

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0486.02 Pierce Lively x2059

HOUSE BILL 23-1008

HOUSE SPONSORSHIP

Weissman,

SENATE SPONSORSHIP

Fields,

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING TAX POLICIES RELATED TO THE ACCESSIBILITY OF FOOD,
102 AND, IN CONNECTION THEREWITH, REQUIRING ADDITIONS TO
103 COLORADO TAXABLE INCOME IN AMOUNTS EQUAL TO THE
104 BUSINESS MEALS FEDERAL ITEMIZED DEDUCTION, PROVIDING
105 FUNDING FOR THE SMALL BUSINESS RECOVERY AND RESILIENCE
106 GRANT PROGRAM, CREATING A TAX CREDIT FOR CERTAIN
107 PURCHASES ELIGIBLE FOR THAT GRANT PROGRAM, AND
108 PROVIDING FUNDING FOR HEALTHY EATING PROGRAM
109 INCENTIVES.

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

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

applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 2 of the bill requires the general assembly, for fiscal year 2023-24 through fiscal year 2030-31, to annually transfer \$1 million to the prevention services division (division) within the department of public health and environment. The bill requires the division to use this money to partner with a statewide nonprofit organization to provide healthy eating program incentives among Colorado's low-income populations.

Section 3 requires individual taxpayers to add an amount of federal taxable income equal to their federal deduction for business meals to their state income tax liability for the 2024 through 2030 income tax years. **Section 4** requires the same of corporate taxpayers. **Section 6** requires the general assembly to transfer the following amounts from the general fund to the department of agriculture to implement the small business recovery and resilience grant program (grant program):

- For fiscal years 2023-24 and 2030-31, \$2.5 million; and
- For fiscal years 2024-25 through 2029-30, \$5 million.

Section 6 also extends the repeal date of the grant program from September 1, 2027 to September 1, 2031.

Section 5 creates a tax credit for small food retailers and small family farms that purchase certain systems or equipment. The tax credit is equal to 75% of the cost of those systems or equipment. Purchasers may assign the tax credit to the seller who sells them the qualifying systems or equipment. The tax credit is available for the 2024 through 2030 tax years.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) A recent survey found that one in three Coloradans are "food
5 insecure", that is, lacking reliable access to nutritious food;

6 (b) In addition, more than one in three adults living with children
7 have reported regularly cutting back or skipping meals to allow their
8 children to have enough to eat;

9 (c) Childhood hunger can have lifetime impacts, such as
10 interfering with developmental and educational progress;

1 (d) Certain communities, including communities of color, seniors,
2 and lower-income Coloradans, are prone to higher-than-average rates of
3 food insecurity;

4 (e) Food security and housing security are closely related issues,
5 because both are basic needs that a family must account for, and the two
6 can become competing priorities on a limited budget. That is, a family's
7 ability to pay for their food is directly related to their ability to pay for
8 their housing, and improving one will necessarily improve the other.

9 (f) Improving the capacity of existing small, local retailers to store
10 and sell nutritious food can improve access, lower prices, and reduce food
11 insecurity, particularly for Colorado families most at risk of it, while
12 keeping more of the proceeds of economic activity in the local
13 community;

14 (g) Expanding the number of retailers selling fresh produce may
15 also create new market opportunities for Colorado agricultural producers;

16 (h) Therefore, the general assembly determines that enacting this
17 legislation to further support existing nutrition access efforts will improve
18 access to nutritious food for Coloradans, assist small businesses, and
19 foster Colorado's agricultural industry.

20 **SECTION 2.** In Colorado Revised Statutes, 25-20.5-104, **add**
21 (2.5) as follows:

22 **25-20.5-104. Functions of division.** (2.5) (a) FOR STATE FISCAL
23 YEARS 2024-25 THROUGH 2029-30, THE GENERAL ASSEMBLY SHALL
24 ANNUALLY APPROPRIATE ONE MILLION DOLLARS TO THE DIVISION FOR THE
25 DIVISION TO PARTNER WITH A STATEWIDE NONPROFIT ORGANIZATION TO
26 PROVIDE HEALTHY EATING PROGRAM INCENTIVES AMONG COLORADO'S
27 LOW-INCOME POPULATIONS. THESE PROGRAM INCENTIVES MUST ATTEMPT

1 TO IMPROVE ACCESS TO FRESH COLORADO GROWN FRUITS AND
2 VEGETABLES AMONG COLORADO'S LOW-INCOME POPULATIONS.

3 (b) THE STATEWIDE NONPROFIT ORGANIZATION SELECTED BY THE
4 DIVISION FOR THE PARTNERSHIP DESCRIBED IN THIS SUBSECTION (2.5)
5 MUST HAVE EXPERIENCE IN SUPPORTING HEALTHY EATING INCENTIVE
6 PROGRAMS, SUCH AS PROGRAMS AT LOCAL FARMERS MARKETS, AND
7 EXPERIENCE WITH COORDINATING HEALTHY EATING PROGRAMS AND
8 FUNDING BETWEEN LOCAL, STATE, AND FEDERAL PROGRAMS.

