

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

February 13, 2023
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB23-1008 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 5, line 15, after "**equipment** - " insert
2 "**community food consortium duties and responsibilities** - ".

3 Page 5, line 26, strike "EQUIPMENT;" and substitute "EQUIPMENT AND THE
4 INCREASE OF ACTIVITIES OF THE COMMUNITY FOOD CONSORTIUM FOR
5 SMALL FOOD RETAILERS AND COLORADO-OWNED AND
6 COLORADO-OPERATED FARMS;".

7 Page 6, strike line 3 and substitute: "RETAILERS AND SMALL FAMILY
8 FARMS.".

9 Page 6, after line 13 insert:

10 "(a) "AMOUNT CERTAIN SPENT BY THE MEMBER OF THE
11 CONSORTIUM ON COMPLETING ITS DUTIES AND RESPONSIBILITIES" MEANS
12 THE AMOUNT SPENT ON PALLET. PALLET BREAK, DISTRIBUTION, AND
13 DELIVERY FEES THAT IS ELIGIBLE FOR A SUBSIDY FROM THE CONSORTIUM
14 BUT IS NOT OTHERWISE COVERED BY THE CONSORTIUM.

15 (b) "DUTIES AND RESPONSIBILITIES" MEANS THE DUTIES AND
16 RESPONSIBILITIES OF THE MEMBERS OF CONSORTIUM PURSUANT TO
17 SECTION 35-1-117 (2)(a).

18 (c) "MEMBER OF THE CONSORTIUM" MEANS ANY MEMBER OF THE
19 COMMUNITY FOOD CONSORTIUM FOR SMALL FOOD RETAILERS AND
20 COLORADO-OWNED AND COLORADO-OPERATED FARMS CREATED IN
21 SECTION 35-1-117 (2)(a)."

22 Reletter succeeding paragraphs accordingly.

- 1 Page 6, strike lines 22 through 24.
- 2 Reletter succeeding paragraphs accordingly.
- 3 Page 7, line 5, strike "(I)".
- 4 Page 7, line 7, strike "2031, ANY PURCHASER OF SMALL FOOD" and
5 substitute "2031:
- 6 (I) ANY MEMBER OF THE FOOD CONSORTIUM IS ALLOWED A CREDIT
7 AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO
8 SEVENTY-FIVE PERCENT OF THE AMOUNT CERTAIN SPENT BY THE MEMBER
9 OF THE CONSORTIUM ON COMPLETING ITS DUTIES AND RESPONSIBILITIES
10 MINUS ANY AMOUNT AWARDED TO THE MEMBER OF THE CONSORTIUM
11 PURSUANT TO SECTION 35-1-117 (2) FOR THE COMPLETION OF ITS DUTIES
12 AND RESPONSIBILITIES; AND
- 13 (II) ANY PURCHASER OF SMALL FOOD".
- 14 Page 7, strike lines 16 through 18.
- 15 Page 7, line 20, after "WHICH A" insert "MEMBER OF THE CONSORTIUM
16 SPENT AN AMOUNT CERTAIN ON COMPLETING ITS DUTIES AND
17 RESPONSIBILITIES OR A".
- 18 Page 7, strike lines 23 through 27.
- 19 Strike page 8.
- 20 Page 9, strike lines 1 through 18 and substitute:
- 21 "(4) (a) A MEMBER OF THE CONSORTIUM OR A PURCHASER OF
22 SMALL FOOD BUSINESS RECOVERY GRANT PROGRAM EQUIPMENT MAY
23 SUBMIT AN APPLICATION TO THE DEPARTMENT OF AGRICULTURE FOR THE
24 ISSUANCE OF A LETTER OF ELIGIBILITY FOR A TAX CREDIT CERTIFICATE
25 ALLOWED IN THIS SECTION BY THE DEADLINES ESTABLISHED IN THE RULES
26 PROMULGATED BY THE DEPARTMENT OF AGRICULTURE. THE APPLICATION
27 MUST INCLUDE:
- 28 (I) A CERTIFICATION THAT THE APPLICANT IS EITHER:
- 29 (A) A PURCHASER WHO IS A SMALL FOOD RETAILER OR SMALL
30 FAMILY FARM THAT PURCHASED SMALL FOOD BUSINESS RECOVERY AND
31 RESILIENCE GRANT PROGRAM EQUIPMENT; OR
- 32 (B) A MEMBER OF THE CONSORTIUM THAT SPENT AN AMOUNT
33 CERTAIN ON COMPLETING ITS DUTIES AND RESPONSIBILITIES; AND
- 34 (II) DETAILED INFORMATION REGARDING:

