

## CHAPTER 338

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**TAXATION**

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**HOUSE BILL 23-1008**

BY REPRESENTATIVE(S) Weissman, Amabile, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Herod, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Martinez, Mauro, McCormick, McLachlan, Michaelson Jenet, Ortiz, Ricks, Sharbini, Snyder, Story, Titone, Valdez, Velasco, Vigil, Willford, McCluskie, English, Sirota, Young;  
also SENATOR(S) Fields and Hinrichsen, Buckner, Coleman, Cutter, Danielson, Exum, Gonzales, Jaquez Lewis, Marchman, Moreno, Priola, Rodriguez, Sullivan, Winter F., Zenzinger.

**AN ACT**

**CONCERNING TAX POLICIES RELATED TO THE ACCESSIBILITY OF FOOD, AND, IN CONNECTION THEREWITH, REQUIRING ADDITIONS TO COLORADO TAXABLE INCOME IN AMOUNTS EQUAL TO THE BUSINESS MEALS FEDERAL ITEMIZED DEDUCTION, CREATING A TAX CREDIT TO SUPPORT THE SMALL BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM, PROVIDING FUNDING FOR HEALTHY EATING PROGRAM INCENTIVES, AND MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

(a) A recent survey found that one in three Coloradans are "food insecure", that is, lacking reliable access to nutritious food;

(b) In addition, more than one in three adults living with children have reported regularly cutting back or skipping meals to allow their children to have enough to eat;

(c) Childhood hunger can have lifetime impacts, such as interfering with developmental and educational progress;

(d) Certain communities, including communities of color, seniors, and lower-income Coloradans, are prone to higher-than-average rates of food insecurity;

(e) Food security and housing security are closely related issues, because both are basic needs that a family must account for, and the two can become competing

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

priorities on a limited budget. That is, a family's ability to pay for their food is directly related to their ability to pay for their housing, and improving one will necessarily improve the other.

(f) Improving the capacity of existing small, local retailers to store and sell nutritious food can improve access, lower prices, and reduce food insecurity, particularly for Colorado families most at risk of it, while keeping more of the proceeds of economic activity in the local community;

(g) Expanding the number of retailers selling fresh produce may also create new market opportunities for Colorado agricultural producers;

(h) Therefore, the general assembly determines that enacting this legislation to further support existing nutrition access efforts will improve access to nutritious food for Coloradans, assist small businesses, and foster Colorado's agricultural industry.

**SECTION 2.** In Colorado Revised Statutes, 25-20.5-104, **add** (2.5) as follows:

**25-20.5-104. Functions of division.** (2.5) (a) FOR STATE FISCAL YEAR 2023-24, THE GENERAL ASSEMBLY SHALL APPROPRIATE TWO HUNDRED AND FIFTY THOUSAND DOLLARS TO THE DIVISION FOR THE DIVISION TO PARTNER WITH A STATEWIDE NONPROFIT ORGANIZATION TO PROVIDE HEALTHY EATING PROGRAM INCENTIVES AMONG COLORADO'S LOW-INCOME POPULATIONS. THESE PROGRAM INCENTIVES MUST ATTEMPT TO IMPROVE ACCESS TO FRESH COLORADO-GROWN FRUITS AND VEGETABLES AMONG COLORADO'S LOW-INCOME POPULATIONS.

(b) THE STATEWIDE NONPROFIT ORGANIZATION SELECTED BY THE DIVISION FOR THE PARTNERSHIP DESCRIBED IN THIS SUBSECTION (2.5) SHALL HAVE EXPERIENCE IN SUPPORTING HEALTHY EATING INCENTIVES PROGRAMS, SUCH AS PROGRAMS AT LOCAL FARMERS MARKETS, AND EXPERIENCE WITH COORDINATING HEALTHY EATING PROGRAMS AND FUNDING BETWEEN LOCAL, STATE, AND FEDERAL PROGRAMS.

(c) IN PROVIDING THE PROGRAM INCENTIVES DESCRIBED IN THIS SUBSECTION (2.5), BOTH THE DIVISION AND THE NONPROFIT SHALL MINIMIZE THEIR ADMINISTRATIVE EXPENSES. THE DIVISION SHALL NOT USE MORE THAN TEN THOUSAND DOLLARS AND THE NONPROFIT SHALL NOT USE MORE THAN FIVE PERCENT OF THE AMOUNT TRANSFERRED PURSUANT TO SUBSECTION (2.5)(a) OF THIS SECTION FOR THEIR ADMINISTRATIVE EXPENSES.

