HB 23-1008

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0486	**Date:**	February 10, 2023
Prime Sponsors:	Rep. Weissman Sen. Fields	**Bill Status:**	House Finance
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Bill Topic: **FOOD ACCESSIBILITY**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☒ TABOR Refund
☐ Local Government
☐ Statutory Public Entity

The bill funds programs related to food accessibility, creates a tax credit, and requires that certain federal income tax deductions be added back when computing state taxable income. It increases state revenue, on net, and increases state expenditures from FY 2023-24 through FY 2030-31.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $2,987,864 to multiple agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1008

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue	General Fund	$2.8 million	$4.4 million
	Total Revenue	**$2.8 million**	**$4.4 million**
Expenditures	General Fund	$2,987,864	$6,363,651
	Centrally Appropriated	$73,103	$67,368
	Total Expenditures	**$3,060,967**	**$6,431,019**
	Total FTE	**4.2 FTE**	**3.9 FTE**
Transfers		-	-
Other Budget Impacts	TABOR Refund	$2.8 million	$4.4 million
	General Fund Reserve	$448,180	$954,548

Summary of Legislation

The bill funds two programs related to food accessibility, and creates a tax credit. It also requires certain taxpayers to make additions when calculating their Colorado taxable income. These provisions are discussed below.

Community Food Access Program. Under current law, the Community Food Access Program in the Department of Agriculture is scheduled to repeal on September 1, 2027. The bill extends the program until September 1, 2031, and directs annual appropriations to fund the program. The bill requires the General Assembly to annually appropriate $2.5 million for the program in FY 2023-24, $5.0 million in each of FY 2024-25 through FY 2029-30, and $2.5 million in FY 2030-31.

Healthy eating program incentives. For FY 2024-25 through FY 2029-30, the bill requires the General Assembly to appropriate $1.0 million dollars each year to the Prevention Services Division within the Department of Public Health and Environment. The division is required to use the money to partner with a statewide nonprofit organization to provide healthy eating programs incentives among Colorado low-income populations.

Income tax credit. The bill creates a tax credit for small food retailers and small family farms participating in the Community Food Access Program. The credit is for the purchase, tax paid on, and shipment cost of equipment from among listed items and is equal to 75 percent of the costs of these items. Qualifying purchases include cold storage, display shelving, produce scales, and point of sales systems. Purchasers may transfer the tax credit to the seller who sells them the qualifying systems or equipment. The tax credit is available for tax years 2024 through 2030. The tax credit is refundable, meaning if the amount exceeds the taxpayer's state income tax liability, the balance is refunded to the taxpayer. The amount of credits is capped at $6.5 million for each year

Income tax addition. For corporate and individual taxpayers that claim the business meal expenses income tax deduction on their federal income tax return, the bill requires these taxpayers to add back the amount they claimed when computing their state tax liability for the 2024 through 2030 tax years.

Background

House Bill 22-1380 created the Community Food Access Program in the Department of Agriculture to improve access to and lower prices for healthy foods in low-income or underserved areas in Colorado by supporting small grocery retailers. The program includes a small business consortium to provide technical assistance and subsidies to Colorado food producers and small retailers, a small food business recovery and resilience grant program that provides one-time grants to small food retailers and family farms, and an advisory committee to assist with the grant program. Under current law, the food access program is repealed on September 1, 2027.

Assumptions

Data from the Department of Revenue show that individual Colorado taxpayers deducted $148 million on their federal tax forms for 2019. State-level data on corporate deductions were not available. However, data from the U.S. Department of the Treasury on the revenue impact of federal corporate deductions were adjusted for Colorado's share of U.S. taxable income and for an assumed federal effective income tax rate, to arrive at an assumed deduction of $69 million for corporate taxpayers in Colorado. Therefore, it is assumed that Colorado taxpayers deducted $217 million for business meal expenses in 2019 The fiscal note uses this estimate as a starting point and increases it each year through the estimation period. By tax year 2025, the fiscal note assumes approximately $224 million will be added back to Colorado taxable income, increasing state revenue by about $9.6 million per year.

The fiscal note also assumes that in the first year the income tax credit is available, approximately $4.0 million will be claimed as small food retailers and small family farms become aware of the credit. After the first year, it is assumed the full $6.5 million allowed will be claimed each year.

State Revenue

The bill is expected to increase General Fund revenue by $2.8 million in FY 2023-24 (half-year impact) and $4.4 million in FY 2024-25 with similar amounts each year through FY 2029-30, and with a half-year impact in FY 2030-31, when the required added back federal deduction and credit are repealed. The revenue increase is the net difference from requiring individuals and corporations to add their Meal Expenses federal deduction back to their Colorado taxable income, which raises state revenue, and the state credits allowed under the bill, which reduces state revenue. The bill increases individual income tax revenue, which is subject to TABOR.

