

Date of Hearing: June 29, 2026

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

SB 881 (McNerney) – As Amended June 4, 2026

SUSPENSE

Majority vote. Fiscal committee.

SENATE VOTE: 39-0

SUBJECT: Income taxation: credits: voluntary contributions: food bank donations

SUMMARY: Extends the sunset dates of the Donated Fresh Fruits and Vegetables Credit and Emergency Food for Families Voluntary Tax Contribution Fund (Fund). Specifically, **this bill:**

- 1) Makes various findings and declarations.
- 2) Extends, under the Personal Income Tax (PIT) Law and the Corporation Tax (CT) Law, the authorization for the Donated Fresh Fruits and Vegetables Credit by 5 years, from taxable years beginning before January 1, 2027, to taxable years beginning before January 1, 2032.
- 3) Extends the requirement for the Franchise Tax Board (FTB) to include the Fund on the PIT return for taxable years beginning before January 1, 2033.

EXISTING LAW:

- 1) Allows various tax credits, which are generally designed to encourage socially beneficial behavior or to provide relief to taxpayers who incur specified expenses.
- 2) Conforms generally to federal law regarding the deduction of all ordinary and necessary expenses of a trade or business. (Revenue and Taxation Code (R&TC) Section 17201 *et seq.*)
- 3) Conforms generally to federal law regarding deductions for charitable contributions but does not conform to an enhanced deduction for donations of food inventory that federal law provides.¹ (R&TC Section 17275.2.)
- 4) Allows taxpayers to claim a deduction for charitable contributions made to qualified organizations. For corporations, the deduction is generally limited to 10% of net income. (R&TC Sections 17201 and 24358.)
- 5) Allows a 50% tax credit for costs to transport donated agricultural products to nonprofit charitable organizations. (R&TC Sections 17053.12 and 23608.)

¹ The federal enhanced deduction is provided by Internal Revenue Code (IRC) Section 170(e)(3)(C).

- 6) Allows a tax credit, under the PIT Law and the CT Law, to "qualified taxpayers" equal to 15% of the "qualified value" of "qualified donation items" donated to food banks located in California. (R&TC Sections 17053.88.5 and 23688.5.) Specifically, these credits do all of the following:
- a) Define a "qualified taxpayer" as the person responsible for planting a crop, managing the crop, and harvesting the crop from the land, as well as the person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item, provided that person is not a retailer. For these purposes, "retailer" is a person primarily engaged in the business of making retail sales directly to the public.
 - b) Define "qualified donation item" as fresh fruits or fresh vegetables, including all of the following raw agricultural products or processed foods:
 - i) "Fruits, nuts, or vegetables" as defined in Food and Agricultural Code (F&AC) Section 42510;
 - ii) "Meat food product" as defined in F&AC Section 18665;
 - iii) "Poultry" as defined in F&AC Section 18675;
 - iv) "Eggs" as defined in F&AC Section 75027;
 - v) "Fish" as defined in F&AC Section 58609; and,
 - vi) All of the following, as defined in Health and Safety Code (H&SC) Section 109935:
 - 1) Rice;
 - 2) Beans;
 - 3) Fruits, nuts, and vegetables in canned, frozen, dried, dehydrated, and 100% juice forms;
 - 4) Any cheese, milk, yogurt, butter, and dehydrated milk meeting the requirements of F&AC Section 32501 *et seq.*;
 - 5) Infant formula subject to H&SC Section 114094.5;
 - 6) Vegetable oil and olive oil;
 - 7) Soup, pasta sauce, and salsa;
 - 8) Bread and pasta; and,
 - 9) Canned meats and seafood.
 - c) Specify the calculation of "qualified value" by using:

