

MEMORANDUM



JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
FROM JBC Staff
DATE March 15, 2023
SUBJECT Potential Legislation Packet 3

This packet includes bill drafts and related memos for the Committee’s consideration. Each individual item has page numbers but also a packet page number to help navigate the whole document. The page numbers below refer to the packet page number.

POTENTIAL LEGISLATION

Small Communities Water and Wastewater Grant Fund LLS 23-0884 (Forbes) 1

Healthy School Meals for all Program Fund LLS 23-0813 (Bickel) 3

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/14/23

DRAFT

LLS NO. 23-0884.01 Yelana Love x2295

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Small Communities Water And Wastewater Grant Fund

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION TO USE MONEY IN THE SMALL**
102 **COMMUNITIES WATER AND WASTEWATER GRANT FUND TO**
103 **PROVIDE THE STATE FUNDS FOR WATER PROJECTS FOR WHICH**
104 **A STATE MATCH IS REQUIRED TO QUALIFY FOR FEDERAL FUNDS**
105 **FOR THE PROJECTS.**

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://leg.colorado.gov/>.)

Joint Budget Committee. The bill allows money from the small communities water and wastewater grant fund to be used to match money

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

provided by the federal government through the federal "Infrastructure Investment and Jobs Act" for certain clean water projects.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-1.5-208, **amend**
3 (4)(a) as follows:

4 **25-1.5-208. Grant program for public water systems and**
5 **domestic wastewater treatment works - small communities water and**
6 **wastewater grant fund - rules.** (4) (a) (I) There is hereby created in the
7 state treasury the small communities water and wastewater grant fund,
8 referred to in this subsection (4) as the "fund". The fund ~~shall consist~~
9 CONSISTS of ~~moneys~~ MONEY transferred pursuant to section 39-29-109
10 (2)(a)(III), ~~C.R.S.~~, and any other ~~moneys~~ MONEY transferred to the fund
11 by the general assembly. The MONEY IN THE fund ~~shall~~ MAY be used only
12 for grants made pursuant to this section AND AS A STATE MATCH
13 REQUIRED BY THE FEDERAL "INFRASTRUCTURE INVESTMENT AND JOBS
14 ACT", PUB.L. 117-58 FOR WATER POLLUTION CONTROL OR DRINKING
15 WATER PROJECTS AUTHORIZED PURSUANT TO SECTION 37-95-107.6 OR
16 37-85-107.8.

17 (II) All income derived from the deposit and investment of the
18 ~~moneys~~ MONEY in the fund shall be credited to the fund. At the end of
19 each fiscal year, all unexpended and unencumbered ~~moneys~~ MONEY in the
20 fund shall remain in the fund and shall not revert to the general fund or
21 to any other fund.

22 **SECTION 2. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety.

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

DRAFT
3/14/23

DRAFT

LLS NO. 23-0813.01 Pierce Lively x2059

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: Healthy School Meals For All Program Fund

A BILL FOR AN ACT

101 **CONCERNING THE FUNDING OF THE HEALTHY SCHOOL MEALS FOR ALL**
102 **PROGRAM, AND, IN CONNECTION THEREWITH, CREATING THE**
103 **HEALTHY SCHOOL MEALS FOR ALL PROGRAM GENERAL FUND**
104 **EXEMPT ACCOUNT, ALLOWING EXPENDITURES IN EXCESS OF**
105 **APPROPRIATIONS FOR THE PROGRAM, CLARIFYING HOW THE**
106 **PROGRAM SHOULD BE ACCOUNTED FOR IN THE ANNUAL**
107 **GENERAL APPROPRIATIONS BILL, AND MAKING AN**
108 **APPROPRIATION.**

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

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Dashes through the words indicate deletions from existing law.*

[http://leg.colorado.gov/.](http://leg.colorado.gov/))

Joint Budget Committee. At the November 2022 general election, Colorado voters approved proposition FF. Proposition FF created the healthy school meals for all programs (program) and increased taxes to pay for the program.