1 (A) THE PURCHASE PRICE THAT WOULD BE INCURRED BY A
2 PURCHASER OF SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT
3 PROGRAM EQUIPMENT AND THE DATE ON WHICH THE PURCHASE WOULD BE
4 MADE; OR

5 (B) AN ITEMIZED TOTAL OF THE AMOUNT CERTAIN THAT WOULD
6 BE SPENT BY A MEMBER OF THE CONSORTIUM ON COMPLETING ITS DUTIES
7 AND RESPONSIBILITIES, AND THE DATE OR DATES ON WHICH THE MEMBER
8 OF THE CONSORTIUM WOULD SPEND THE AMOUNTS.

9 (b) IF THE DEPARTMENT OF AGRICULTURE DETERMINES THAT THE
10 APPLICATION FILED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION IS
11 COMPLETE, THE DEPARTMENT OF AGRICULTURE SHALL DETERMINE
12 WHETHER THE APPLICANT WOULD QUALIFY FOR THE CREDIT ALLOWED
13 PURSUANT TO THIS SECTION IF THE APPLICANT MADE THE PURCHASE
14 DESCRIBED IN THE APPLICATION AND THE DEPARTMENT OF AGRICULTURE
15 HAD NOT ISSUED TAX CREDIT CERTIFICATES IN EXCESS OF A TOTAL OF
16 ELEVEN MILLION DOLLARS FOR THE INCOME TAX YEAR. IF THE
17 DEPARTMENT OF AGRICULTURE APPROVES THE APPLICATION, THE
18 DEPARTMENT OF AGRICULTURE SHALL ISSUE A LETTER OF ELIGIBILITY TO
19 THE APPLICANT THAT INDICATES THE AMOUNT OF THE TAX CREDIT THAT
20 THE PURCHASER OR MEMBER OF THE CONSORTIUM COULD CLAIM FOR THE
21 SPECIFIED INCOME TAX YEAR IF THEY WERE TO MAKE THE PURCHASE
22 DESCRIBED IN THE APPLICATION AND IF THE DEPARTMENT OF
23 AGRICULTURE HAS NOT ISSUED TAX CREDIT CERTIFICATES IN EXCESS OF A
24 TOTAL OF ELEVEN MILLION DOLLARS FOR THE INCOME TAX YEAR.

25 (5)(a) A MEMBER OF THE CONSORTIUM OR A PURCHASER OF SMALL
26 FOOD BUSINESS RECOVERY GRANT PROGRAM EQUIPMENT SHALL SUBMIT
27 AN APPLICATION TO THE DEPARTMENT OF AGRICULTURE FOR THE
28 ISSUANCE OF A TAX CREDIT CERTIFICATE ALLOWED IN THIS SECTION BY
29 THE DEADLINES ESTABLISHED IN THE RULES PROMULGATED BY THE
30 DEPARTMENT OF AGRICULTURE. THE APPLICATION MUST INCLUDE:

31 (I) A CERTIFICATION THAT THE APPLICANT IS EITHER:

32 (A) A PURCHASER WHO IS A SMALL FOOD RETAILER OR SMALL
33 FAMILY FARM THAT PURCHASED SMALL FOOD BUSINESS RECOVERY AND
34 RESILIENCE GRANT PROGRAM EQUIPMENT; OR

35 (B) A MEMBER OF THE CONSORTIUM THAT SPENT AN AMOUNT
36 CERTAIN ON COMPLETING ITS DUTIES AND RESPONSIBILITIES; AND

37 (II) DETAILED INFORMATION REGARDING:

38 (A) THE PURCHASE PRICE INCURRED BY A PURCHASER OF SMALL
39 FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT
40 AND THE DATE THAT THE PURCHASE WAS MADE; OR