State Expenditures

The bill increases state expenditures by $3.1 million and 4.2 FTE in FY 2023-24, and by $6.4 million and 3.9 FTE in FY 2024-25 and later years. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1008

	FY 2023-24	FY 2024-25
Department of Revenue (DOR)		
Personal Services	$75,941	$50,024
Operating Expenses	$1,620	$1,350
Capital Outlay Costs	$6,670	-
GenTax Programming and Testing	$128,560	-
Data Reporting	-	$7,392
Document Management and Tax Form Changes	-	$62,511
Centrally Appropriated Costs[1]	$20,334	$14,599
FTE – Personal Services	1.2 FTE	0.9 FTE
DOR Subtotal	**$233,125**	**$135,876**
Department of Agriculture (CDA)		
Personal Services	$210,461	$210,461
Operating Expenses	$4,050	$4,050
Capital Outlay Costs	$20,010	-
Legal Services	$19,033	$6,344
Translation Services	$15,050	$15,050
Travel	$6,469	$6,469
Grant Funding	$2,500,000	$5,000,000
Centrally Appropriated Costs[1]	$52,769	$52,769
FTE – Personal Services	3.0 FTE	3.0 FTE
CDA Subtotal	**$2,827,842**	**$5,295,143**
Department of Public Health and Environment (CDPHE)		
CDPHE Grant Administration	-	$10,000
Grant Funding	-	$990,000
CDPHE Subtotal	**-**	**$1,000,000**
Total	**$3,060,967**	**$6,431,019**
Total FTE	**4.2 FTE**	**3.9 FTE**

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

Department of Revenue. Beginning in FY 2023-24, expenditures will increase in DOR to administer the income tax credit and addition in the bill.

- **Personal services.** The Department of Revenue will require 1.2 FTE in FY 2023-24 for a term-limited employee for development and testing work in support of GenTax programing. In FY 2024-25, the department will require 1.3 FTE for tax examiners and to administer the tax credit based on current DOR staff levels. The majority of the personal services expenditure increase is attributable to staffing in the Taxpayer Service Division to review tax credits claimed, identify and address taxpayer errors, and manage call and correspondence volume associated with the new tax credit. In addition, the department will administer the new add-back provisions for the business meal income tax deduction beginning in FY 2024-25. Estimated personnel costs assume an October 1, 2024, start date to administer tax credits claimed on 2024 tax forms and are prorated for the General Fund pay date shift.

- **Computer programming and testing.** For FY 2023-24 only, the bill will require changes to DOR's GenTax software system and additional testing. Changes are programmed by a contractor at a cost of $225 per hour. Approximately 400 hours of computer programming will be required to implement this bill, totaling $90,000. Additional computer and user acceptance testing are required to ensure programming changes are tested and functioning properly, resulting in an additional $38,560 in expenditures by the department.

- **Data reporting.** Beginning in FY 2024-25, the Office of Research and Analysis (ORA) within DOR will have costs of $7,392 to collect and report data on the new tax credit. The costs are ongoing through FY 2029-31

- **Document management and tax form changes.** In FY 2024-25, the bill requires changes to nine tax forms and computer testing for paper filings at a cost of $62,511. Expenditures for form changes occur in the Department of Personnel and Administration using reappropriated funds.

Department of Agriculture. Beginning in FY 2023-24, expenditures will increase in CDA to administer grants via the Food Access Grant Program and certify participation in the program for taxpayers claiming the tax credit in the bill.

- **Personal services.** The CDA will require 3.0 FTE in FY 2023-24 and FY 2024-25 to administer, monitor, and provide oversight for the Community Food Access Program coordination with the DOR on the effectiveness of the income tax credit. The coordination will require a senior manager.

- **Legal services.** The department will require legal guidance regarding the tax credits. It is estimated the department will require an initial appropriation of 15 hours monthly or 180 hours in legal services in FY 2023 -24, with 5 hours monthly or 60 hours annually following the first year at a rate of $105.74 per hour.

- **Translation services and travel**. The department will provide communication, outreach, interpretation and translation services in order to meet the targeted communities. The current staff has contracted for these services in the past and has developed a plan for the translation services they will require. This will include the annual translation of 32 documents, interpretation of 20 hours of meetings, and phone interpretation of 97 hours. In addition, the program will require outreach, including for example advertisements and mailers. Lastly, they will utilize personal services of the Department's Communications team to implement and oversee these activities.

- **Grant funding.** The department will require a grant specialist and a purchasing agent to complete the grant work for this program The Department will receive an additional $2.5 million appropriation in FY2023-24, with a grant maximum at $25,000, or 100 grantees. For FY 2024-25 and beyond, the bill appropriates $5 million annually, or up to 200 grantees. Contracting and reporting for each grantee will average 20 hours annually.

Department of Public Health and Environment. Beginning in FY 2024-25, expenditures will increase in CDPHE to administer the grant program and conduct assessments.

- **Grant program.** Expenditures will increase by $1,000,000 from the General Fund to administer and partner with a statewide nonprofit organization to provide health eating program incentives among Colorado's low-income population. The bill allows CDPHE to use up to $10,000 for administrative expenses.

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.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above for FY 2023-24 and FY 2024-25. This estimate assumes the December 2022 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25. Because TABOR refunds are paid from the General Fund, increased General Fund revenue will increase the TABOR refund obligation, but result in no net change to the amount of General Fund otherwise available to spend or save.

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to decrease the amount of General Fund held in reserve by the amounts shown in Table 1, which will increase the amount of General Fund available for other purposes.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of $2,775,073 and 3.0 FTE to the Department of Agriculture, and $212,791 and 1.2 FTE to the Department of Revenue.

State and Local Government Contacts

Personnel	Agriculture	Public Health and Environment
Revenue	State Auditor	