



## Fiscal Note

### Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

## HB 26-1033: EXPANDING THE COLORADO COTTAGE FOODS ACT

**Prime Sponsors:**

Rep. Gonzalez R.; Duran

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**Fiscal note status:** This revised fiscal note reflects the introduced bill, as amended by the House Agriculture, Water, and Natural Resources Committee and the House Appropriations Committee.

### Summary Information

**Overview.** The bill expands the Colorado Cottage Food Acts to include the production and sale of refrigerated food, and makes changes to the act's applicability, requirements, and penalty authorization.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- State Transfers
- Local Government

**Appropriations.** No appropriation is required. The Cottage Foods Cash Fund is continuously appropriated to the Department of Public Health and Environment. See State Appropriations section.

**Table 1  
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29	Out Year FY 2029-30
State Revenue	\$0	\$0	\$0	\$0
State Expenditures	\$141,860	\$144,860	\$144,860	-\$247,358
Transferred Funds	\$300,000	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0	\$0
Change in State FTE	1.0 FTE	1.0 FTE	1.0 FTE	-2.2 FTE

Expenditure reductions in FY 2029-30 reflect a repeal of the Cottage Foods Act on September 1, 2028, and a one-year wind down period. Savings include expanded costs of \$144,860 and 1.0 FTE under this bill, and existing program costs of \$102,498 and 1.2 FTE. If the General Assembly continues the Cottage Foods Act, expenditure reductions will not be realized.

**Table 1A  
 State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>	<b>Out Year FY 2029-30</b>
General Fund	\$0	\$0	\$109,074	-\$224,852
Cash Funds	\$119,354	\$122,354	\$13,280	\$0
Federal Funds	\$0	\$0	\$0	\$0
Centrally Appropriated	\$22,506	\$22,506	\$22,506	-\$22,506
<b>Total Expenditures</b>	<b>\$141,860</b>	<b>\$144,860</b>	<b>\$144,860</b>	<b>-\$247,358</b>
<b>Total FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>	<b>-2.2 FTE</b>

General Fund is required in FY 2028-29, once transferred funding has been fully spent.

**Table 1B  
 State Transfers**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>	<b>Out Year FY 2029-30</b>
Cottage Foods Cash Fund	\$300,000	\$0	\$0	\$0
Medical Administration Fund	-\$200,000	\$0	\$0	\$0
Assisted Living Residence Fund	-\$100,000	\$0	\$0	\$0
<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## Summary of Legislation

The bill expands the Colorado Cottage Foods Act (CCFA) to include certain refrigerated products, eliminates the regulatory revenue cap on producers, and authorizes counties to impose fines on producers for specific actions.

### CCFA Expansion

The CCFA currently allows producers to sell a limited range of nonhazardous and nonrefrigerated foods produced from their home kitchen, such as pickled fruits and vegetables, spices, teas, honey, and more. The bill expands the CCFA to include the production and sale of packaged foods that require refrigeration, such as tamales, burritos, tortas, but excludes other products such as raw milk, fermented foods, and alcohol. The bill also permits the production and sale of meat and meat products if the producer satisfies an inspection exemption.

Producers selling refrigerated food product must also:

- meet existing state and federal food safety regulations;

- follow all cooking, cooling, and holding temperature requirements established by the Department of Public Health and Environment (CDPHE);
- complete a food safety and handling course specific to time and temperature control;
- produce no more than five individual types of food that control time and temperature controls for safety;
- package produced foods that require time and temperature control; and
- upon request, provide the CDPHE and local public health agencies (LPHAs) with a list of produced foods that require time and temperature control.

On July 1, 2026, the bill requires the State Treasurer to transfer \$300,000 from two cash funds to the newly created Cottage Foods Cash Fund, which is continuously appropriated to the CDPHE.