41 (B) AN ITEMIZED TOTAL OF THE AMOUNT CERTAIN SPENT BY A
42 MEMBER OF THE CONSORTIUM ON COMPLETING ITS DUTIES AND
43 RESPONSIBILITIES, AND THE DATE OR DATES THAT THE MEMBER OF THE

1 CONSORTIUM SPENT THE AMOUNTS.

2 (b) IF THE DEPARTMENT OF AGRICULTURE DETERMINES THAT THE
3 APPLICATION FILED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION IS
4 COMPLETE, THE DEPARTMENT OF AGRICULTURE SHALL DETERMINE
5 WHETHER THE APPLICANT QUALIFIES FOR THE CREDIT ALLOWED PURSUANT
6 TO THIS SECTION. IF THE DEPARTMENT OF AGRICULTURE APPROVES THE
7 APPLICATION, THE DEPARTMENT OF AGRICULTURE SHALL ISSUE A TAX
8 CREDIT CERTIFICATE TO THE APPLICANT THAT INDICATES THE AMOUNT OF
9 THE TAX CREDIT THAT THE PURCHASER OR MEMBER OF THE CONSORTIUM
10 MAY CLAIM FOR THE SPECIFIED INCOME TAX YEAR; EXCEPT THAT THE
11 TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED BY THE
12 DEPARTMENT OF AGRICULTURE IN A GIVEN INCOME TAX YEAR MUST NOT
13 EXCEED A TOTAL OF ELEVEN MILLION DOLLARS.

14 (c) THE DEPARTMENT OF AGRICULTURE SHALL ISSUE TAX CREDIT
15 CERTIFICATES ALLOWED IN THIS SECTION IN AN ORDER THAT ACCORDS
16 WITH THE RULES PROMULGATED BY THE DEPARTMENT OF AGRICULTURE.
17 THE DEPARTMENT OF AGRICULTURE SHALL REVIEW AND APPROVE OR
18 DISAPPROVE AN APPLICATION FILED PURSUANT TO SUBSECTION (5)(a) OF
19 THIS SECTION WITHIN A REASONABLE TIME, NOT TO EXCEED NINETY DAYS
20 AFTER THE FILING OF A COMPLETED APPLICATION.

21 (6) TO CLAIM THE INCOME TAX CREDIT ALLOWED PURSUANT TO
22 THIS SECTION, THE PURCHASER OR MEMBER OF THE CONSORTIUM SHALL
23 ATTACH A COPY OF THE TAX CREDIT CERTIFICATE TO ITS STATE INCOME
24 TAX RETURN. NO TAX CREDIT IS ALLOWED PURSUANT TO THIS SECTION
25 UNLESS THE PURCHASER OR MEMBER OF THE CONSORTIUM PROVIDES A
26 COPY OF THE TAX CREDIT CERTIFICATE WITH ITS FILED STATE INCOME TAX
27 RETURN. THE AMOUNT OF THE CREDIT THAT THE PURCHASER OR MEMBER
28 OF THE CONSORTIUM MAY CLAIM PURSUANT TO THIS SECTION IS THE
29 AMOUNT STATED ON THE TAX CREDIT CERTIFICATE.

30 (7) IN A SUFFICIENTLY TIMELY MANNER TO ALLOW THE
31 DEPARTMENT OF REVENUE TO PROCESS RETURNS CLAIMING THE INCOME
32 TAX CREDIT ALLOWED PURSUANT TO THIS SECTION, THE DEPARTMENT OF
33 AGRICULTURE SHALL PROVIDE THE DEPARTMENT OF REVENUE WITH AN
34 ELECTRONIC REPORT OF EACH PURCHASER OR MEMBER OF THE
35 CONSORTIUM THAT THE DEPARTMENT OF AGRICULTURE APPROVED FOR
36 THE INCOME TAX CREDIT ALLOWED PURSUANT TO THIS SECTION FOR THE
37 PRECEDING CALENDAR YEAR THAT INCLUDES THE FOLLOWING
38 INFORMATION:

39 (a) THE TAXPAYER'S NAME; AND
40 (b) THE TAXPAYER'S SOCIAL SECURITY NUMBER, COLORADO
41 ACCOUNT NUMBER, OR FEDERAL EMPLOYER IDENTIFICATION NUMBER." .
42
43 Renumber succeeding subsections accordingly.