The bill creates the healthy school meals for all program general fund exempt account (account). The department of revenue will deposit the revenue resulting from the tax increase in proposition FF into the account. The department of education (department) will use the tax revenue in the account to implement the program. To the extent there is not enough money in the account for the department to implement the program, the department may expend money from the general fund or the state education fund for amounts appropriated for the program.

The bill also allows for expenditures in excess of appropriations from the fund for limited purposes and clarifies how the appropriations made for the program will be shown in the annual general appropriations bill.

Appropriations from the account are excluded from the amount that is used to calculate the statutory general fund reserve, and the unrestricted balance in the account at the end of a fiscal year is excluded from state surplus.

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

2 **SECTION 1.** In Colorado Revised Statutes, 22-82.9-102, **amend**
3 (1)(b) as follows:

4 **22-82.9-102. Legislative declaration.** (1) The general assembly
5 hereby finds and declares that, for purposes of section 17 of article IX of
6 the state constitution:

7 (b) By increasing the number of students who can receive a free,
8 nutritious lunch, the school lunch program ~~is an~~ AND THE HEALTHY
9 SCHOOL MEALS FOR ALL PROGRAM ARE important **component**
10 COMPONENTS of an accountable program to meet state academic
11 standards, and may therefore receive funding from the state education
12 fund created in section 17 (4) of article IX of the state constitution.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 22-82.9-210 as

1 follows:

2 **22-82.9-210. Healthy school meals for all program general**
3 **fund exempt account - creation - uses - reporting requirements -**
4 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT

5 OTHERWISE REQUIRES:

6 (a) "ACCOUNT" MEANS THE HEALTHY SCHOOL MEALS FOR ALL
7 PROGRAM GENERAL FUND EXEMPT ACCOUNT CREATED IN THIS SECTION.

8 (b) "HEALTHY SCHOOL MEALS FOR ALL PROGRAM REVENUE"
9 MEANS THE REVENUE GENERATED BY THE ADDITION TO FEDERAL TAXABLE
10 INCOME IN SECTION 39-22-104 (3)(p.5), WHICH REVENUE IS A
11 VOTER-APPROVED REVENUE CHANGE.

12 (2) THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM GENERAL
13 FUND EXEMPT ACCOUNT IS HEREBY CREATED IN THE GENERAL FUND. THE
14 ACCOUNT CONSISTS OF HEALTHY SCHOOL MEALS FOR ALL PROGRAM
15 REVENUE DEPOSITED IN THE ACCOUNT IN ACCORDANCE WITH SUBSECTION
16 (4)(a) OF THIS SECTION. THE STATE TREASURER SHALL CREDIT ALL
17 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF
18 MONEY IN THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM GENERAL
19 FUND EXEMPT ACCOUNT TO THE ACCOUNT.

20 (3) (a) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL
21 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE ACCOUNT
22 FOR THE FOLLOWING PURPOSES:

23 (I) PROVIDING REIMBURSEMENTS TO A PARTICIPATING SCHOOL
24 FOOD AUTHORITY FOR OFFERING ELIGIBLE MEALS WITHOUT CHARGE
25 PURSUANT TO SECTION 22-82.9-204 (1)(b);

26 (II) AWARDED LOCAL FOOD PURCHASING GRANTS PURSUANT TO
27 SECTION 22-82.9-205;

1 (III) DISTRIBUTING MONEY TO A PARTICIPATING SCHOOL FOOD
2 AUTHORITY TO INCREASE WAGES OR PROVIDE STIPENDS FOR INDIVIDUALS
3 WHOM THE PARTICIPATING SCHOOL FOOD AUTHORITY EMPLOYS TO
4 DIRECTLY PREPARE AND SERVE FOOD FOR SCHOOL MEALS PURSUANT TO
5 SECTION 22-82.9-206 (1);

