



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

<b>Drafting Number:</b>	LLS 22-1058	<b>Date:</b>	August 31, 2022
<b>Prime Sponsors:</b>	Rep. Gonzales-Gutierrez; Michaelson Jenet Sen. Pettersen; Fields	<b>Bill Status:</b>	Adopted – Referred to Voters
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**Bill Topic:** HEALTHY MEALS FOR ALL PUBLIC SCHOOL STUDENTS

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> School Districts

Conditional upon approval at the November 2022 election, the bill creates the Healthy School Meals for All program to provide reimbursement for free meals to all students, offer local food purchasing grants and increase employee wages. It also requires that the state apply to participate in a federal direct certification demonstration project. The bill increases state revenue, expenditures, and transfers, and school district revenue on an ongoing basis.

**Appropriation Summary:** For FY 2022-23, the bill will require an appropriation of \$193,354 to the Colorado Department of Education if approved by voters. See State Appropriations Section.

**Fiscal Note Status:** The fiscal note reflects the adopted bill.

**Table 1  
State Fiscal Impacts Under HB 22-1414**

		Budget Year FY 2022-23	Out Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>	General Fund	\$50.4 million	\$100.7 million	\$104.2 million
	<b>Total Revenue</b>	<b>\$50.4 million</b>	<b>\$100.7 million</b>	<b>\$104.2 million</b>
<b>Expenditures</b>	General Fund	\$193,354	up to \$115.5 million	\$71.4 - \$101.5 million
	Centrally Appropriated	\$18,935	\$84,998	\$91,824
	<b>Total Expenditures</b>	<b>\$212,289</b>	<b>up to \$115.5 million</b>	<b>\$71.5 - \$101.5 million</b>
	<b>Total FTE</b>	<b>1.2 FTE</b>	<b>5.4 FTE</b>	<b>5.6 FTE</b>
<b>Transfers</b>	General Fund	(\$3.7 million)	(\$7.5 million)	(\$7.6 million)
	State Education Fund	\$3.7 million	\$7.5 million	\$7.6 million
	<b>Net Transfer</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Other Budget Impacts</b>	GF Reserve	\$29,033	up to \$16.6 million	\$10.7 - \$15.2 million

## Summary of Legislation

Conditional upon voter approval at the November 2022 election, the bill creates the Healthy School Meals for All Program, establishes a funding mechanism for the program, and requires the state to participate in the federal demonstration program for Medicaid direct certification.

**Federal Medicaid direct certification demonstration program.** The bill requires that the Colorado Department of Education (CDE) apply to participate in the federal demonstration project for direct certification for children receiving Medicaid benefits. If selected, CDE must enter into an agreement with the Colorado Department of Health Care and Financing (HCPF) to directly certify students enrolled in Medicaid as eligible for free and reduced price meals without further application.

**Healthy School Meals for All Program.** The bill creates the Healthy School Meals for All Program in CDE to provide reimbursement to participating school food authorities (SFAs) for offering meals without charge to all students, beginning in FY 2023-24. The reimbursement amount is based on the federal free meal reimbursement rate for each meal served, minus the amount an SFA receives from the federal school breakfast and lunch programs, and current state reimbursement programs.

Conditional upon the state's participation in the federal demonstration project, the program also includes three other components for participating SFAs.

- *Local food purchasing grant program.* Participating SFAs that establish a parent and student school food advisory committee may receive a grant to purchase Colorado grown, raised, or processed products. CDE must distribute to each participating SFAs a grant of \$5,000, or \$0.25 for each lunch provided in the prior school year, whichever is greater. No more than 25 percent of the grant may be used to purchase value-added processed products, up to 10 percent may be used to cover costs, and up to 12 percent may be used to support the school advisory committee.
- *Employee wages or stipends.* Participating SFAs may receive the greater of \$3,000 or \$0.12 per school lunch, to be used to increase wages or provide stipends for employees who prepare and serve school meals.
- *Technical assistance and education grant program.* CDE must issue a grant to a statewide nonprofit to assist with the promotion of Colorado products to participating SFAs and to assist them with preparing meals using basic ingredients with minimal reliance on processed products. Grants may be used for training, technical assistance, physical infrastructure for SFAs, growers associations, and other organizations that aggregate products for producers, as well as for education, outreach, and promotion for schools and growers to engage with school communities.

