ASSEMBLY COMMERCE, ECONOMIC DEVELOPMENT AND AGRICULTURE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3899

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 24, 2024

The Assembly Commerce, Economic Development and Agriculture Committee reports favorably and with committee amendments Assembly Bill No. 3899.

As amended and reported, this bill creates a pilot program that provides a tax credit against the corporation business tax and the gross income tax based on the value of certain donated fruits and vegetables. Specifically, the tax credit is available to commercial farm operators who donate fruits or vegetables that are fit for human consumption to a charitable organization located in this State during the first three tax periods beginning on or after January 1 of the year next following the date of the bill's enactment. The amount of the credit is equal to 50 percent of the wholesale value of the fruits or vegetables donated, but not to exceed the value of $5,000 during each tax period. However, if a commercial farm operator is unable to claim any portion of the credit otherwise permitted for a tax period, the unused credits can be carried forward for the earliest available use during the next five tax periods following the period for which the credits were allowed.

Under the bill, a commercial farm operator is required to obtain a written statement from the charitable organization before claiming the tax credit. In addition to certain other information, this statement is to specify the variety, grade, and quantity of the donated fruits and vegetables and the wholesale value of the fruits and vegetables, as provided by the commercial farm operator. The bill requires a commercial farm operator to include a copy of each statement issued by a charitable organization when filing a tax return that claims the credit.

The bill also requires the Director of the Division of Taxation in the Department of the Treasury (director) to prepare an annual report on the utilization of the credits provided on or before December 1 beginning in the year next following the first year in which the utilization of tax credits is permitted pursuant to the bill. However, if the director fails to prepare the annual report before the required date of completion, the director is required to testify before the Senate Economic Growth Committee, the Assembly Commerce, Economic

Development and Agriculture Committee, or any other legislative committee determined by the President of the Senate or the Speaker of the General Assembly, to explain the delay. In addition to certain requirements for each annual report required by the bill, the director is to provide recommendations in the final report as to whether: (1) the allowance of tax credits pursuant to the bill's provisions should be continued; and (2) the percentage of the wholesale value of the fruits or vegetables donated to a charitable organization used to determine amounts of tax credits should be increased, and if so, to what percentage.

The total value of tax credit amounts awarded under the bill's provisions is limited to $100,000 in any fiscal year.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) create a pilot program to provide that the credit allowed pursuant to the bill is to be available for the first three tax periods beginning on or after January 1 of the year next following the date of the bill's enactment, rather than on or after January 1, 2024 but before January 1, 2029 as previously provided in the bill;

(2) permit a commercial farm operator that makes a donation pursuant to the bill's provisions to receive credit toward the corporation business tax and the gross income tax in an amount equal to 50 percent of the wholesale value of the fruits or vegetables donated, but not to exceed the value of $5,000 during each tax period. In the bill as introduced, this credit was to be 10 percent for each tax period;

(3) require the director to file three annual reports pursuant to the bill, rather than five annual reports as previously required, on or before December 1, beginning in the year next following the first year in which the utilization of tax credits is permitted pursuant to the bill;

(4) require that if the report required by the bill is not filed by its due date, the director is to appear before this committee or the Assembly Commerce, Economic Development and Agriculture Committee, or their successor committees, or another committee determined by the President of the Senate or the Speaker of the General Assembly. The Assembly Commerce, Economic Development and Agriculture Committee replaces the Assembly Agriculture and Food Security Committee in this provision;

(5) require the director to provide recommendations in the final annual report required by the bill as to whether the allowance of tax credits pursuant to the bill's provisions should be continued and whether the percentage of the wholesale value of the fruits or vegetables donated to a charitable organization used to determine amounts of tax credits should be increased, and if so, to what percentage;

(6) limit the total value of tax credit amounts awarded under the bill's provisions to $100,000 in any fiscal year;

(7) remove section 4 of the bill, which required the Department of Agriculture to maintain a list of all approved charitable organizations that commercial farms may select when making food donations for the purposes of receiving a tax credit pursuant to the bill;

(8) update the title and synopsis to reflect changes to the bill; and

(9) make technical changes to the bill.