6 (IV) AWARDING LOCAL SCHOOL FOOD PURCHASING TECHNICAL
7 ASSISTANCE AND EDUCATION GRANTS PURSUANT TO SECTION 22-82.9-207;
8 AND

9 (V) THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE
10 PROGRAMS DESCRIBED IN THIS SUBSECTION (3)(a), SO LONG AS THESE
11 COSTS DO NOT EXCEED ONE AND FIVE-TENTHS PERCENT OF THE TOTAL
12 AMOUNT THE GENERAL ASSEMBLY ANNUALLY APPROPRIATES IN THE SAME
13 FISCAL YEAR FOR THE OTHER PURPOSES DESCRIBED IN THIS SUBSECTION
14 (3)(a).

15 (b) MONEY IN THE ACCOUNT SHALL ONLY BE USED FOR THE
16 PURPOSES DESCRIBED IN SUBSECTIONS (3)(a)(II) AND (3)(a)(IV) OF THIS
17 SECTION IF THE SUM OF THE ANNUAL TAX YEAR REVENUE RECORDED IN
18 THE ACCOUNT AND THE BALANCE IN THE ACCOUNT, AS CALCULATED
19 PURSUANT TO SUBSECTION (4) OF THIS SECTION, IS GREATER THAN, OR IS
20 ANTICIPATED TO BE GREATER THAN, THE ANNUAL EXPENDITURE
21 ANTICIPATED TO BE REQUIRED FOR THE PURPOSES DESCRIBED IN
22 SUBSECTIONS (3)(a)(I), (3)(a)(III), AND (3)(a)(V) OF THIS SECTION.

23 (4) (a) THE DEPARTMENT OF REVENUE SHALL, ON A MONTHLY
24 BASIS, RECORD REVENUES AND DEPOSIT MONEY TO THE ACCOUNT IN A
25 MANNER THAT IS ALIGNED WITH EXEMPT REVENUES DETERMINED
26 PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION.

27 (b) THE DEPARTMENT OF REVENUE SHALL, ON A MONTHLY BASIS,

1 REPORT THE AMOUNT OF PROGRAM REVENUE IDENTIFIED FROM TAX
2 RETURNS TO THE OFFICE OF STATE PLANNING AND BUDGETING AND THE
3 LEGISLATIVE COUNCIL STAFF. THE OFFICE OF STATE PLANNING AND
4 BUDGETING SHALL CALCULATE THE AMOUNT OF HEALTHY SCHOOL MEALS
5 FOR ALL PROGRAM REVENUE BOTH PROJECTED TO BE RECEIVED AND
6 ACTUALLY RECEIVED BY THE DEPARTMENT OF REVENUE BASED ON INCOME
7 TAX RETURN DATA AND OTHER RELEVANT FACTORS. THE OFFICE OF STATE
8 PLANNING AND BUDGETING SHALL ALSO IDENTIFY, IN COLLABORATION
9 WITH THE DEPARTMENT OF REVENUE, THE REVENUE TO BE RECORDED AND
10 DEPOSITED ON A MONTHLY BASIS BY THE DEPARTMENT OF REVENUE IN THE
11 ACCOUNT PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, AND THE
12 TOTAL REVENUE TO BE RECORDED AND DEPOSITED BY THE DEPARTMENT
13 OF REVENUE IN THE ACCOUNT FOR THE FISCAL YEAR.

14 (c) THE AMOUNT OF HEALTHY SCHOOL MEALS FOR ALL PROGRAM
15 REVENUE IDENTIFIED BY THE OFFICE OF STATE PLANNING AND BUDGETING
16 FOR EACH FISCAL YEAR MUST INCLUDE ADJUSTMENTS FOR ESTIMATION
17 ERRORS DISCOVERED FOR ALL PRIOR FISCAL YEARS. THE OFFICE SHALL
18 NOTIFY THE DEPARTMENT OF REVENUE AND THE LEGISLATIVE COUNCIL
19 STAFF OF THE GENERAL ASSEMBLY OF THE ADJUSTMENT AMOUNTS.