- i) The weighted average wholesale price based on the taxpayer's total like grade wholesale sales of the donated items sold within the same month as the donation; or, if no wholesale sales occurred in the same month as the donation,
 - ii) The nearest regional wholesale market price based upon the same grade products for the same month as the donation, as published by U.S. Department of Agriculture's Agricultural Marketing Service.
- 7) Requires the credit for donated fresh fruits and vegetables to be claimed on a timely filed original return. (R&TC Section 17053.88.5, subdivision (e) and Section 23688.5, subdivision (e).)
- 8) Reduces any deduction otherwise allowed under the PIT Law or CT Law for that amount of cost paid or incurred by the qualified taxpayer for the fresh fruits and vegetables by the credit amount provided. (R&TC Section 17053.88.5, subdivision (c) and Section 23688.5, subdivision (c).)
- 9) Provides that any unused credit amounts may be carried over for up to 7 years if necessary, until the credit is exhausted. (R&TC Section 17053.88.5, subdivision (f) and Section 23688.5, subdivision (f).)
- 10) Requires the FTB to produce an annual report to the Legislature on or before December 1 regarding the utilization of the credit, including the qualified value of the qualified donation items, the county in which the qualified donation items originated, and the month the donation was made. (R&TC Section 17053.88.5, subdivision (g).)
- 11) Allows taxpayers to contribute to one or more of 18 voluntary contribution funds (VCFs) on the 2025 PIT return. (R&TC Section 18700 *et seq.*)
- 12) Requires each VCF to meet an annual minimum contribution amount to remain in effect, except for the California Firefighters' Memorial Voluntary Tax Contribution Fund, the California Peace Officer Memorial Foundation Voluntary Tax Contribution Fund, the California Senior Citizen Advocacy Voluntary Tax Contribution Fund, and the California Seniors Special Fund. (R&TC Sections 18801 *et seq.*, 18805 *et seq.*, 18730 *et seq.*, and 18771 *et seq.*)
- 13) Provides a specific sunset date for each VCF, except for the California Seniors Special Fund and the State Parks Protection Fund. (R&TC Sections 18771 *et seq.* and 18900.1 *et seq.*)
- 14) Requires the statutory provisions establishing a VCF to remain in effect only until January 1 of the seventh calendar year following the VCF's first appearance on the PIT return. (R&TC Section 18873.)

FISCAL EFFECT: The FTB estimates this bill would reduce General Fund revenues by approximately \$400,000 in fiscal year (FY) 2025-26, \$908,000 in FY 2026-27, and \$1 million in FY 2027-28.

COMMENTS:

- 1) The author has provided the following statement in support of this bill:

SB 881 enables farmers, growers, and food producers to provide fresh fruits, vegetables, nuts, and more to food-insecure families and receive tax credits for donating surplus food to food banks. California farmers and growers are among the most productive in the world, and yet far too many Californians go hungry each year. This bill reauthorizes California's Farmer to Food Bank Tax Credit, extending a successful program that provides farmers, growers, and food producers with a state tax credit when they donate excess, safe-to-eat food to California food banks. Specifically, SB 881 extends the existing 15 percent tax credit for qualified food donations through 2032. SB 881 also extends the Emergency Food for Families Voluntary Tax Contribution Fund, ensuring Californians can continue to voluntarily contribute to food banks through their tax returns. Together, these provisions strengthen California's food safety net at a time when many Californians are struggling to put food on the table.

- 2) This bill is supported by the California Association of Food Banks, Californians Against Waste, and a coalition of "over 50 anti-hunger, anti-waste, anti-poverty, environmental advocates, and agriculture organizations", which note, in part:

Food banks are already serving over 6 million Californians a month across the state, before the implementation of H.R.1 – a notable increase from the 4.5 million they served during the height of the Covid-19 pandemic. While the need continues to increase, food banks are also receiving less federal assistance through the USDA's Emergency Food Assistance Program (TEFAP), which provides American-grown foods to food banks for distribution. Food Banks received over 40% less food in 2025 than the previous year.

Reducing food waste while meeting growing food assistance needs is a critical opportunity for California. By preventing edible food from being discarded and instead redirecting it to families in need, the state can address both environmental and social crises simultaneously. Promoting food donations is a proven strategy to reduce waste at the source, strengthen local food systems, and cut climate pollution.

With a greater need for food assistance than ever and the importance of reducing waste, the state needs to protect programs that are working. The farmer-to-food bank tax credit was first established in 2011 and provides farmers who donate California-grown and produced foods to food banks with a tax credit worth 15% of the market value of their donation. This helps farmers cover the cost of harvesting and donating highly nutritious foods, including fresh fruits, nuts, vegetables, starches, proteins, and more.