9 (c) IN PROVIDING THE PROGRAM INCENTIVES DESCRIBED IN THIS
10 SUBSECTION (2.5), BOTH THE DIVISION AND THE NONPROFIT SHALL
11 MINIMIZE THEIR ADMINISTRATIVE EXPENSES. THE DIVISION SHALL NOT USE
12 MORE THAN TEN THOUSAND DOLLARS AND THE NONPROFIT SHALL NOT USE
13 MORE THAN FIVE PERCENT OF THE AMOUNT TRANSFERRED PURSUANT TO
14 SUBSECTION (2.5)(a) OF THIS SECTION FOR THEIR ADMINISTRATIVE
15 EXPENSES.

16 (d) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE SEPTEMBER 1,
17 2031.

18 **SECTION 3.** In Colorado Revised Statutes, 39-22-104, **add** (3)(s)
19 as follows:

20 **39-22-104. Income tax imposed on individuals, estates, and**
21 **trusts - single rate - report - legislative declaration - definitions -**
22 **repeal.** (3) There shall be added to the federal taxable income:

23 (s) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
24 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2031, AN AMOUNT EQUAL TO
25 A FEDERAL DEDUCTION CLAIMED FOR A BUSINESS MEAL PURSUANT TO
26 SECTION 274 (k) OF THE INTERNAL REVENUE CODE.

27 (II) THIS SUBSECTION (3)(s) IS REPEALED, EFFECTIVE DECEMBER

1 31, 2035.

2 **SECTION 4.** In Colorado Revised Statutes, 39-22-304, **add**
3 (2)(k) as follows:

4 **39-22-304. Net income of corporation - legislative declaration**
5 **- definitions - repeal.** (2) There shall be added to federal taxable income:

6 (k) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER
7 JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2031, AN AMOUNT EQUAL TO
8 A FEDERAL DEDUCTION CLAIMED FOR A BUSINESS MEAL PURSUANT TO
9 SECTION 274 (k) OF THE INTERNAL REVENUE CODE.

10 (II) THIS SUBSECTION (2)(k) IS REPEALED, EFFECTIVE DECEMBER
11 31, 2035.

12 **SECTION 5.** In Colorado Revised Statutes, **add** 39-22-549 as
13 follows:

14 **39-22-549. Credit against tax - small food business recovery**
15 **and resilience grant program equipment - tax preference**
16 **performance statement - legislative declaration - definitions - repeal.**

17 (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, IN
18 ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL
19 THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE
20 PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE
21 DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES
22 THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION
23 (3) OF THIS SECTION ARE TO:

24 (I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS,
25 SPECIFICALLY THE PURCHASE AND USE OF SMALL FOOD BUSINESS
26 RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT; AND

27 (II) CONTRIBUTE TO THE STATE'S EFFORT TO IMPROVE ACCESS TO

1 AND LOWER PRICES FOR HEALTHY FOODS IN LOW-INCOME AND
2 UNDERSERVED AREAS OF THE STATE BY SUPPORTING SMALL FOOD
3 RETAILERS.

4 (b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL
5 MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE
6 PURPOSES SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS SECTION BASED ON
7 THE NUMBER OF THE TAX CREDITS CREATED IN THIS SECTION THAT
8 TAXPAYERS CLAIM. THE DEPARTMENT OF AGRICULTURE AND THE
9 DEPARTMENT OF REVENUE SHALL PROVIDE THE STATE AUDITOR WITH ANY
10 AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR IN
11 THIS MEASUREMENT.

12 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "PURCHASE PRICE" MEANS THE AMOUNT ACTUALLY PAID BY
15 THE PURCHASER FOR THE SMALL FOOD BUSINESS RECOVERY AND
16 RESILIENCE GRANT PROGRAM EQUIPMENT, INCLUDING CHARGES FOR SALES
17 TAX AND FREIGHT, BUT NOT INCLUDING ANY CHARGES FOR ASSEMBLY,
18 INSTALLATION, OTHER CONSTRUCTION SERVICES, OR PERMIT FEES.

