OR RANCHER" MEANS A
9 FARMER OR RANCHER RESIDING IN THE STATE WHO HAS A NET WORTH OF
10 LESS THAN TWO MILLION DOLLARS, WILL PROVIDE THE MAJORITY OF THE
11 DAILY PHYSICAL LABOR AND MANAGEMENT ON THE QUALIFIED
12 TAXPAYER'S AGRICULTURAL ASSET OR WILL USE THE QUALIFIED
13 TAXPAYER'S AGRICULTURAL ASSET THE MAJORITY OF THE TIME, HAS
14 PLANS TO FARM OR RANCH FULL-TIME, HAS NOT BEEN ENGAGED IN
15 FARMING OR RANCHING FOR MORE THAN TEN YEARS, HAS FARMING OR
16 RANCHING EXPERIENCE OR EDUCATION, AND HAS PARTICIPATED IN A
17 FINANCIAL MANAGEMENT EDUCATIONAL PROGRAM APPROVED BY THE
18 COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY.

19 (E) "QUALIFIED LEASE" MEANS A LEASE ENTERED INTO BETWEEN
20 A QUALIFIED TAXPAYER AND AN ELIGIBLE BEGINNING FARMER OR
21 RANCHER FOR THE QUALIFIED TAXPAYER'S AGRICULTURAL ASSET THAT IS
22 APPROVED BY THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
23 AND HAS A DURATION OF AT LEAST THREE YEARS.

24 (F) "QUALIFIED TAXPAYER" MEANS A TAXPAYER, INCLUDING A
25 PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH
26 ENTITY, WHO OWNS AN AGRICULTURAL ASSET LOCATED IN THE STATE.

27 (V) TO CLAIM THE DEDUCTION ALLOWED IN THIS PARAGRAPH (v),

1 THE QUALIFIED TAXPAYER SHALL ATTACH A COPY OF THE DEDUCTION
2 CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT
3 AUTHORITY TO THE TAXPAYER'S RETURN. NO TAX DEDUCTION IS ALLOWED
4 UNDER THIS PARAGRAPH (V) UNLESS THE TAXPAYER PROVIDES THE COPY
5 OF THE DEDUCTION CERTIFICATE.

6 (VI) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
7 SHALL, IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT
8 OF REVENUE TO PROCESS RETURNS CLAIMING THE DEDUCTION ALLOWED
9 BY THIS SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH AN
10 ELECTRONIC REPORT OF THE QUALIFIED TAXPAYERS RECEIVING A
11 DEDUCTION CERTIFICATE AS ALLOWED IN THIS SECTION FOR THE
12 PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING
13 INFORMATION:

14 (A) THE QUALIFIED TAXPAYER'S NAME;
15 (B) THE QUALIFIED TAXPAYER'S SOCIAL SECURITY NUMBER; AND
16 (C) THE AMOUNT OF THE DEDUCTION ALLOWED IN THIS SECTION.

17 (VII) THIS PARAGRAPH (V) IS REPEALED, EFFECTIVE DECEMBER 31,
18 2023.

19 **SECTION 2.** In Colorado Revised Statutes, 39-22-304, **add (3)**
20 (o) as follows:

21 **39-22-304. Net income of corporation - legislative declaration**
22 **- definitions - repeal.** (3) There shall be subtracted from federal taxable
23 income:

24 (o) (I) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
25 THAT:

26 (A) THE STATE IS SEEING A CONTINUED TREND OF AGING FARMERS
27 AND RANCHERS;

3 (C) THERE IS A NATIONAL AND LOCAL FOCUS ON THE BENEFITS OF
4 LOCAL FOODS, AND AT THE SAME TIME A NEW GENERATION OF FARMER IS
5 EMERGING, BUT THE BEGINNING FARMERS OR RANCHERS ARE HAVING
6 TROUBLE FINDING LAND TO LEASE; AND

7 (D) THE INCOME TAX DEDUCTION ALLOWED IN THIS PARAGRAPH
8 (o) IS INTENDED TO BE AN INCENTIVE FOR AGING FARMERS OR RANCHERS
9 TO LEASE THEIR AGRICULTURAL ASSETS TO BEGINNING FARMERS OR
10 RANCHERS IN ORDER TO GIVE THE BEGINNERS A CHANCE TO GET STARTED
11 IN THE INDUSTRY.

12 (II) FOR INCOME TAX YEARS BEGINNING ON OR AFTER JANUARY 1,
13 2017, BUT BEFORE JANUARY 1, 2020, IF A QUALIFIED TAXPAYER ENTERS
14 INTO A QUALIFIED LEASE WITH AN ELIGIBLE BEGINNING FARMER OR
15 RANCHER, AN AMOUNT SPECIFIED IN A DEDUCTION CERTIFICATE ISSUED BY
16 THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY THAT IS EQUAL
17 TO TWENTY PERCENT OF THE LEASE PAYMENTS RECEIVED FROM AN
18 ELIGIBLE BEGINNING FARMER OR RANCHER AS SPECIFIED IN THE QUALIFIED
19 LEASE, NOT TO EXCEED THE AMOUNT SPECIFIED IN SUBPARAGRAPH (III) OF
20 THIS PARAGRAPH (o).

1 MAXIMUM OF THREE INCOME TAX YEARS, AND EXCEPT THAT THE
2 COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY SHALL NOT ISSUE
3 MORE THAN THE NUMBER OF DEDUCTION CERTIFICATES PER INCOME TAX
4 YEAR SET FORTH IN SECTION 35-75-107 (1) (u), C.R.S.