Often, the foods donated are high-quality but too imperfect for grocery stores. The tax credit makes it possible for farmers to harvest this food rather than having it go to waste in the field. On top of quality and waste reduction, this program enables food banks to access these foods at an extremely low cost compared to other food sources. Typically, these foods cost food banks an average of 15 cents per pound in transportation costs to procure.

- 3) This bill is opposed by the California Teachers Association (CTA), which notes, in part:

In fiscal year 2025-26, the Department of Finance estimated a \$94 billion dollar loss in general fund revenue due to existing tax expenditures. This is revenue that would have otherwise gone to the General Fund, of which approximately 40% would have gone

toward the Proposition 98 minimum guarantee. Once tax credits are passed with a simple majority, it takes a two-thirds vote of the Legislature to repeal them. While we understand that some of these bills are well intended, CTA does not support this approach, as it would reduce overall funding for education.

4) Committee Staff Comments:

- a) *What is a "tax expenditure"?* Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these features of the tax law should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose and there is a determinable cost associated with each (in the form of foregone revenues).

As the Department of Finance notes in its annual Tax Expenditure Report, there are several key differences between tax expenditures and direct expenditures. First, tax expenditures are typically reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it should also be noted that, once enacted, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by majority vote, but cannot be rescinded, irrespective of their efficacy or cost, without a supermajority vote.

- b) *Prior iterations:* The Donated Fresh Fruits or Vegetables Tax Credit was created in 2011 when the Legislature passed AB 152 (Fuentes), Chapter 503, Statutes of 2011. This credit was available under the PIT and CT Laws for tax years beginning on January 1, 2012 and before January 1, 2017. The credit was equal to 10% of the inventory cost of fresh fruits or vegetables donated by a qualified taxpayer to a California food bank. To be eligible for the credit, the qualified taxpayer was required to be the person responsible for planting the crop, managing the crop, and harvesting the crop from the land. In other words, the qualified taxpayer had a direct role in growing and cultivating the fruits and vegetables that were donated.

To claim the credit, a food bank was required to provide a certificate to the qualified taxpayer that verified the donation was made in accordance with the F&AC and the type and quantity of fresh fruits or vegetables donated. The credit also required taxpayers to provide the FTB with the estimated value of the donated fresh fruits or vegetables and information regarding the origin of where the donated fruits or vegetables were grown. Upon request of the FTB, a taxpayer claiming the credit was required to provide a copy of the certificate provided by the food bank that received the donation.

In response to the credit's expiration, the Legislature enacted a new Donated Fresh Fruit or Vegetables Credit as part of SB 837 (Committee on Budget & Fiscal Review), Chapter 32, Statutes of 2016. The revised Donated Fresh Fruit or Vegetables Credit was similar to the prior credits, but it increased the credit's amount from 10% of the cost of fresh fruits or vegetables donated by the taxpayer to 15%. Additionally, instead of the credit amount being calculated on an inventory cost basis – which can raise questions about indirect costs – SB 837 provided that the credit amount must be calculated using the weighted average of the wholesale price.

- c) *Sunset extension and expansion:* The Donated Fresh Fruit or Vegetable Credit was significantly expanded by AB 614 (Eggman), Chapter 431, Statutes of 2019. First, AB 614 expanded the types of food products eligible for the credit beyond fresh fruit and vegetables to include donations of specified food items such as soup, bread, and canned meats; processed foods such as infant formula and olive oil; and raw agricultural products such as rice, beans, nuts, and various dairy items.

Additionally, AB 614 expanded the definition of a qualified taxpayer to include those harvesting, packing, or processing a qualified donation item. This change made additional taxpayers involved in the food supply chain eligible for the credit. AB 150 (Committee on Budget), Chapter 82, Statutes of 2021, extended the credit's sunset from January 1, 2022 to January 1, 2027.