1 Page 9, line 20, strike "SELLER" and substitute "MEMBER OF THE
2 CONSORTIUM".

3 Page 9, line 22, strike "SELLER" and substitute "MEMBER OF THE
4 CONSORTIUM".

5 Page 9, strike lines 23 through 27 and substitute:

6 "(9) THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF
7 REVENUE MAY PROMULGATE RULES IN ACCORDANCE WITH ARTICLE 4 OF
8 TITLE 24 AS MAY BE NECESSARY TO EFFECTUATE THE PURPOSES OF THIS
9 SECTION."

10 Page 10, line 2, after "**amend**" insert "(2)(b)(III), (3)(a) introductory
11 portion, (3)(c)(I), (3)(c)(III), (8)(e)(I), and".

12 Page 10, after line 7 insert:

13 "(2) (b) (III) Money spent pursuant to this subsection ~~(2)~~ (2)(b)
14 must conform with the allowable purposes set forth in the federal
15 "American Rescue Plan Act of 2021", Pub.L. 117-2, as amended. The
16 department shall either spend or obligate such appropriation prior to
17 December 30, 2024, and expend the appropriation on or before December
18 31, 2026.

19 (3) (a) As part of the program, the department shall create and
20 manage the small food business recovery and resilience grant program.
21 The department shall award ~~one-time~~ grants, not to exceed ~~twenty-five~~
22 FIFTY thousand dollars, out of the grant program, to participating small
23 food retailers and small family farms. THE DEPARTMENT MAY AWARD THE
24 OWNER OF A SMALL FOOD RETAILER OR SMALL FAMILY FARM ONE SUCH
25 GRANT EACH CALENDAR YEAR FOR EVERY SMALL FOOD RETAILER OR
26 SMALL FAMILY FARM OWNED BY THE OWNER. THE DEPARTMENT SHALL
27 AWARD THESE GRANTS for:

28 (c) (I) For the 2022-23 state fiscal year, the general assembly shall
29 appropriate seven million dollars from the economic recovery and relief
30 cash fund created in section 24-75-228 to the department for the purposes
31 of implementing ~~this subsection (3) and subsection (4)~~ of this section.

32 (III) Money spent pursuant to this subsection ~~(3)~~ (3)(c) must
33 conform with the allowable purposes set forth in the federal "American
34 Rescue Plan Act of 2021", Pub.L. 117-2, as amended. The department
35 shall either spend or obligate such appropriation prior to December 30,
36 2024, and expend the appropriation on or before December 31, 2026."

1 Page 10, line 9, strike "FIVE MILLION" and substitute "NINE MILLION FOUR
2 HUNDRED THOUSAND".

3 Page 10, line 13, strike "TWO MILLION FIVE HUNDRED" and substitute
4 "FOUR MILLION SEVEN HUNDRED".

5 Page 10, after line 15 insert:

6 "(8) As used in this section, unless the context otherwise requires:

7 (e) "Small food retailer" means:

8 (I) An independent or nonprofit-managed, Colorado-owned, and
9 Colorado-operated small food retail business, defined as a food retailer
10 with less than ~~five~~ TEN thousand square feet of retail space that carries at
11 least three categories of federally defined staple foods, as described in the
12 federal "Food and Nutrition Act of 2008", secs. 3 and 9, the
13 "Consolidated Appropriations Act of 2017", sec. 76, and the federal
14 "Enhancing Retailer Standards in the Supplemental Nutrition Assistance
15 Program", 81 Fed. Reg. 90675, and be located in or provide food to local,
16 state, or federally defined low-income, low-access neighborhoods; or".

17 Page 1, line 107, strike "**PROGRAM,**" and substitute "**PROGRAM AND FOR**
18 **ACTIVITIES BY THE COMMUNITY FOOD CONSORTIUM FOR SMALL FOOD**
19 **RETAILERS AND COLORADO-OWNED AND COLORADO-OPERATED**
20 **FARMS,**".

** *** ** *** **