*Community eligibility provision.* In order to participate in the program, SFAs must maximize federal reimbursement by participating in the community eligibility provision (CEP), if eligible. If the US Department of Agriculture creates the option for the community eligibility provision to be implemented statewide, CDE must work with SDAs and state and local agencies to participate

*Reporting.* Beginning December 1, 2024, CDE must submit an annual report on the program to the General Assembly. CDE must contract with an independent auditor to conduct a biennial financial and performance audit of the program, and make the audit easily accessible on the website.

*Funding.* Beginning in FY 2023-24, the General Assembly must appropriate the amount necessary for the program, including at least \$5.0 million for the technical assistance grant program. The appropriation must include an amount of General Fund at least equal to the revenue generated from the add-back (discussed below), but no more than the amount required to fund the direct and indirect costs of implementing the program. CDE may not expend more than 1.5 percent of the amount appropriated for administrative costs.

**Add-back to Colorado taxable income.** Beginning for tax year 2023, the bill requires taxpayers with adjusted gross incomes of \$300,000 or more to add back a portion of their federal itemized or standard deductions when calculating their Colorado taxable income. Taxpayers filing singly are required to add back itemized or standard deductions that exceed \$12,000 in total, and taxpayers filing jointly are required to add back itemized or standard deductions that exceed \$16,000 in total.

This provision does not apply in a future year if the Healthy School Meals for All program is repealed. The bill specifies that this section constitutes a voter-approved revenue change if approved by voters at the November, 2022 election.

## Background

**School food authority.** SFAs are designated organizations that implement school food programs. An SFA may be a school district, charter school, or an organization representing a group of charter schools. There are currently 183 SFAs in Colorado.

**Meal reimbursement.** For most federal programs, SFAs are reimbursed for each meal they provide. CDE receives annual funding from the U.S. Department of Agriculture, and reimburses claims made by SFAs. Reimbursement amounts are based on three income classifications. The free rate is the highest reimbursement amount, followed by reduced-price, and paid reimbursement rates. The state also provides reimbursement to SFAs for meals, including covering the difference between reduced-price and free meals.

**Community eligibility provision.** CEP is a federal program that provides additional reimbursement to eligible high poverty schools. To be eligible, an SFA must have an identified student percentage of 40 percent or greater. An identified student percentage includes students directly certified as eligible for free lunch due to participation in public benefit programs (SNAP, TANF, Food Distribution Program on Indian Reservation) or categorical eligibility (foster, homeless, migrant, runaway or head start).

A multiplier is applied to the identified student percentage to calculate federal reimbursements. For example, an SFA with 62.5 percent identified students will receive reimbursement at the free meal rate for 100 percent of meals served. For a district with 40 percent identified students, 64 percent of meals will be reimbursed at the rate for free meals and 36 percent will be reimbursed at the paid meal rate.

## Assumptions

**Timing.** This fiscal note assumes that Colorado will be accepted for participation into the federal demonstration project for direct certification of children receiving Medicaid benefits. The first year in which Medicaid students would be directly certified for CEP eligibility is FY 2024-25. The fiscal note assumes that meal reimbursements will begin in FY 2023-24, as specified in the bill, and the local food purchasing and technical assistance programs, and the employee wage and stipend program will begin in FY 2024-25.

**Federal demonstration project costs.** The provision requiring that the state participate in the federal demonstration project is also included in House Bill 22-1202. That bill has been passed by the General Assembly and sent to the Governor. The fiscal note assumes that the bill will be signed into law and the costs of applying for the project are included in that bill, and thus, are not included in this fiscal note. Should the bill not be signed into law, costs will be higher than estimated.

**Statewide CEP.** The bill requires that the state participate in a statewide CEP option, if available. This option is not currently available, and this fiscal note makes all estimates assuming that CEP will not be available.

## State Revenue

Conditional upon voter approval, the bill is expected to increase state revenue by \$50.4 million in FY 2022-23 (a half-year impact), \$100.7 million in FY 2023-24, \$104.2 million in FY 2024-25, and by increasing amounts in subsequent years.