20 (d) ON DECEMBER 1, 2024, AND EVERY DECEMBER 1 THEREAFTER,
21 THE OFFICE OF STATE PLANNING AND BUDGETING SHALL REPORT THE
22 AMOUNT OF HEALTHY SCHOOL MEALS FOR ALL PROGRAM REVENUE
23 RECEIVED BY THE DEPARTMENT OF REVENUE IN THE PREVIOUS TAX YEAR
24 BASED ON INCOME TAX RETURN DATA AND OTHER RELEVANT FACTORS.
25 THE GENERAL ASSEMBLY SHALL CONSIDER THIS REPORT WHEN
26 ESTIMATING THE AMOUNT OF MONEY TO APPROPRIATE FOR THE PURPOSES
27 SPECIFIED IN SUBSECTION (3) OF THIS SECTION IN THE NEXT FISCAL YEAR.

1 (5) IF THE DEPARTMENT DETERMINES THAT THERE IS AN
2 INSUFFICIENT AMOUNT OF MONEY IN THE ACCOUNT TO PROVIDE FOR AN
3 EXPENDITURE AUTHORIZED BY THE ANNUAL APPROPRIATION FROM THE
4 ACCOUNT FOR THE PURPOSES DESCRIBED IN SUBSECTIONS (3)(a)(I) AND
5 (3)(a)(III) OF THIS SECTION, THE DEPARTMENT MAY MAKE THE
6 EXPENDITURE FROM:

7 (a) THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF
8 ARTICLE IX OF THE STATE CONSTITUTION, SO LONG AS THE OFFICE OF
9 STATE PLANNING AND BUDGETING PROJECTS THAT THE AMOUNT OF
10 UNCOMMITTED RESERVES IN THE STATE EDUCATION FUND AT THE CLOSE
11 OF THE FISCAL YEAR WILL BE EQUAL TO AT LEAST FIFTEEN PERCENT OF THE
12 AMOUNT THE GENERAL ASSEMBLY APPROPRIATED FROM THE STATE
13 EDUCATION FUND THAT SAME FISCAL YEAR; OR

14 (b) THE GENERAL FUND, BUT ONLY IF THE DEPARTMENT CANNOT
15 MAKE THE EXPENDITURE FROM THE STATE EDUCATION FUND PURSUANT TO
16 SUBSECTION (5)(a)(I) OF THIS SECTION.

17 (6) IN ITS ANNUAL SUBMISSION OF THE STATE DEPARTMENT'S
18 BUDGET REQUEST TO THE JOINT BUDGET COMMITTEE, THE OFFICE OF STATE
19 PLANNING AND BUDGETING SHALL REPORT:

20 (a) THE TOTAL AMOUNT OF EXPENDITURES FROM THE ACCOUNT
21 MADE PURSUANT TO SUBSECTION (3) OF THIS SECTION; AND

22 (b) THE TOTAL AMOUNT OF EXPENDITURES FROM THE GENERAL
23 FUND AND STATE EDUCATION FUND MADE PURSUANT TO SUBSECTION (5)
24 OF THIS SECTION.

25 (7) (a) PURSUANT TO SECTION 24-75-201 (2)(c), ANY
26 UNRESTRICTED BALANCE REMAINING IN THE ACCOUNT AT THE END OF ANY
27 FISCAL YEAR SHALL NOT BE DESIGNATED AS A PART OF THE GENERAL FUND

1 SURPLUS.

2 (b) PURSUANT TO SECTION 24-75-201.1 (2)(e), APPROPRIATIONS
3 FOR EXPENDITURES FROM THE ACCOUNT SHALL BE EXCLUDED FROM THE
4 BASIS FOR THE CALCULATION OF THE GENERAL FUND RESERVE.

