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Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 11, 2022)

Drafting Number: LLS 22-0367 Date: April 5, 2022
Prime Sponsors: Sen. Pettersen; Fields Bill Status: Senate Appropriations
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Bill Topic: HEALTHY MEALS FOR ALL PUBLIC SCHOOL STUDENTS

- Summary of Fiscal Impact:
State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, School District

The bill creates the Healthy School Meals for All program in the Colorado Department of Education to provide reimbursement to school food authorities for offering free meals to all students, and to offer local food purchasing grants and increase employee wages. It also requires that CDE apply to participate in a federal direct certification demonstration project. The bill increases state expenditures and school district revenue on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$442,473 to the Colorado Department of Education.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the Senate Education Committee.

Table 1
State Fiscal Impacts Under SB 22-087

Table with 4 columns: Category, Budget Year FY 2022-23, Out Year FY 2023-24, Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

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. Subject to the state's participation in the federal demonstration project, 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. The program begins in the first full budget year after the state is certified to participate in the demonstration project and begins including Medicaid direct certification in district identified student percentages. 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.

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 the greater of \$5,000, or between \$0.05 and \$0.20 for each lunch provided in the prior school year, depending on a whether a district's identified student percentage and whether it is a rural district. 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 \$0.06 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 of the program's second budget year, CDE must submit an annual report on the program to the General Assembly. Every two years thereafter, 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 the program's first year, the General Assembly must appropriate the amount necessary for the program, including at least \$2.5 million for the technical assistance grant program. CDE may not expend more than 1.5 percent of the amount appropriated for administration.

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.

Identified student percentage. 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).

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. 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 the Healthy School Meals Program will be fully implemented beginning in FY 2024-25.

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 Expenditures

The bill increases state expenditures in CDE by \$491,172 in FY 2022-23, \$294,401 in FY 2023-24, and between \$60.1 and \$90.1 million in FY 2024-25 from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB22-087**

	FY 2022-23	FY 2023-24	FY 2024-25
Department of Education			
Personal Services	\$230,109	\$208,567	\$328,525
Operating Expenses	\$4,050	\$3,510	\$5,805
Capital Outlay Costs	\$18,600	-	-
Legal Services	\$19,714	\$19,714	-
Information Technology Costs	\$170,000	-	-
Meal Reimbursements	-	-	\$48.5 - \$78.5 million
Local Food Purchasing Grant	-	-	\$4.4 million
Local Food Technical Assistance Grant	-	-	\$2,500,000
Employee Wage Distributions	-	-	\$3,916,885
Program Audit	-	\$17,850	\$400,000
Centrally Appropriated Costs ¹	\$48,699	\$44,760	\$71,551
FTE – Personal Services	2.8 FTE	2.6 FTE	4.2 FTE
FTE – Legal Services	0.1 FTE	0.1 FTE	0.0 FTE
Total Cost	\$491,172	\$294,401	\$60.1 - \$90.1 million
Total FTE	2.9 FTE	2.7 FTE	4.2 FTE

¹ 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, 2.8 FTE are required to begin program development, including applying for the federal demonstration project, coordinating with HCPF, and implementing changes to existing systems. In FY 2023-24, 2.7 FTE are be required to develop program rules and processes, including the wage and grant programs, and provide outreach and training to SFAs on data collection and submission. 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 200 hours of legal services to support rulemaking by SBE and the application for the federal demonstration project. Legal services are provided by the Department of Law at a standard rate of \$98.57.

- **Information technology.** The department's Information Management Services division require contract staff to create the application and develop new systems for the federal demonstration project. This is estimated at 880 hours at \$100 per hour. In addition, the school nutrition technology system will need to be modified to allow for new functionality and streamlined district data submission, estimated at \$82,000 based on prior vendor costs. These are one-time costs in FY 2022-23 only.
- **Meal reimbursements.** Beginning in FY 2024-25, 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. This amount is estimated at between \$48.5 million and \$78.5 million in FY 2024-25, based on projected meal counts and possible program participation rates.

Because the direct certification of children in Medicaid won't be 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 estimated range, \$78.5 million, represents a conservative estimate for participation in CEP based on participation rates of other states that have participated in the federal demonstration project. Additional participation will increase federal reimbursement and lower the state 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. Should participation be higher than expected, costs could be as lower than anticipated. Actual reimbursements will be requested through the budget process based on updated data.

- **Local food purchasing grant.** Beginning in FY 2024-25, the department will award grants to participating SFAs the greater of \$5,000, or between \$0.05 and \$0.20 for each lunch provided in the prior school year, depending on a whether a district's identified student percentage and whether it is a rural district. The cost is estimated at up to \$4.4 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 \$2.5 million must be appropriated for this program.
- **Employee wage distributions.** All participating SFAs may receive the greater of \$3,000, or \$0.06 per school lunch for school meal employee wages. This is estimated at up to \$3.9 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 at \$400,000 in FY 2024-25.

Health Care Policy & Financing. The bill requires that HCPF enter into a data sharing agreement with CDE related to Medicaid data for the federal demonstration project. This workload can be accomplished within current appropriations.

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 shown 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 in FY 2024-25, 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 employee wage program. Workload changes will vary by school district.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

In FY 2022-23, the bill requires a General Fund appropriation of \$442,473 to the Colorado Department of Education, and 2.8 FTE. Of this amount, \$19,714 is reappropriated to the Department of Law, with 0.1 FTE.

State and Local Government Contacts

Education
Law

Health Care Policy and Financing
School Districts

Human Services