19 (b) "PURCHASER" MEANS A SMALL FOOD RETAILER OR SMALL
20 FAMILY FARM THAT PURCHASES SMALL FOOD BUSINESS RECOVERY AND
21 RESILIENCE GRANT PROGRAM EQUIPMENT.

22 (c) "SELLER" MEANS THE ENTITY THAT SELLS SMALL FOOD
23 BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT TO A
24 PURCHASER.

25 (d) "SMALL FAMILY FARM" HAS THE SAME MEANING AS SET FORTH
26 IN SECTION 35-1-117 (8)(d).

27 (e) "SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT

1 PROGRAM EQUIPMENT" MEANS THE ITEMS LISTED IN SECTION 35-1-117
2 (3)(a)(II) AND (3)(a)(IV).

3 (f) "SMALL FOOD RETAILER" HAS THE SAME MEANING AS SET
4 FORTH IN SECTION 35-1-117 (8)(e).

5 (3) (a) (I) SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS
6 SECTION, FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
7 1, 2024, BUT BEFORE JANUARY 1, 2031, ANY PURCHASER OF SMALL FOOD
8 BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT IS
9 ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN
10 AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF THE PURCHASE PRICE OF
11 THE RELEVANT SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT
12 PROGRAM EQUIPMENT MINUS THE AMOUNT OF ANY GRANT AWARDED
13 UNDER THE SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT
14 PROGRAM FOR THE PURCHASE OF THE SAME SMALL FOOD BUSINESS
15 RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT.

16 (II) IN A GIVEN INCOME TAX YEAR, THE DEPARTMENT OF REVENUE
17 SHALL NOT AWARD TAX CREDITS PURSUANT TO THIS SUBSECTION (3) THAT
18 EXCEED SIX MILLION FIVE HUNDRED THOUSAND DOLLARS.

19 (b) THE CREDIT ALLOWED PURSUANT TO THIS SECTION IS FOR THE
20 INCOME TAX YEAR IN WHICH A PURCHASER PURCHASES THE RELEVANT
21 SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM
22 EQUIPMENT.

23 (4) (a) TO BE ELIGIBLE TO CLAIM A CREDIT PURSUANT TO THIS
24 SECTION, THE PURCHASER MUST CERTIFY, IN A FORM AND MANNER
25 DETERMINED BY THE DEPARTMENT OF AGRICULTURE, THAT THE
26 PURCHASER IS A SMALL FOOD RETAILER OR SMALL FAMILY FARM THAT
27 PURCHASED THE SMALL FOOD BUSINESS RECOVERY AND RESILIENCE

1 GRANT PROGRAM EQUIPMENT.

2 (b) THE PURCHASER MUST PROVIDE THE CERTIFICATION TO THE
3 SELLER FOR THE PURPOSES OF SUBSECTION (5) OF THIS SECTION, IF
4 APPLICABLE.

5 (5) (a) A PURCHASER MAY ASSIGN THE TAX CREDIT ALLOWED IN
6 THIS SECTION TO THE SELLER. IN ORDER FOR THE PURCHASER TO PROPERLY
7 MAKE THIS ASSIGNMENT:

8 (I) THE PURCHASER MUST COMPLETE THE ASSIGNMENT WHEN THE
9 PURCHASER PURCHASES THE SMALL FOOD BUSINESS RECOVERY AND
10 RESILIENCE GRANT PROGRAM EQUIPMENT BY ENTERING INTO A WRITTEN
11 AGREEMENT WITH THE SELLER, OR AN AGENT OR DESIGNEE OF THE SELLER,
12 THAT:

13 (A) INCLUDES A COPY OF THE CERTIFICATE DESCRIBED IN
14 SUBSECTION (4)(a) OF THIS SECTION; AND

15 (B) AFFIRMS THAT THE REQUIREMENTS IN THIS SUBSECTION (5)(a)
16 ARE MET;

17 (II) THE PURCHASER MUST ASSIGN THE TAX CREDIT TO THE SELLER
18 AND FORFEIT THE RIGHT TO CLAIM THE TAX CREDIT ON THE PURCHASER'S
19 TAX RETURN IN EXCHANGE FOR GOOD AND VALUABLE CONSIDERATION;
20 AND

21 (III) THE SELLER MUST COMPENSATE THE PURCHASER FOR THE
22 FULL NOMINAL VALUE OF THE TAX CREDIT.