5 (IV) FOR PURPOSES OF THIS PARAGRAPH (o):

6 (A) "AGRICULTURAL ASSET" MEANS LAND, CROPS, LIVESTOCK AND
7 LIVESTOCK FACILITIES, FARM EQUIPMENT AND MACHINERY, GRAIN
8 STORAGE, OR IRRIGATION EQUIPMENT.

9 (B) "COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY"
10 MEANS THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
11 CREATED IN SECTION 35-75-104, C.R.S.

12 (C) "DEDUCTION CERTIFICATE" MEANS A CERTIFICATE ISSUED BY
13 THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY CERTIFYING
14 THAT A QUALIFIED TAXPAYER QUALIFIES FOR THE INCOME TAX DEDUCTION
15 AUTHORIZED IN THIS SECTION AND SPECIFYING THE AMOUNT OF THE
16 DEDUCTION ALLOWED.

17 (D) "ELIGIBLE BEGINNING FARMER OR RANCHER" MEANS A
18 FARMER OR RANCHER RESIDING IN THE STATE WHO HAS A NET WORTH OF
19 LESS THAN TWO MILLION DOLLARS, WILL PROVIDE THE MAJORITY OF THE
20 DAILY PHYSICAL LABOR AND MANAGEMENT ON THE QUALIFIED
21 TAXPAYER'S AGRICULTURAL ASSET OR WILL USE THE QUALIFIED
22 TAXPAYER'S AGRICULTURAL ASSET THE MAJORITY OF THE TIME, HAS
23 PLANS TO FARM OR RANCH FULL-TIME, HAS NOT BEEN ENGAGED IN
24 FARMING OR RANCHING FOR MORE THAN TEN YEARS, HAS FARMING OR
25 RANCHING EXPERIENCE OR EDUCATION, AND HAS PARTICIPATED IN A
26 FINANCIAL MANAGEMENT EDUCATIONAL PROGRAM APPROVED BY THE
27 COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY.

6 (F) "QUALIFIED TAXPAYER" MEANS A TAXPAYER WHO OWNS AN
7 AGRICULTURAL ASSET LOCATED IN THE STATE.

8 (V) TO CLAIM THE DEDUCTION ALLOWED IN THIS PARAGRAPH (o),
9 THE QUALIFIED TAXPAYER SHALL ATTACH A COPY OF THE DEDUCTION
10 CERTIFICATE ISSUED BY THE COLORADO AGRICULTURAL DEVELOPMENT
11 AUTHORITY TO THE TAXPAYER'S RETURN. NO TAX DEDUCTION IS ALLOWED
12 UNDER THIS PARAGRAPH (o) UNLESS THE TAXPAYER PROVIDES THE COPY
13 OF THE DEDUCTION CERTIFICATE.

14 (VI) THE COLORADO AGRICULTURAL DEVELOPMENT AUTHORITY
15 SHALL, IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE DEPARTMENT
16 OF REVENUE TO PROCESS RETURNS CLAIMING THE DEDUCTION ALLOWED
17 BY THIS SECTION, PROVIDE THE DEPARTMENT OF REVENUE WITH AN
18 ELECTRONIC REPORT OF THE QUALIFIED TAXPAYERS RECEIVING A
19 DEDUCTION CERTIFICATE AS ALLOWED IN THIS SECTION FOR THE
20 PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING
21 INFORMATION:

22 (A) THE QUALIFIED TAXPAYER'S NAME:

23 (B) THE QUALIFIED TAXPAYER'S COLORADO ACCOUNT NUMBER:

24 AND

25 (C) THE AMOUNT OF THE DEDUCTION ALLOWED IN THIS SECTION.

26 (VII) THIS PARAGRAPH (o) IS REPEALED, EFFECTIVE DECEMBER 31,
27 2023.

1 **SECTION 3.** In Colorado Revised Statutes, 35-75-107, **add** (1)
2 (u) as follows:

3 **35-75-107. General powers and duties of authority.** (1) In
4 addition to any other powers specifically granted to the authority in this
5 article, the authority has the following powers:

6 (u) TO RECEIVE APPLICATIONS AND ISSUE DEDUCTION
7 CERTIFICATES FOR THE INCOME TAX DEDUCTION FOR A PORTION OF LEASE
8 PAYMENTS RECEIVED BY A QUALIFIED TAXPAYER FOR LEASING THE
9 TAXPAYER'S AGRICULTURAL ASSET TO AN ELIGIBLE BEGINNING FARMER OR
10 RANCHER AS ALLOWED IN SECTIONS 39-22-104 AND 39-22-304, C.R.S.;
11 EXCEPT THAT THE AUTHORITY SHALL NOT ISSUE MORE THAN ONE
12 HUNDRED DEDUCTION CERTIFICATES PER INCOME TAX YEAR. THE
13 AUTHORITY SHALL REQUIRE THAT A COPY OF THE SCHEDULE F THAT THE
14 ELIGIBLE BEGINNING FARMER OR RANCHER FILED WITH THE ELIGIBLE
15 BEGINNING FARMER'S OR RANCHER'S FEDERAL INCOME TAX RETURN BE
16 INCLUDED AS A PART OF THE APPLICATION FOR A DEDUCTION CERTIFICATE.

17 **SECTION 4. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part will not take effect
24 unless approved by the people at the general election to be held in
25 November 2016 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.