The table below displays information from the FTB's annual reports relating to the Donated Fresh Fruit or Vegetable Credit:

	2019	2020	2021	2022	2023	2024*
Returns claiming credit	413	657	879	604	619	581*
Total credits allowed	\$1,510,924	\$2,523,890	\$1,638,723	\$1,829,118	\$1,706,378	\$888,627*
Donation value	\$10,251,592	\$10,653,948	\$11,768,710	\$10,067,718	\$10,663,088	\$10,750,124*

* Not all timely 2024 tax year returns had been processed as of report publishing.

- d) *Committee's tax expenditure policy:* Both R&TC Section 41 and Committee policy require any tax expenditure bill to outline specific goals, purposes, and objectives that the tax expenditure will achieve, along with detailed performance indicators for the Legislature to use when measuring whether the tax expenditure meets those stated goals, purposes, and objectives. A tax expenditure bill will not be eligible for a Committee vote unless it has complied with these requirements.

Existing law provides that the purpose of the credit is to increase donations to food banks and requires the FTB, using the information available from the certificates described above, to provide an annual report to the Legislature regarding the utilization of the credit. Additionally, the FTB must also include in the report the qualified value of the qualified donation items, the county in which the qualified donation items originated, and the month the donation was made.

In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals contain an appropriate sunset provision to be eligible for a vote. According to this policy, an "appropriate sunset provision" means five years, except in the case of a tax expenditure measure providing relief to California veterans, in which case "appropriate sunset provision" means ten years.

Absent a sunset date, tax expenditure programs cannot be revoked without a supermajority vote. Thus, this Committee has a longstanding practice of including sunset dates in tax expenditure bills to allow the Legislature periodically to review the cost and efficacy of such expenditures, as well as whether technical changes are needed due to evolving circumstances. This bill complies with the Committee's sunset policy relating to tax expenditures.

- e) *Contributions to the Fund*: The table on the following page displays information from the FTB's annual status reports relating to the Fund since the 2019 taxable year:

	2019	2020	2021	2022	2023	2024	2025
Items Processed	29,158	40,902	40,162	29,406	25,721	21,977	20,242
Valid Contributions	\$481,926	\$850,868	\$945,638	\$619,872	\$579,131	\$464,470	\$455,440

- f) *Leveling the field*: In an effort to promote a fair playing field, the Legislature enacted a series of requirements for new and extended VCFs. Specifically, R&TC Section 18873 was added by SB 1476 (Committee on Governance and Finance), Chapter 597, Statutes of 2016, to bring a degree of uniformity and improvement to the disparate VCF statutes. Among other things, Section 18873 provides the following parameters:
- i) The words "voluntary tax contribution" shall be included as part of the name of the fund;
 - ii) The website of the fund's administering agency shall report the process for awarding money, the amount of money spent on administration, and an itemization of how program funds were awarded, as specified;
 - iii) The minimum contribution amount that must be received for the fund to continue appearing on the tax return is \$250,000, without subsequent inflation adjustments; and,
 - iv) The statutory provisions establishing a VCF shall remain in effect only until January 1 of the seventh calendar year following the VCF's first appearance on the return.

As recently amended, this bill complies with the Committee's sunset policy relating to VCFs.

- g) *Related legislation*:

- i) SB 353 (Alvarado-Gil) is substantially similar to this bill but does not extend the authorization for the Fund. SB 353 was heard and referred to this Committee's Suspense File on July 14, 2025.
- ii) SB 575 (Laird) would re-authorize the California Sea Otter Voluntary Tax Contribution Fund for taxable years beginning on or after January 1, 2026 and before January 1, 2033. SB 575 (Laird) was passed unanimously by this Committee on

June 8, 2026.

iii) SB 1073 (Smallwood-Cuevas) would create the Black Cultural District VCF and require the FTB to include it on the PIT return for taxable years beginning on or after January 1, 2026, and before January 1, 2033, provided it receives at least \$250,000 in annual contributions. SB 1073 (Smallwood-Cuevas) was passed unanimously by this Committee on June 8, 2026 and is pending hearing by the Assembly Committee on Arts, Entertainment, Sports & Tourism.

h) *Prior legislation:*

i) AB 150 (Committee on Budget), Chapter 82, Statutes of 2021, extended the credit from January 1, 2022, to January 1, 2027.