5 **SECTION 3.** In Colorado Revised Statutes, **amend** 22-82.9-209
6 as follows:

7 **22-82.9-209. Program - funding.** For the 2023-24 budget year
8 and for each budget year thereafter, the general assembly shall
9 appropriate to the department, by separate line ~~item~~ ITEMS in the annual
10 general appropriation bill, the amount necessary to implement the
11 program, including the amount required to reimburse participating school
12 food authorities for eligible meals provided to students pursuant to
13 section 22-82.9-204 and including the amount distributed as local food
14 purchasing grants pursuant to section 22-82.9-205, the amount distributed
15 pursuant to section 22-82.9-206 to increase the wages or provide stipends
16 for staff who prepare and serve school meals, and at least five million
17 dollars annually to implement the local school food purchasing technical
18 assistance and education grant program pursuant to section 22-82.9-207,
19 to the extent said sections are in effect as provided in section 22-82.9-204
20 (4)(b). The department may expend not more than one and five-tenths
21 percent of the total amount annually appropriated pursuant to this section
22 to offset the direct and indirect costs incurred by the department in
23 implementing this part 2.

24 **SECTION 4.** In Colorado Revised Statutes, 24-75-109, **amend**
25 (5); and **add** (1)(f) as follows:

26 **24-75-109. Controller may allow expenditures in excess of**
27 **appropriations - limitations - appropriations for subsequent fiscal**

1 **year restricted - repeal.** (1) For the purpose of closing the state's books,
2 and subject to the provisions of this section, the controller may, on or
3 after May 1 of any fiscal year and before the forty-fifth day after the close
4 thereof, upon approval of the governor, allow any department, institution,
5 or agency of the state, including any institution of higher education, to
6 make an expenditure in excess of the amount authorized by an item of
7 appropriation for such fiscal year if:

8 (f) THE OVEREXPENDITURE IS BY THE DEPARTMENT OF EDUCATION
9 FOR EITHER:

10 (I) PROVIDING REIMBURSEMENTS TO A PARTICIPATING SCHOOL
11 FOOD AUTHORITY FOR OFFERING ELIGIBLE MEALS WITHOUT CHARGE,
12 PURSUANT TO SECTION 22-82.9-204 (1)(b); OR

13 (II) DISTRIBUTING MONEY TO A PARTICIPATING SCHOOL FOOD
14 AUTHORITY TO INCREASE WAGES OR PROVIDE STIPENDS FOR INDIVIDUALS
15 WHOM THE PARTICIPATING SCHOOL FOOD AUTHORITY EMPLOYS TO
16 DIRECTLY PREPARE AND SERVE FOOD FOR SCHOOL MEALS, PURSUANT TO
17 SECTION 22-82.9-206 (1).

18 (5) The limitation on general fund appropriations and the
19 requirement for a general fund reserve contained in section 24-75-201.1
20 shall not apply to overexpenditures from the general fund for medicaid
21 programs allowed pursuant to ~~paragraph (a) of subsection (1)~~ SUBSECTION
22 (1)(a) of this section, TO OVEREXPENDITURES BY THE DEPARTMENT OF
23 EDUCATION ALLOWED PURSUANT TO SUBSECTION (1)(f) OF THIS SECTION,
24 or to supplemental general fund appropriations for medicaid programs
25 enacted pursuant to subsection (4) of this section. Overexpenditures for
26 all other purposes allowed pursuant to subsection (1) of this section and
27 supplemental general fund appropriations for all other purposes enacted

1 pursuant to subsection (4) of this section shall be considered
2 appropriations for the fiscal year in which the overexpenditure was
3 allowed and shall accordingly be subject to the limitations and
4 requirements of section 24-75-201.1.