## Registration

Beginning January 1, 2027, cottage food producers must register with the CDPHE before selling any products. Registrants must indicate the types of foods sold, and the department must issue each approved producer a registration number, which must be included on all labels affixed to products sold. The bill repeals the requirement for local governments to create a voluntary registry of existing producers, and requires the CDPHE to maintain one that is publicly accessible and updated annually.

## Regulatory Cap

Current law caps CCFA regulations on individuals earning \$10,000 or less per year for each eligible food product sold. The bill increases this cap to \$150,000 or less per year, which the CDPHE must annually adjust for inflation. Producers may not operate multiple entities to circumvent the regulatory cap.

## State and County Fines and Enforcement

Lastly, the bill authorizes LPHAs to randomly inspect a producer's home kitchen and establishes additional training requirements and complaint procedures. The CDPHE and LPHAs may impose fines on producers that misbrand products or may cause a food-borne illness outbreak, and recover costs incurred during inspection. If a producer misbrands food or violates the provisions of the bill three times within a year, they are prohibited from selling refrigerated foods in the state.

## Sunset Review

The bill repeals the Cottage Foods Act on September 1, 2028, after a sunset review conducted by the Department of Regulatory Agencies (DORA).

## **Background and Assumptions**

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### **Cottage Foods Program**

The CDPHE currently regulates those cottage food producers that sell nonhazardous, nonrefrigerated products. At the current inquiry volume—approximately 50 inquiries per week—and existing staffing levels of 1.2 FTE, the cottage foods program is operating at full capacity. Explicitly authorizing meat and meat products is expected to increase both the volume and complexity of inquiries, as well as the number of complaints requiring follow-up and response. In particular, meat-related inquiries and investigations typically require substantially more staff time due to applicable federal regulatory requirements and the need for coordination with LPHAs.

### **Foodborne Illness Outbreaks**

Homemade foods may be prepared in environments that lack commercial equipment, and refrigerated foods pose a higher risk of foodborne illness than foods currently covered by the CCFA. For context, the U.S. Centers for Disease Control and Prevention estimates that food prepared in private homes has resulted in 978 foodborne illness outbreaks across the nation between 2013 and 2023.<sup>1</sup> Therefore, the costs identified in the fiscal note reflect public health responses to an assumed two outbreaks of foodborne illnesses per year in Colorado. Since such incidents are unpredictable, and the scale and types of pathogens involved vary, actual costs may depart from the fiscal note. In years with fewer outbreaks, some expenditures will not occur. In years with more or larger outbreaks, additional resources may be required, which will be addressed through the annual budget process.

### **Federal Meat Inspection**

The Federal Meat Inspection Act (FMIA) requires all meat and meat food products intended for sale in commerce, including direct-to-consumer transactions, to be prepared in USDA-inspected facilities. The FMIA provides limited exemptions for private, uninspected home kitchens, including retail operations that use meat processed in a USDA-inspected facility and sold direct to consumers. Therefore, this fiscal note assumes that producers under the CCFA meet the bill's criteria to sell meat and meat products.

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<sup>1</sup> U.S. Centers for Disease Control and Prevention, [BEAM Dashboard](#).

## Sunset Review and Repeal

The fiscal note shows the savings realized by the repeal of the Cottage Foods Act on September 1, 2028, after the subsequent wind-down period. Based on current program costs of \$102,498 and 1.2 FTE, as well as the expanded costs under this bill, the fiscal note estimates that expenditures will decrease by approximately \$247,000 and 2.2 FTE beginning in FY 2029-30. If the Cottage Foods Act is extended, these reductions will not occur.

## State Revenue

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Beginning in FY 2026-27, the bill may increase state revenue from fines and cost recovery mechanisms. Under the bill, producers that misbrand products or cause food borne illnesses are subject to a fine of up to \$100 per violation. Additionally, the CDPHE is authorized to recover costs from producers for investigations and inspections, not to exceed \$1,000 per instance. These impacts depend on a wide variety of complaints and outbreak occurrences, actions taken by producers, actual administrative costs incurred, and decisions made by the CDPHE. Therefore, the fiscal note cannot estimate revenue from fines and cost recovery. This revenue is subject to TABOR.

