

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 23-0813.01 Pierce Lively x2059

**SENATE BILL 23-221**

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**Senate Committees**  
Appropriations

**House Committees**  
Appropriations

HOUSE  
3rd Reading Unamended  
April 6, 2023

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**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.**

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HOUSE  
2nd Reading Unamended  
April 5, 2023

SENATE  
3rd Reading Unamended  
March 30, 2023

**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*

SENATE  
2nd Reading Unamended  
March 29, 2023

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

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 22-82.9-210 as  
3 follows:

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

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

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

1           (2) THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM GENERAL  
2 FUND EXEMPT ACCOUNT IS HEREBY CREATED IN THE GENERAL FUND. THE  
3 ACCOUNT CONSISTS OF HEALTHY SCHOOL MEALS FOR ALL PROGRAM  
4 REVENUE DEPOSITED IN THE ACCOUNT IN ACCORDANCE WITH SUBSECTION  
5 (4)(a) OF THIS SECTION. THE STATE TREASURER SHALL CREDIT ALL  
6 INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF  
7 MONEY IN THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM GENERAL  
8 FUND EXEMPT ACCOUNT TO THE ACCOUNT.

9           (3) (a) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL  
10 ASSEMBLY, THE DEPARTMENT MAY EXPEND MONEY FROM THE ACCOUNT  
11 FOR THE FOLLOWING PURPOSES:

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

15           (II) AWARDING LOCAL FOOD PURCHASING GRANTS PURSUANT TO  
16 SECTION 22-82.9-205;

17           (III) DISTRIBUTING MONEY TO A PARTICIPATING SCHOOL FOOD  
18 AUTHORITY TO INCREASE WAGES OR PROVIDE STIPENDS FOR INDIVIDUALS  
19 WHOM THE PARTICIPATING SCHOOL FOOD AUTHORITY EMPLOYS TO  
20 DIRECTLY PREPARE AND SERVE FOOD FOR SCHOOL MEALS PURSUANT TO  
21 SECTION 22-82.9-206 (1);

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

25           (V) THE DIRECT AND INDIRECT COSTS OF ADMINISTERING THE  
26 PROGRAMS DESCRIBED IN THIS SUBSECTION (3)(a), SO LONG AS THESE  
27 COSTS DO NOT EXCEED ONE AND FIVE-TENTHS PERCENT OF THE TOTAL

1 AMOUNT THE GENERAL ASSEMBLY ANNUALLY APPROPRIATES IN THE SAME  
2 FISCAL YEAR FOR THE OTHER PURPOSES DESCRIBED IN THIS SUBSECTION  
3 (3)(a).

4 (b) MONEY IN THE ACCOUNT SHALL ONLY BE USED FOR THE  
5 PURPOSES DESCRIBED IN SUBSECTIONS (3)(a)(II) AND (3)(a)(IV) OF THIS  
6 SECTION IF THE SUM OF THE ANNUAL TAX YEAR REVENUE RECORDED IN  
7 THE ACCOUNT AND THE BALANCE IN THE ACCOUNT, AS CALCULATED  
8 PURSUANT TO SUBSECTION (4) OF THIS SECTION, IS GREATER THAN, OR IS  
9 ANTICIPATED TO BE GREATER THAN, THE ANNUAL EXPENDITURE  
10 ANTICIPATED TO BE REQUIRED FOR THE PURPOSES DESCRIBED IN  
11 SUBSECTIONS (3)(a)(I), (3)(a)(III), AND (3)(a)(V) OF THIS SECTION.