23 (b) IF A PURCHASER ASSIGNS THE TAX CREDIT TO A SELLER
24 PURSUANT TO THIS SUBSECTION (5):

25 (I) NOTWITHSTANDING SECTION 39-21-108 (3), THE SELLER
26 RECEIVES THE FULL AMOUNT OF THE TAX CREDIT THAT THE PURCHASER IS
27 ALLOWED IN THIS SECTION. ANY UNPAID BALANCE OR UNPAID DEBT OF THE

1 PURCHASER MAY NOT BE CREDITED FROM THE AMOUNT OF THE TAX
2 CREDIT ALLOWED IN THIS SECTION.

3 (II) WITHIN THIRTY DAYS OF THE PURCHASE OF THE SMALL FOOD
4 BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT, THE
5 SELLER MUST ELECTRONICALLY SUBMIT A REPORT CONTAINING THE
6 INFORMATION IN THE AGREEMENT DESCRIBED IN SUBSECTION (5)(a)(I) OF
7 THIS SECTION TO THE DEPARTMENT OF REVENUE IN A FORM AND MANNER
8 TO BE DETERMINED BY THE DEPARTMENT; AND

9 (III) THE SELLER MUST FILE THE AGREEMENT DESCRIBED IN
10 SUBSECTION (5)(a)(I) OF THIS SECTION WITH THE SELLER'S ORIGINAL TAX
11 RETURN FOR THE TAXABLE YEAR IN WHICH THE SELLER SOLD THE
12 RELEVANT SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT
13 PROGRAM EQUIPMENT.

14 (c) NO LATER THAN DECEMBER 1, 2023, THE DEPARTMENT OF
15 REVENUE, IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE,
16 SHALL DEVELOP A MODEL AGREEMENT FOR PURPOSES OF SUBSECTION
17 (5)(a)(I) OF THIS SECTION AND A MODEL REPORT FOR PURPOSES OF
18 SUBSECTION (5)(b)(II) OF THIS SECTION.

19 (6) IF A CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE
20 INCOME TAX DUE ON THE INCOME OF THE SELLER OR PURCHASER FOR THE
21 TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND
22 IS REFUNDABLE TO THE SELLER OR PURCHASER.

23 (7) MAKING A PURCHASER AWARE OF THE INCOME TAX CREDIT
24 ALLOWED IN THIS SECTION OR HELPING A PURCHASER ASSIGN THE INCOME
25 TAX CREDIT TO A SELLER AS ALLOWED IN THIS SECTION DOES NOT RISE TO
26 THE LEVEL OF PROVIDING THE PURCHASER WITH UNAUTHORIZED TAX
27 ADVICE.

1 (8) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2035.

2 **SECTION 6.** In Colorado Revised Statutes, 35-1-117, **amend** (9);
3 **repeal** (2)(b)(V); and **add** (3.5) as follows:

4 **35-1-117. Community food access program - creation -**
5 **purpose - duties and responsibilities - grant program - funding -**
6 **reporting - rules - definitions - repeal.** (2) (b) (V) ~~This subsection (2)~~
7 ~~is repealed, effective September 1, 2027.~~

8 (3.5) (a) FOR STATE FISCAL YEARS 2024-25 THROUGH 2029-30,
9 THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE FIVE MILLION
10 DOLLARS TO THE DEPARTMENT OF AGRICULTURE FOR THE PURPOSES OF
11 IMPLEMENTING SUBSECTIONS (2) AND (3) OF THIS SECTION.

12 (b) FOR STATE FISCAL YEARS 2023-24 AND 2030-31, THE GENERAL
13 ASSEMBLY SHALL ANNUALLY APPROPRIATE TWO MILLION FIVE HUNDRED
14 THOUSAND DOLLARS TO THE DEPARTMENT OF AGRICULTURE FOR THE
15 PURPOSES OF IMPLEMENTING SUBSECTIONS (2) AND (3) OF THIS SECTION.

16 (9) This section is repealed, effective ~~September 1, 2027~~
17 SEPTEMBER 1, 2031.

18 **SECTION 7. 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; except
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V
22 of the state constitution against this act or an item, section, or part of this
23 act within such period, then the act, item, section, or part will not take
24 effect unless approved by the people at the general election to be held in
25 November 2024 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.