## State Transfers

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In FY 2026-27, the bill requires the following transfers to the Cottage Foods Cash Fund:

- \$200,000 from the Medication Administration Cash Fund; and
- \$100,000 from the Assisted Living Residence Cash Fund.

## State Expenditures

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The bill increases state expenditures in the CDPHE by about \$142,000 in FY 2026-27, and \$145,000 in FY 2027-28 and FY 2028-29, as shown in Table 2 and discussed below. These costs are paid entirely from the Cottage Foods Cash Fund in the first two years, after which the transferred funds are depleted and costs are paid from the General Fund. Beginning in FY 2029-30, expenditures may decrease upon repeal of the program, as discussed in the Background and Assumptions section. Workload will also minimally increase in DORA.

**Table 2  
 State Expenditures  
 Department of Public Health and Environment**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$86,074	\$86,074	\$86,074
Operating Expenses	\$1,280	\$1,280	\$1,280
Capital Outlay Costs	\$7,000	\$0	\$0
Laboratory Costs	\$10,000	\$20,000	\$20,000
Database Update	\$15,000	\$15,000	\$15,000
Centrally Appropriated Costs	\$22,506	\$22,506	\$22,506
<b>Total Costs</b>	<b>\$141,860</b>	<b>\$144,860</b>	<b>\$144,860</b>
General Fund	\$0	\$0	\$109,074
Cottage Foods Cash Fund	\$119,354	\$122,354	\$13,280
Centrally Appropriated	\$22,506	\$22,506	\$22,506
<b>Total FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>

## Department of Public Health and Environment

### Staff

Beginning in FY 2026-27, the Division of Environmental Health and Sustainability in the CDPHE requires 1.0 FTE Environmental Protection Specialist II to respond to producer questions, review complaints, provide investigative support, develop guidance around refrigerated food production, coordinate with LPHAs, and ensure federal compliance. Staff costs and FTE are assumed to begin July 1, 2026, despite the bill’s effective date; see Technical Note. Standard operating and capital outlay costs are also included.

### Laboratory Costs

Equipment and testing costs are estimated at \$20,000 per year, assuming that the department tests about 20 samples per outbreak at a rate of \$500 per test. Based on the bill’s effective date, it is assumed that only one outbreak will occur in FY 2026-27.

### Database Update

The CDPHE requires an estimated \$15,000 per year to update and maintain an existing database to include cottage food producer registrations. Costs are assumed to begin accruing on July 1, 2026 despite the bill’s effective date. See Technical Note for more detail.

## **Centrally Appropriated Costs**

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2 above.

## **Local Government**

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To the extent that additional foodborne illness outbreaks occur or local governments randomly inspect producers' home kitchens, workload and costs will increase in LPHAs. Revenue will also increase if local agencies impose fines on producers for misbranding product or causing a foodborne illness outbreak, which is expected to offset costs at the local level.

## **Technical Note**

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The bill takes effect January 1, 2027, at which point cottage food producers must register with the CDPHE. However, the department requires FTE and funding prior to this date to implement the program and oversee database development for the cottage food producer registry. The fiscal note assumes that the bill will be modified to allow for work to begin in July 1, 2026. If it is not, registration and enforcement may not be available until later in 2027.

## **Effective Date**

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The bill takes effect January 1, 2027, assuming no referendum petition is filed, except that sections 4, 5, and 6 of the bill establishing the Cottage Foods Cash Fund and initiating the transfer of funds take effect upon signature of the Governor, or upon becoming law without his signature.

## **State Appropriations**

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The Cottage Foods Cash Fund is continuously appropriated to the Department of Public Health and Environment; therefore, no appropriation is required in FY 2026-27. However, without further action taken by the General Assembly, the CDPHE will require General Fund for this program beginning in FY 2028-29, which will be addressed through the annual budget process.

**State and Local Government Contacts**

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Counties

Public Health and Environment