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

16 (b) THE DEPARTMENT OF REVENUE SHALL, ON A MONTHLY BASIS,  
17 REPORT THE AMOUNT OF PROGRAM REVENUE IDENTIFIED FROM TAX  
18 RETURNS TO THE OFFICE OF STATE PLANNING AND BUDGETING AND THE  
19 LEGISLATIVE COUNCIL STAFF. THE OFFICE OF STATE PLANNING AND  
20 BUDGETING SHALL CALCULATE THE AMOUNT OF HEALTHY SCHOOL MEALS  
21 FOR ALL PROGRAM REVENUE BOTH PROJECTED TO BE RECEIVED AND  
22 ACTUALLY RECEIVED BY THE DEPARTMENT OF REVENUE BASED ON INCOME  
23 TAX RETURN DATA AND OTHER RELEVANT FACTORS. THE OFFICE OF STATE  
24 PLANNING AND BUDGETING SHALL ALSO IDENTIFY, IN COLLABORATION  
25 WITH THE DEPARTMENT OF REVENUE, THE REVENUE TO BE RECORDED AND  
26 DEPOSITED ON A MONTHLY BASIS BY THE DEPARTMENT OF REVENUE IN THE  
27 ACCOUNT PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, AND THE

1 TOTAL REVENUE TO BE RECORDED AND DEPOSITED BY THE DEPARTMENT  
2 OF REVENUE IN THE ACCOUNT FOR THE FISCAL YEAR.

3 (c) THE AMOUNT OF HEALTHY SCHOOL MEALS FOR ALL PROGRAM  
4 REVENUE IDENTIFIED BY THE OFFICE OF STATE PLANNING AND BUDGETING  
5 FOR EACH FISCAL YEAR MUST INCLUDE ADJUSTMENTS FOR ESTIMATION  
6 ERRORS DISCOVERED FOR ALL PRIOR FISCAL YEARS. THE OFFICE SHALL  
7 NOTIFY THE DEPARTMENT OF REVENUE AND THE LEGISLATIVE COUNCIL  
8 STAFF OF THE GENERAL ASSEMBLY OF THE ADJUSTMENT AMOUNTS.

9 (d) ON DECEMBER 1, 2024, AND EVERY DECEMBER 1 THEREAFTER,  
10 THE OFFICE OF STATE PLANNING AND BUDGETING SHALL REPORT THE  
11 AMOUNT OF HEALTHY SCHOOL MEALS FOR ALL PROGRAM REVENUE  
12 RECEIVED BY THE DEPARTMENT OF REVENUE IN THE PREVIOUS TAX YEAR  
13 BASED ON INCOME TAX RETURN DATA AND OTHER RELEVANT FACTORS.  
14 THE GENERAL ASSEMBLY SHALL CONSIDER THIS REPORT WHEN  
15 ESTIMATING THE AMOUNT OF MONEY TO APPROPRIATE FOR THE PURPOSES  
16 SPECIFIED IN SUBSECTION (3) OF THIS SECTION IN THE NEXT FISCAL YEAR.

17 (5) IF THE DEPARTMENT DETERMINES THAT THERE IS AN  
18 INSUFFICIENT AMOUNT OF MONEY IN THE ACCOUNT TO PROVIDE FOR AN  
19 EXPENDITURE AUTHORIZED BY THE ANNUAL APPROPRIATION FROM THE  
20 ACCOUNT FOR THE PURPOSES DESCRIBED IN SUBSECTIONS (3)(a)(I) AND  
21 (3)(a)(III) OF THIS SECTION, THE DEPARTMENT MAY MAKE THE  
22 EXPENDITURE FROM THE GENERAL FUND.

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

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

1 (b) THE TOTAL AMOUNT OF EXPENDITURES FROM THE GENERAL  
2 FUND MADE PURSUANT TO SUBSECTION (5) OF THIS SECTION.

3 (7) (a) PURSUANT TO SECTION 24-75-201 (2)(c), ANY  
4 UNRESTRICTED BALANCE REMAINING IN THE ACCOUNT AT THE END OF ANY  
5 FISCAL YEAR SHALL NOT BE DESIGNATED AS A PART OF THE GENERAL FUND  
6 SURPLUS.

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

10 **SECTION 2.** In Colorado Revised Statutes, **amend** 22-82.9-209  
11 as follows:

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

1 implementing this part 2.