5 **SECTION 5.** In Colorado Revised Statutes, 24-75-201, **add**
6 (2)(c) as follows:

7 **24-75-201. General fund - general fund surplus - custodial**
8 **money.** (2) (c) ANY UNRESTRICTED BALANCE REMAINING IN THE
9 HEALTHY SCHOOL MEALS FOR ALL PROGRAM GENERAL FUND EXEMPT
10 ACCOUNT CREATED IN SECTION 22-82.9-210 (2) AT THE END OF ANY
11 FISCAL YEAR SHALL NOT BE DESIGNATED AS PART OF THE GENERAL FUND
12 SURPLUS.

13 **SECTION 6.** In Colorado Revised Statutes, 24-75-201.1, **add**
14 (2)(e) as follows:

15 **24-75-201.1. Restriction on state appropriations - legislative**
16 **declaration - definitions.** (2) The basis for the calculation of the reserve
17 as specified in this section includes all appropriations for expenditure
18 from the general fund for such fiscal year, except for any appropriations
19 for:

20 (e) EXPENDITURES FROM THE HEALTHY SCHOOL MEALS FOR ALL
21 PROGRAM GENERAL FUND EXEMPT ACCOUNT CREATED IN SECTION
22 22-82.9-210 (2).

23 **SECTION 7.** In Colorado Revised Statutes, 39-22-104, **amend**
24 (3)(p.5)(II) as follows:

25 **39-22-104. Income tax imposed on individuals, estates, and**
26 **trusts - single rate - report - legislative declaration - definitions -**
27 **repeal.** (3) There shall be added to the federal taxable income:

1 (p.5) (II) For the 2023-24 state fiscal year and state fiscal years
2 thereafter, the general assembly shall annually appropriate an amount of
3 ~~general fund revenue~~ at least equal to the amount of revenue generated by
4 the addition to federal taxable income described in subsection (3)(p.5)(I)
5 of this section, but not more than the amount required, to fully fund the
6 direct and indirect costs of implementing the healthy school meals for all
7 program as provided in section 22-82.9-209. The provisions of subsection
8 (3)(p.5)(I) of this section constitute a voter-approved revenue change,
9 approved by the voters at the statewide election in November of 2022,
10 and the revenue generated by this voter-approved revenue change may be
11 collected, retained, appropriated, and spent without subsequent voter
12 approval, notwithstanding any other limits in the state constitution or law.
13 The addition to federal taxable income described in subsection (3)(p.5)(I)
14 of this section does not apply for an income tax year that commences after
15 the healthy school meals for all program, or any successor program, is
16 repealed. Upon repeal of the healthy school meals for all program, or any
17 successor program, the commissioner of education shall promptly notify
18 the executive director in writing that the program is repealed.

19 **SECTION 8. Appropriation.** (1) For the 2023-24 state fiscal
20 year, \$115,339,107 is appropriated to the department of education. This
21 appropriation is from the healthy school meals for all program general
22 fund exempt account. To implement this act, the department may use this
23 appropriation as follows:

24 (a) \$268,088 for healthy school meals for all program
25 administration, which amount is based on an assumption that the
26 department will require an additional 3.1 FTE;

27 (b) \$34,100 for health, life, and dental;

- 1 (c) \$349 for short-term disability;
- 2 (d) \$10,892 for S.B. 04-257 amortization equalization
3 disbursement;
- 4 (e) \$10,892 for S.B. 06-235 supplemental amortization
5 equalization disbursement;
- 6 (f) \$115,000,000 for school meal reimbursements; and
- 7 (g) \$14,786 for the purchase of legal services.

8 (2) For the 2023-24 state fiscal year, \$14,786 is appropriated to
9 the department of law. This appropriation is from reappropriated funds
10 received from the department of education under subsection (1)(g) of this
11 section and is based on an assumption that the department of law will
12 require an additional 0.1 FTE. To implement this act, the department of
13 law may use this appropriation to provide legal services for the
14 department of education.

15 **SECTION 9. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.