(d) THE DIVISION SHALL USE THE FUNDING PROVIDED IN SUBSECTION (2.5)(a) OF THIS SECTION TO SUPPLEMENT, NOT SUPPLANT, OTHER GENERAL FUND APPROPRIATIONS TO THE DIVISION.

(e) ALL BUT SEVENTY-SEVEN THOUSAND SEVEN HUNDRED AND FIFTY TWO DOLLARS OF THE AMOUNT TRANSFERRED PURSUANT TO SUBSECTION (2.5)(a) OF THIS SECTION MUST BE EXPENDED FOR HEALTHY EATING PROGRAM INCENTIVES AMONG COLORADO'S LOW-INCOME POPULATIONS.

(f) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025.

**SECTION 3.** In Colorado Revised Statutes, 39-22-104, **add** (3)(s) as follows:

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

(s)(I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2031, AN AMOUNT EQUAL TO A FEDERAL DEDUCTION CLAIMED FOR A BUSINESS MEAL PURSUANT TO SECTION 274 (k) OF THE INTERNAL REVENUE CODE.

(II) THIS SUBSECTION (3)(s) IS REPEALED, EFFECTIVE DECEMBER 31, 2035.

**SECTION 4.** In Colorado Revised Statutes, 39-22-304, **add** (2)(k) as follows:

**39-22-304. Net income of corporation - legislative declaration - definitions - repeal.** (2) There shall be added to federal taxable income:

(k)(I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2031, AN AMOUNT EQUAL TO A FEDERAL DEDUCTION CLAIMED FOR A BUSINESS MEAL PURSUANT TO SECTION 274 (k) OF THE INTERNAL REVENUE CODE.

(II) THIS SUBSECTION (2)(k) IS REPEALED, EFFECTIVE DECEMBER 31, 2035.

**SECTION 5.** In Colorado Revised Statutes, **add** 39-22-549 as follows:

**39-22-549. Credit against tax - small food business recovery and resilience grant program equipment - community food consortium duties and responsibilities - tax preference performance statement - legislative declaration - definitions - repeal.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, IN ACCORDANCE WITH SECTION 39-21-304 (1), WHICH REQUIRES EACH BILL THAT CREATES A NEW TAX EXPENDITURE TO INCLUDE A TAX PREFERENCE PERFORMANCE STATEMENT AS PART OF A STATUTORY LEGISLATIVE DECLARATION, THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE PURPOSES OF THE TAX EXPENDITURE CREATED IN SUBSECTION (3) OF THIS SECTION ARE TO:

(I) INDUCE CERTAIN DESIGNATED BEHAVIOR BY TAXPAYERS, SPECIFICALLY THE PURCHASE AND USE OF SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT AND THE INCREASE OF ACTIVITIES OF THE COMMUNITY FOOD CONSORTIUM FOR SMALL FOOD RETAILERS AND COLORADO-OWNED AND COLORADO-OPERATED FARMS; AND

(II) CONTRIBUTE TO THE STATE'S EFFORT TO IMPROVE ACCESS TO AND LOWER PRICES FOR HEALTHY FOODS IN LOW-INCOME AND UNDERSERVED AREAS OF THE STATE BY SUPPORTING SMALL FOOD RETAILERS AND SMALL FAMILY FARMS.

(b) THE GENERAL ASSEMBLY AND THE STATE AUDITOR SHALL MEASURE THE EFFECTIVENESS OF THE TAX CREDITS IN ACHIEVING THE PURPOSES SPECIFIED IN SUBSECTION (1)(a)(I) OF THIS SECTION BASED ON THE NUMBER OF THE TAX CREDITS CREATED IN THIS SECTION THAT TAXPAYERS CLAIM. THE DEPARTMENT OF

AGRICULTURE AND THE DEPARTMENT OF REVENUE SHALL PROVIDE THE STATE AUDITOR WITH ANY AVAILABLE INFORMATION THAT WOULD ASSIST THE STATE AUDITOR IN THIS MEASUREMENT.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

(d) "PURCHASE PRICE" MEANS THE AMOUNT ACTUALLY PAID BY THE PURCHASER FOR THE SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT, INCLUDING CHARGES FOR SALES TAX AND FREIGHT, BUT NOT INCLUDING ANY CHARGES FOR ASSEMBLY, INSTALLATION, OTHER CONSTRUCTION SERVICES, OR PERMIT FEES.

(e) "PURCHASER" MEANS A SMALL FOOD RETAILER OR SMALL FAMILY FARM THAT PURCHASES SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT.

(f) "SMALL FAMILY FARM" HAS THE SAME MEANING AS SET FORTH IN SECTION 35-1-117 (8)(d).