ii) AB 614 (Eggman), Chapter 431, Statutes of 2019, expanded the types of food products that qualified as contributions for purposes of the Donated Fresh Fruit or Vegetables Credit.

iii) SB 837 (Committee on Budget & Fiscal Review), Chapter 32, Statutes of 2016, established the fresh fruit and vegetable tax credit for taxable years beginning on or after January 1, 2017, and before January 1, 2022.

iv) AB 152 (Fuentes), Chapter 503, Statutes of 2011, created a 10% tax credit for fresh fruit and fresh vegetables for taxable years beginning on January 1, 2012, and before January 1, 2017. This credit sunset on December 1, 2017.

v) SB 61 (Hertzberg), Chapter 723, Statutes of 2017, extended the Fund's sunset date through the 2026 tax year or earlier if estimated contributions fall below \$250,000.

vi) SB 116 (Liu), Chapter 222, Statutes of 2013, extended the Fund's sunset date through the 2018 taxable year.

vii) SB 1101 (Cedillo), Chapter 203, Statutes of 2008, changed the name of the Fund from the "Emergency Food Assistance Program Fund" to the "Emergency Food for Families Fund" and extended its operation through the 2013 taxable year.

viii) SB 43 (Cedillo), Chapter 317, Statutes of 2003, extended the Fund's sunset date through the 2008 taxable year.

ix) AB 2366 (Cedillo), Chapter 818, Statutes of 1998, created the Fund, provided for the reimbursement of administrative costs incurred by the FTB and State Controller's Office, and provided that all remaining contributions shall be transferred to the Department of Social Services (DSS) to support direct services provided by the Emergency Food Assistance Program. AB 2366 provided that no funds may be used by DSS to cover administrative costs.

REGISTERED SUPPORT / OPPOSITION:

Support

350 Bay Area Action
350 Humboldt
Alena's Lab Kitchen
American Pistachio Growers
Bayview Senior Services
Berkeley Food Network
California Association of Food Banks
California Avocado Commission
California Citrus Mutual
California Farm Bureau Federation
California Fresh Fruit Association
California Rice Commission
California Table Grape Commission
California Tomato Growers Association
California Walnut Commission
Californians Against Waste
Careit
Center for Ecoliteracy
Central California Food Bank
City of Woodland
Cleaneearth4kids.org
Climate Action California
Climate Reality Project - Silicon Valley Chapter
Community Action Partnership of San Bernardino County
Crop Swap LA
Dr. Bronner's
Elders Climate Action SoCal Chapter
Facts: Families Advocating for Chemical & Toxics Safety
Farm Habit
Farm2people
Feeding San Diego
Food for People, the Food Bank for Humboldt County
Foodcycle
Foodrecovery.org
Franciscan Workers of Junipero Serra, DbA Dorothy's Place
Fresh Produce and Floral Council
Fullwell
G.r.a.c.e. Social and Medical Services
Global Alliance for Incinerator Alternatives (GAIA)
Grower-Shipper Association of Central California
Hunger Action Los Angeles INC
Jacobs & Cushman San Diego Food Bank
Loaves & Fishes Family Kitchen
Los Angeles Climate Reality Project
Los Angeles Food Policy Council
Los Angeles Regional Food Bank
Lutheran Office of Public Policy - California
Mojave Desert and Mountain Recycling Authority
NextGen California

No Time to Waste
Natural Resources Defense Council (NRDC)
Replate
Resource Renewal Institute
Sacramento Food Bank & Family Services
Salinas Valley Recycles
San Diego Food System Alliance
San Francisco Bay Physicians for Social Responsibility
San Francisco-Marin Food Bank
Santa Cruz Climate Action Network
Second Harvest Food Bank of Orange County
Second Harvest Food Bank of Santa Cruz County
Second Harvest of Silicon Valley
Sierra Harvest
Sierra Orchards
SLO Food Bank
Solana Center for Environmental Innovation
Stopwaste.org
The Farmlink Project
The Office of Kat Taylor
The Resource Connection Food Bank
Western Growers Association
Westside Food Bank
White Pony Express - Food Recovery
Yuba Sutter Food Bank

Opposition

California Teachers Association

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