The bill increases income tax revenue by requiring certain taxpayers to add back a certain amount of Federal deductions to their Colorado taxable income. In tax year 2023, the bill is expected to increase Colorado taxable income by approximately \$2.2 billion. The Colorado state income tax rate of 4.55 percent is applied to this increase in taxable income to arrive at a total tax increase of \$100.7 million.

## State Transfers

Under current law, one third of one percent of taxable income, as adjusted by state law, is transferred from the General Fund to the State Education Fund. Because this bill increases taxable income, the bill also increases transfers from the General Fund to the State Education Fund by an estimated \$3.7 million in FY 2022-23, by \$7.5 million in FY 2023-24, by \$7.6 million in FY 2024-25 and by increasing amounts in subsequent years.

## State Expenditures

Conditional upon voter approval, the bill increases state expenditures by \$212,289 in FY 2022-23, \$115.5 million in FY 2023-24, and between \$71.5 million and \$101.5 million in FY 2024-25 from the General Fund. Costs are in CDE and the Department of Revenue. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under HB22-1414**

<b>Cost Components</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>	<b>FY 2024-25</b>
<b>Department of Education</b>			
Personal Services	\$88,214	\$246,053	\$328,525
Operating Expenses	\$1,755	\$4,185	\$5,805
Capital Outlay Costs	\$18,600	-	-
Legal Services	\$14,786	\$14,786	-
Information Technology Costs	\$70,000	-	-
Meal Reimbursements	-	up to \$115,000,000	\$48.5 - \$78.5 million
Local Food Purchasing Grant	-	-	\$9,494,109
Local Food Technical Assist. Grant	-	-	\$5,000,000
Employee Wage Distributions	-	-	\$7,644,126
Program Audit	-	\$17,850	\$400,000
Centrally Appropriated Costs <sup>1</sup>	\$18,935	\$53,133	\$71,551
FTE – Personal Services	1.1 FTE	3.1 FTE	4.2 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE	0.0 FTE
<b>CDE Subtotal</b>	<b>\$212,289</b>	<b>up to \$115,336,007</b>	<b>\$71.4 - \$101.4 million</b>
<b>Department of Revenue</b>			
Personal Services	-	\$109,673	\$69,729
Operating Expenses	-	\$3,240	\$1,890
Capital Outlay Costs	-	\$12,400	-
GenTax Costs	-	\$39,213	-
Document Management	-	\$664	-
Research & Analysis	-	\$12,800	\$6,400
Centrally Appropriated Costs <sup>1</sup>	-	\$31,865	\$20,273
FTE – Personal Services	-	2.2 FTE	1.4 FTE
<b>DOR Subtotal</b>	<b>\$0</b>	<b>\$209,855</b>	<b>\$98,292</b>
<b>Total</b>	<b>\$212,289</b>	<b>up to \$115,545,862</b>	<b>\$71.5 - \$101.5 million</b>
<b>Total FTE</b>	<b>1.2 FTE</b>	<b>5.4 FTE</b>	<b>5.6 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Education.** CDE will require additional staff in the Office of School Nutrition to implement the bill. In FY 2022-23, 1.1 FTE are required to begin program development and implementing changes to existing systems; this staffing amount assumes a January, 2023 start date. In FY 2023-24, 3.1 FTE are required to develop program rules and processes for the wage and grant programs, provide outreach and training to SFAs on data collection and submission, and begin additional reimbursements. Beginning in FY 2024-25, 4.2 FTE will be required to provide evaluation and monitoring for expanded CEP participation, oversee the grant and wage programs, handle additional claims and reimbursement, and conduct reporting. Staff are prorated in their first year for the General Fund paydate shift.

- **Legal services.** In FY 2022-23 and FY 2023-24, CDE will require 150 hours of legal services to support rulemaking by the State Board of Education. Legal services are provided by the Department of Law at a standard rate of \$98.57.
- **Information technology.** The department's school nutrition technology system will need to be modified to allow for new functionality and streamlined district data submission, estimated at \$70,000 based on prior vendor costs. These are one-time costs in FY 2022-23 only.
- **Meal reimbursements.** Beginning in FY 2023-24, the department will reimburse districts for meals based on the federal free reimbursement rate for each meal served, minus the amount an SFA receives from the federal and state meal reimbursement programs. In FY 2023-24, meal reimbursements are estimated at up to \$115.0 million, depending on actual federal reimbursement rates.