(g) "SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT" MEANS THE ITEMS LISTED IN SECTION 35-1-117 (3)(a)(II) AND (3)(a)(IV).

(h) "SMALL FOOD RETAILER" HAS THE SAME MEANING AS SET FORTH IN SECTION 35-1-117 (8)(e).

(3) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION:

(I) (A) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2025, ANY MEMBER OF THE FOOD CONSORTIUM IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO EIGHTY-FIVE PERCENT OF THE AMOUNT CERTAIN SPENT BY THE MEMBER OF THE CONSORTIUM ON COMPLETING ITS DUTIES AND RESPONSIBILITIES MINUS ANY AMOUNT AWARDED TO THE MEMBER OF THE CONSORTIUM PURSUANT TO SECTION 35-1-117 (2) FOR THE COMPLETION OF ITS DUTIES AND RESPONSIBILITIES;

(B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2031, ANY MEMBER OF THE FOOD CONSORTIUM IS ALLOWED A

CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF THE AMOUNT CERTAIN SPENT BY THE MEMBER OF THE CONSORTIUM ON COMPLETING ITS DUTIES AND RESPONSIBILITIES MINUS ANY AMOUNT AWARDED TO THE MEMBER OF THE CONSORTIUM PURSUANT TO SECTION 35-1-117 (2) FOR THE COMPLETION OF ITS DUTIES AND RESPONSIBILITIES; AND

(II) (A) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2024, BUT BEFORE JANUARY 1, 2025, ANY PURCHASER OF SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO EIGHTY-FIVE PERCENT OF THE PURCHASE PRICE OF THE RELEVANT SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT MINUS THE AMOUNT OF ANY GRANT AWARDED UNDER THE SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM FOR THE PURCHASE OF THE SAME SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT.

(B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2025, BUT BEFORE JANUARY 1, 2031, ANY PURCHASER OF SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT IS ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE 22 IN AN AMOUNT EQUAL TO SEVENTY-FIVE PERCENT OF THE PURCHASE PRICE OF THE RELEVANT SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT MINUS THE AMOUNT OF ANY GRANT AWARDED UNDER THE SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM FOR THE PURCHASE OF THE SAME SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT.

(b) THE CREDIT ALLOWED PURSUANT TO THIS SECTION IS FOR THE INCOME TAX YEAR IN WHICH A MEMBER OF THE CONSORTIUM SPENT AN AMOUNT CERTAIN ON COMPLETING ITS DUTIES AND RESPONSIBILITIES OR A PURCHASER PURCHASES THE RELEVANT SMALL FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT.

(4) (a) A MEMBER OF THE CONSORTIUM OR A PURCHASER OF SMALL FOOD BUSINESS RECOVERY GRANT PROGRAM EQUIPMENT MAY SUBMIT AN APPLICATION TO THE DEPARTMENT OF AGRICULTURE FOR THE ISSUANCE OF A LETTER OF ELIGIBILITY FOR A TAX CREDIT CERTIFICATE ALLOWED IN THIS SECTION BY THE DEADLINES ESTABLISHED IN THE RULES PROMULGATED BY THE DEPARTMENT OF AGRICULTURE. THE APPLICATION MUST INCLUDE:

(I) A CERTIFICATION THAT THE APPLICANT IS EITHER:

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

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

(II) DETAILED INFORMATION REGARDING:

(A) THE PURCHASE PRICE THAT WOULD BE INCURRED BY A PURCHASER OF SMALL

FOOD BUSINESS RECOVERY AND RESILIENCE GRANT PROGRAM EQUIPMENT AND THE DATE ON WHICH THE PURCHASE WOULD BE MADE; OR

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

(b) IF THE DEPARTMENT OF AGRICULTURE DETERMINES THAT THE APPLICATION FILED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION IS COMPLETE, THE DEPARTMENT OF AGRICULTURE SHALL DETERMINE WHETHER THE APPLICANT WOULD QUALIFY FOR THE CREDIT ALLOWED PURSUANT TO THIS SECTION IF THE APPLICANT MADE THE PURCHASE DESCRIBED IN THE APPLICATION AND THE DEPARTMENT OF AGRICULTURE HAD NOT ISSUED TAX CREDIT CERTIFICATES IN EXCESS OF A TOTAL OF TEN MILLION DOLLARS FOR THE INCOME TAX YEAR. IF THE DEPARTMENT OF AGRICULTURE APPROVES THE APPLICATION, THE DEPARTMENT OF AGRICULTURE SHALL ISSUE A LETTER OF ELIGIBILITY TO THE APPLICANT THAT INDICATES THE AMOUNT OF THE TAX CREDIT THAT THE PURCHASER OR MEMBER OF THE CONSORTIUM COULD CLAIM FOR THE SPECIFIED INCOME TAX YEAR IF THEY WERE TO MAKE THE PURCHASE DESCRIBED IN THE APPLICATION AND IF THE DEPARTMENT OF AGRICULTURE HAS NOT ISSUED TAX CREDIT CERTIFICATES IN EXCESS OF A TOTAL OF TEN MILLION DOLLARS FOR THE INCOME TAX YEAR.

