

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 15-0716.01 Nicole Myers x4326

SENATE BILL 15-127

SENATE SPONSORSHIP

Garcia, Donovan

HOUSE SPONSORSHIP

Dore, Esgar

Senate Committees

Agriculture, Natural Resources, & Energy
Finance

House Committees

A BILL FOR AN ACT

101 **CONCERNING TAX INCENTIVES FOR AGRITOURISM-RELATED**
102 **ACTIVITIES.**

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>.)

For income tax years commencing on or after January 1, 2016, but before January 1, 2021, the bill allows a private advertising or marketing agency (agency) to deduct from its federal taxable income for state income tax purposes an amount equal to 50% of the costs the agency incurs in donating advertising or marketing services to a local government with fewer than 120,000 residents, for the purpose of advertising or

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.

marketing an agritourism activity hosted by or occurring within the boundaries of the local government. An agency that donates a portion of the advertising or marketing services provided for advertising or marketing an agritourism activity and receives compensation from the local government for a portion of such services provided may deduct 50% of only the costs that were donated. An agency is prohibited from deducting more than \$10,000 in any income tax year for which the deduction is claimed.

In addition, for income tax years commencing on or after January 1, 2015, but before January 1, 2020, the bill allows a taxpayer who purchases equipment to be used for agritourism purposes to claim an income tax credit in an amount equal to the purchase price of the equipment. A taxpayer is not allowed to claim more than \$500 in any income tax year. If the amount of the credit allowed exceeds the amount of the taxpayer's income tax liability for the income tax year during which the purchase was made, the amount of the tax credit may not be refunded, but may be carried forward for up to 5 years.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds and declares that the state and the people of the state derive
4 numerous economic and personal benefits from agritourism activities.
5 Therefore, it is the intent of the general assembly to provide a tax
6 incentive to advertising agencies that donate services to small local
7 governments to promote agritourism-related activities. In addition, it is
8 the intent of the general assembly to provide a tax incentive for the
9 purchase of agritourism-related equipment to encourage people who own
10 or lease agricultural land to provide opportunities for citizens and visitors
11 to the state to participate in agritourism activities.

12 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add** (4)
13 (u) as follows:

14 **39-22-104. Income tax imposed on individuals, estates, and**
15 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
16 from federal taxable income:

1 (u) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
2 JANUARY 1, 2016, BUT BEFORE JANUARY 1, 2021, TO THE EXTENT NOT
3 OTHERWISE SUBTRACTED FROM FEDERAL TAXABLE INCOME, AN AMOUNT
4 EQUAL TO FIFTY PERCENT OF THE VALUE OF ADVERTISING OR MARKETING
5 SERVICES DONATED BY A PRIVATE ADVERTISING OR MARKETING AGENCY
6 TO A LOCAL GOVERNMENT WITH FEWER THAN ONE HUNDRED TWENTY
7 THOUSAND RESIDENTS FOR THE PURPOSE OF ADVERTISING OR MARKETING
8 AN AGRITOURISM ACTIVITY HOSTED BY OR OCCURRING WITHIN THE
9 BOUNDARIES OF THE LOCAL GOVERNMENT. A PRIVATE ADVERTISING OR
10 MARKETING AGENCY THAT DONATES A PORTION OF THE ADVERTISING OR
11 MARKETING SERVICES PROVIDED FOR ADVERTISING OR MARKETING AN
12 AGRITOURISM ACTIVITY AND RECEIVES COMPENSATION FROM THE LOCAL
13 GOVERNMENT FOR A PORTION OF SUCH SERVICES PROVIDED MAY
14 SUBTRACT FIFTY PERCENT OF ONLY THE VALUE OF THE SERVICES THAT
15 WERE DONATED. THE TOTAL AMOUNT OF THE SUBTRACTION PURSUANT TO
16 THIS PARAGRAPH (u) SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR
17 ANY TAXPAYER IN ANY INCOME TAX YEAR.

18 (II) FOR PURPOSES OF THIS PARAGRAPH (u), UNLESS THE CONTEXT
19 OTHERWISE REQUIRES:

20 (A) "AGRITOURISM ACTIVITY" HAS THE SAME MEANING AS
21 "AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY", AS DEFINED IN
22 SECTION 13-21-121 (2) (b), C.R.S.

23 (B) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY AND
24 COUNTY, CITY, OR TOWN, WHETHER HOME RULE OR STATUTORY, OR ANY
25 SCHOOL DISTRICT, SPECIAL DISTRICT, AUTHORITY, OR OTHER POLITICAL
26 SUBDIVISION OF THE STATE.

27 (III) THIS PARAGRAPH (u) IS REPEALED, EFFECTIVE JANUARY 1,

1 2022.