2 **SECTION 3.** In Colorado Revised Statutes, 24-75-109, **amend**  
3 (5); and **add** (1)(f) as follows:

4 **24-75-109. Controller may allow expenditures in excess of**  
5 **appropriations - limitations - appropriations for subsequent fiscal**  
6 **year restricted - repeal.** (1) For the purpose of closing the state's books,  
7 and subject to the provisions of this section, the controller may, on or  
8 after May 1 of any fiscal year and before the forty-fifth day after the close  
9 thereof, upon approval of the governor, allow any department, institution,  
10 or agency of the state, including any institution of higher education, to  
11 make an expenditure in excess of the amount authorized by an item of  
12 appropriation for such fiscal year if:

13 (f) THE OVEREXPENDITURE IS BY THE DEPARTMENT OF EDUCATION  
14 FOR EITHER:

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

18 (II) DISTRIBUTING MONEY TO A PARTICIPATING SCHOOL FOOD  
19 AUTHORITY TO INCREASE WAGES OR PROVIDE STIPENDS FOR INDIVIDUALS  
20 WHOM THE PARTICIPATING SCHOOL FOOD AUTHORITY EMPLOYS TO  
21 DIRECTLY PREPARE AND SERVE FOOD FOR SCHOOL MEALS, PURSUANT TO  
22 SECTION 22-82.9-206 (1).

23 (5) The limitation on general fund appropriations and the  
24 requirement for a general fund reserve contained in section 24-75-201.1  
25 shall not apply to overexpenditures from the general fund for medicaid  
26 programs allowed pursuant to ~~paragraph (a) of subsection (1)~~ SUBSECTION  
27 (1)(a) of this section TO OVEREXPENDITURES BY THE DEPARTMENT OF

1 EDUCATION ALLOWED PURSUANT TO SUBSECTION (1)(f) OF THIS SECTION,  
2 or to supplemental general fund appropriations for medicaid programs  
3 enacted pursuant to subsection (4) of this section. Overexpenditures for  
4 all other purposes allowed pursuant to subsection (1) of this section and  
5 supplemental general fund appropriations for all other purposes enacted  
6 pursuant to subsection (4) of this section shall be considered  
7 appropriations for the fiscal year in which the overexpenditure was  
8 allowed and shall accordingly be subject to the limitations and  
9 requirements of section 24-75-201.1.

10 **SECTION 4.** In Colorado Revised Statutes, 24-75-201, **add**  
11 (2)(c) as follows:

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

18 **SECTION 5.** In Colorado Revised Statutes, 24-75-201.1, **add**  
19 (2)(e) as follows:

20 **24-75-201.1. Restriction on state appropriations - legislative**  
21 **declaration - definitions.** (2) The basis for the calculation of the reserve  
22 as specified in this section includes all appropriations for expenditure  
23 from the general fund for such fiscal year, except for any appropriations  
24 for:

25 (e) EXPENDITURES FROM THE HEALTHY SCHOOL MEALS FOR ALL  
26 PROGRAM GENERAL FUND EXEMPT ACCOUNT CREATED IN SECTION  
27 22-82.9-210 (2).



1           **SECTION 6.** In Colorado Revised Statutes, 39-22-104, **amend**  
2 (3)(p.5)(II) as follows:

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

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

24           **SECTION 7. Appropriation.** (1) For the 2023-24 state fiscal  
25 year, \$115,339,107 is appropriated to the department of education. This  
26 appropriation is from the healthy school meals for all program general  
27 fund exempt account. To implement this act, the department may use this

1 appropriation as follows:

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

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

6 (c) \$349 for short-term disability;

7 (d) \$10,892 for S.B. 04-257 amortization equalization  
8 disbursement;

9 (e) \$10,892 for S.B. 06-235 supplemental amortization  
10 equalization disbursement;

11 (f) \$115,000,000 for school meal reimbursements; and

12 (g) \$14,786 for the purchase of legal services.

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

20 **SECTION 8. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, or safety.