Meal reimbursements are estimated at between \$48.5 million and \$78.5 million in FY 2024-25, based on projected meal counts and possible program participation rates. This cost is less than estimated for FY 2023-24 because the direct certification of children in Medicaid will begin in FY 2024-25, increasing federal reimbursement and reducing the state share of providing school meals.

Because direct certification won't begin until FY 2024-25 and the most recent data available predates the COVID-19 pandemic, there is elevated uncertainty about the actual costs for meal reimbursements. The high end of the range, \$78.5 million, represents a conservative estimate for participation in CEP based on participation rates of other state that have participated in the federal demonstration project. Additional participation will increase federal reimbursement and lower the state's cost. As such, the low end of the range, \$48.5 million, represents an increase in identified student percentage based on pre-pandemic Medicaid data.

Should participation be lower than expected, costs could be as high as \$92.0 million in FY 2024-25. Should participation be higher than expected, costs could be as low as \$35.4 million.

- **Local food purchasing grant.** Beginning in FY 2024-25, the department will award grants to participating SFAs of \$5,000, or \$0.25 for each lunch provided in the prior school year, whichever is greater. The estimated cost is up to \$9.5 million, based on projected lunch counts and an assumed 60 percent program participation rate. To the extent fewer districts elect to receive a grant for this purpose, costs will be lower than anticipated.

- **Local food technical assistance grant.** The bill specifies that \$5.0 million must be appropriated for this program.
- **Employee wage distributions.** All participating SFAs may receive the greater of \$3,000, or \$0.12 per school lunch for school meal employee wages. This estimated cost is up to \$7.6 million in FY 2024-25.
- **Program audit.** The bill requires that CDE complete a performance and financial audit of the program. An RFP will be issued in FY 2023-24 at a standard cost of \$17,850, and the contracted audit is estimated to cost \$400,000 in FY 2024-25.

**Department of Revenue.** To implement the tax changes in the bill, the Department of Revenue requires 2.2 FTE in FY 2023-24 and 1.4 FTE in FY 2024-25. Costs also include GenTax changes, document management, and data reporting costs.

**Election expenditure impact — existing appropriations.** This bill includes a referred measure that will appear before voters at the November 2022 general election. While no additional appropriation is required, certain election costs are incurred by the state when ballot measures are referred. These include reimbursing counties for certain election costs; publishing the text and title of the measure in newspapers across the state; and preparing and mailing the ballot information booklet.

**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

**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 increase the amount of General Fund held in reserve by the amounts in Table 1, which will decrease the amount of General Fund available for other purposes.

## School District

**Revenue.** Participating districts will receive the federal free meals reimbursement rate for all meals served, funding for employee wages, and local food purchasing grants, as discussed in the State Expenditures Section. The amount each district receives will depend on the number of meals served, and whether the funding is state or federal reimbursement will depend on the district's identified student percentage, and whether the district is eligible to participate in the CEP once the state participates in the federal Medicaid direct certification demonstration project.

**Workload.** Districts that participate in CEP once the state participates in the federal Medicaid direct certification demonstration project will have their workload modified to submit the required data to CDE, while no longer collecting free and reduced price forms for all students. Districts will also see workload associated with grant programs and data submission related to the employee wage program. Workload changes will vary by school district.

## Effective Date

If approved by voters at the November 2022 election, the bill takes effect upon proclamation of the Governor, no more than 30 days following the official canvas of votes.

## State Appropriations

Conditional upon voter approval, the bill will require a General Fund appropriation of \$193,354 to the Colorado Department of Education, and 1.1 FTE. Of this amount, \$14,786 will be reappropriated to the Department of Law, with 0.1 FTE. This appropriation is not included in the bill, but will be required if approved by voters.

## State and Local Government Contacts

Education  
Law

Health Care Policy and Financing  
Revenue

Human Services  
School Districts