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

4 **39-22-304. Net income of corporation - repeal.** (3) There shall
5 be subtracted from federal taxable income:

6 (o) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
7 JANUARY 1, 2016, BUT BEFORE JANUARY 1, 2021, TO THE EXTENT NOT
8 OTHERWISE SUBTRACTED FROM FEDERAL TAXABLE INCOME, AN AMOUNT
9 EQUAL TO FIFTY PERCENT OF THE VALUE OF ADVERTISING OR MARKETING
10 SERVICES DONATED BY A PRIVATE ADVERTISING OR MARKETING AGENCY
11 TO A LOCAL GOVERNMENT WITH FEWER THAN ONE HUNDRED TWENTY
12 THOUSAND RESIDENTS FOR THE PURPOSE OF ADVERTISING OR MARKETING
13 AN AGRITOURISM ACTIVITY HOSTED BY OR OCCURRING WITHIN THE
14 BOUNDARIES OF THE LOCAL GOVERNMENT. A PRIVATE ADVERTISING OR
15 MARKETING AGENCY THAT DONATES A PORTION OF THE ADVERTISING OR
16 MARKETING SERVICES PROVIDED FOR ADVERTISING OR MARKETING AN
17 AGRITOURISM ACTIVITY AND RECEIVES COMPENSATION FROM THE LOCAL
18 GOVERNMENT FOR A PORTION OF SUCH SERVICES PROVIDED MAY
19 SUBTRACT FIFTY PERCENT OF ONLY THE VALUE OF THE SERVICES THAT
20 WERE DONATED. THE TOTAL AMOUNT OF THE SUBTRACTION PURSUANT TO
21 THIS PARAGRAPH (o) SHALL NOT EXCEED TEN THOUSAND DOLLARS FOR
22 ANY TAXPAYER IN ANY INCOME TAX YEAR.

23 (II) FOR PURPOSES OF THIS PARAGRAPH (o), UNLESS THE CONTEXT
24 OTHERWISE REQUIRES:

25 (A) "AGRITOURISM ACTIVITY" HAS THE SAME MEANING AS
26 "AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY", AS DEFINED IN
27 SECTION 13-21-121 (2) (b), C.R.S.

1 (B) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY AND
2 COUNTY, CITY, OR TOWN, WHETHER HOME RULE OR STATUTORY, OR ANY
3 SCHOOL DISTRICT, SPECIAL DISTRICT, AUTHORITY, OR OTHER POLITICAL
4 SUBDIVISION OF THE STATE.

5 (III) THIS PARAGRAPH (o) IS REPEALED, EFFECTIVE JANUARY 1,
6 2022.

7 **SECTION 4.** In Colorado Revised Statutes, **add** 39-22-538 as
8 follows:

9 **39-22-538. Tax credit for agritourism equipment purchases -**
10 **legislative declaration - definitions - repeal.** (1) FOR PURPOSES OF THIS
11 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 (a) "AGRITOURISM ACTIVITY" HAS THE SAME MEANING AS
13 "AGRICULTURAL RECREATION OR AGRITOURISM ACTIVITY", AS DEFINED IN
14 SECTION 13-21-121 (2) (b), C.R.S.

15 (b) "EQUIPMENT" MEANS A DEVICE USED TO ENGAGE IN AN
16 AGRITOURISM ACTIVITY.

17 (c) "FACILITY" MEANS A PRIVATELY OWNED AND OPERATED FARM,
18 RANCH, OR OTHER PROPERTY ON WHICH THE OPPORTUNITY TO ENGAGE IN
19 ONE OR MORE AGRITOURISM ACTIVITIES IS OFFERED TO A PARTICIPANT,
20 REGARDLESS OF WHETHER IT IS SITUATED IN AN INCORPORATED AREA OR
21 UNINCORPORATED AREA.

22 (d) "PARTICIPANT" MEANS A PERSON WHO ENGAGES IN AN
23 AGRITOURISM ACTIVITY, WHETHER OR NOT A FEE IS PAID TO PARTICIPATE
24 IN THE ACTIVITY.

25 (e) "TAXPAYER" MEANS A PERSON WHO OWNS OR LEASES A
26 FACILITY IN THE STATE.

27 (2) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY

1 1, 2015, BUT BEFORE JANUARY 1, 2020, A TAXPAYER WHO PURCHASES
2 AGRITOURISMEQUIPMENT TO BE USED AT A FACILITY DURING THE INCOME
3 TAX YEAR IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY
4 THIS ARTICLE IN AN AMOUNT EQUAL TO THE PURCHASE PRICE OF THE
5 EQUIPMENT; EXCEPT THAT THE TOTAL AMOUNT OF THE CREDIT CLAIMED
6 IN ANY INCOME TAX YEAR FOR EQUIPMENT TO BE USED AT ANY ONE
7 FACILITY SHALL NOT EXCEED FIVE HUNDRED DOLLARS.

8 (3) IF THE AMOUNT OF THE CREDIT ALLOWED PURSUANT TO THIS
9 SECTION EXCEEDS THE AMOUNT OF INCOME TAX DUE ON THE INCOME OF
10 THE TAXPAYER FOR THE INCOME TAX YEAR DURING WHICH THE PURCHASE
11 WAS MADE, THE AMOUNT OF THE TAX CREDIT NOT USED AS AN OFFSET
12 AGAINST INCOME TAXES IN SUCH INCOME TAX YEAR MAY NOT BE
13 ALLOWED AS A REFUND, BUT MAY BE CARRIED FORWARD AND APPLIED
14 AGAINST THE INCOME TAX DUE IN EACH OF THE FIVE SUCCEEDING INCOME
15 TAX YEARS, BUT MUST FIRST BE APPLIED AGAINST THE INCOME TAX DUE
16 FOR THE EARLIEST OF THE INCOME TAX YEARS POSSIBLE.

17 (4) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2021.

18 **SECTION 5. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2016 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.