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

(I) A CERTIFICATION THAT THE APPLICANT IS EITHER:

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

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

(II) DETAILED INFORMATION REGARDING:

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

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

(b) IF THE DEPARTMENT OF AGRICULTURE DETERMINES THAT THE APPLICATION FILED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION IS COMPLETE, THE

DEPARTMENT OF AGRICULTURE SHALL DETERMINE WHETHER THE APPLICANT QUALIFIES FOR THE CREDIT ALLOWED PURSUANT TO THIS SECTION. IF THE DEPARTMENT OF AGRICULTURE APPROVES THE APPLICATION, THE DEPARTMENT OF AGRICULTURE SHALL ISSUE A TAX CREDIT CERTIFICATE TO THE APPLICANT THAT INDICATES THE AMOUNT OF THE TAX CREDIT THAT THE PURCHASER OR MEMBER OF THE CONSORTIUM MAY CLAIM FOR THE SPECIFIED INCOME TAX YEAR; EXCEPT THAT THE TOTAL AMOUNT OF TAX CREDIT CERTIFICATES ISSUED BY THE DEPARTMENT OF AGRICULTURE IN A GIVEN INCOME TAX YEAR MUST NOT EXCEED A TOTAL OF TEN MILLION DOLLARS.

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

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

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

(a) THE TAXPAYER'S NAME; AND

(b) THE TAXPAYER'S SOCIAL SECURITY NUMBER, COLORADO ACCOUNT NUMBER, OR FEDERAL EMPLOYER IDENTIFICATION NUMBER.

(8) IF A CREDIT AUTHORIZED IN THIS SECTION EXCEEDS THE INCOME TAX DUE ON THE INCOME OF THE MEMBER OF THE CONSORTIUM OR PURCHASER FOR THE TAXABLE YEAR, THE EXCESS CREDIT MAY NOT BE CARRIED FORWARD AND IS REFUNDABLE TO THE MEMBER OF THE CONSORTIUM OR PURCHASER.

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

(10) THIS SECTION IS REPEALED, EFFECTIVE DECEMBER 31, 2035.

**SECTION 6.** In Colorado Revised Statutes, 35-1-117, **amend** (2)(b)(III), (3)(a) introductory portion, (3)(c)(I), (3)(c)(III), (8)(e)(I), and (9); and **repeal** (2)(b)(V) as follows:

**35-1-117. Community food access program - creation - purpose - duties and responsibilities - grant program - funding - reporting - rules - definitions - repeal.** (2) (b) (III) Money spent pursuant to this subsection ~~(2)~~ (2)(b) must conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as amended. The department shall either spend or obligate such appropriation prior to December 30, 2024, and expend the appropriation on or before December 31, 2026.

(V) ~~This subsection (2) is repealed, effective September 1, 2027.~~

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

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

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

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

(e) "Small food retailer" means:

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

(9) This section is repealed, effective ~~September 1, 2027~~ SEPTEMBER 1, 2031.

**SECTION 7. Appropriation.** (1) For the 2023-24 state fiscal year, \$360,413 from the general fund is appropriated to the department of agriculture. To

implement this act, the department may use this appropriation as follows:

(a) \$98,185 for use by the commissioner's office for personal services, which amount is based on an assumption that the commissioner's office will require an additional 1.0 FTE;

(b) \$45,579 for use by the commissioner's office for operating expenses;

(c) \$44,411 for use by the commissioner's office for legal services;

(d) \$172,238 for use by the agricultural markets division for the community food access program, which amount is based on an assumption that the department will require an additional 2.0 FTE.

(2) For the 2023-24 state fiscal year, \$44,411 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of agriculture under subsection (1)(c) of this section. To implement this act, the department of law may use this appropriation to provide legal services for the department of agriculture.

(3) For the 2023-24 state fiscal year, \$250,000 is appropriated to the department of public health and environment for use by the prevention services division. This appropriation is from the general fund. To implement this act, the division may use this appropriation for chronic disease and cancer prevention grants for the purposes specified in 25-20.5-104 (2.5)(a), C.R.S.

**SECTION 8. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2023