

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 08-123

BY SENATOR(S) Sandoval, Bacon, Boyd, Gibbs, Gordon, Groff, Isgar, Morse, Romer, Schwartz, Shaffer, Tapia, Tochtrop, Tupa, Veiga, and Williams;

also REPRESENTATIVE(S) Madden, Benefield, Borodkin, Butcher, Carroll M., Carroll T., Casso, Curry, Ferrandino, Fischer, Gallegos, Green, Hodge, Kefalas, Kerr A., Labuda, Marshall, McFadyen, Middleton, Peniston, Primavera, Romanoff, Solano, Stafford, Todd, Frangas, McGihon, and Scanlan.

CONCERNING A PROGRAM TO PROVIDE ADDITIONAL FUNDING FOR SCHOOL LUNCH PROGRAMS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that:

(a) Every Colorado child deserves a healthy start in life, including access to a healthy school lunch each school day;

(b) Children's diets are very important for their current and future health;

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(c) A child should not be prevented from receiving a healthy school lunch because of a lack of family income;

(d) The national school lunch program was established to assist schools in providing nutritious lunches to help prepare students to learn; and

(e) In order for Colorado to compete effectively in the world market, we must have a well-educated and healthy work force.

(2) The general assembly further recognizes that:

(a) Strong school lunch programs are a key component contributing to student achievement, and eliminating the reduced-cost lunch category will be a tremendous tool the state can use to help ensure that all students are getting the nourishment they need to succeed in today's fast paced environment;

(b) Schools that participate in the national school lunch program created in 42 U.S.C. sec. 1751 et seq., serve lunch at a reduced cost to students;

(c) A school that receives lunch assistance payments under the federal lunch program cannot charge a price of more than forty cents for a school lunch.

(3) The general assembly concludes that it is in the best interest of Colorado's students to create a fund to eliminate the reduced price paid by children in kindergarten through second grade who are eligible for a reduced-cost lunch under the terms of the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., and who are participating in the federal lunch program.

SECTION 2. Title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 82.9

Child Nutrition School Lunch Protection Program

22-82.9-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "CHILD NUTRITION SCHOOL LUNCH PROTECTION PROGRAM"

ACT".

22-82.9-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, FOR PURPOSES OF SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION;

(a) GOOD NUTRITION IS AN ESSENTIAL COMPONENT TO STUDENT LEARNING AND PROMOTES SUCCESS FOR STUDENTS IN TODAY'S FAST-PACED ENVIRONMENT;

(b) BY INCREASING THE NUMBER OF STUDENTS WHO CAN RECEIVE A FREE, NUTRITIOUS LUNCH, THE SCHOOL LUNCH PROGRAM IS AN IMPORTANT COMPONENT OF AN ACCOUNTABLE PROGRAM TO MEET STATE ACADEMIC STANDARDS, AND MAY THEREFORE RECEIVE FUNDING FROM THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

22-82.9-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

(2) "PROGRAM" MEANS THE CHILD NUTRITION SCHOOL LUNCH PROTECTION PROGRAM CREATED PURSUANT TO SECTION 22-82.9-104.

(3) "SCHOOL LUNCH PROGRAM" MEANS THE FEDERAL "NATIONAL SCHOOL LUNCH ACT" CREATED IN 42 U.S.C. SEC. 1751 ET SEQ.

22-82.9-104. Child nutrition school lunch protection program - creation - administration - objectives. (1) THERE IS HEREBY CREATED THE CHILD NUTRITION SCHOOL LUNCH PROTECTION PROGRAM TO ENSURE THAT EACH STUDENT IN A COLORADO PUBLIC SCHOOL HAS ACCESS TO A HEALTHY LUNCH AT SCHOOL TO HELP THE STUDENT PARTICIPATE FULLY IN THE LEARNING PROCESS.

(2) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES DEVELOPED PURSUANT TO SECTION 22-82.9-106.

(3) THE DEPARTMENT SHALL APPROVE A MULTI-DISTRICT ONLINE PROGRAM OPERATING IN LEARNING CENTERS, AS DEFINED IN SECTION 22-30.7-102 (4), TO PARTICIPATE IN THE PROGRAM AND IN THE SCHOOL LUNCH PROGRAM SO LONG AS THE MULTI-DISTRICT ONLINE PROGRAM COMPLIES WITH THE FEDERAL REQUIREMENTS FOR PARTICIPATING IN THE SCHOOL LUNCH PROGRAM, INCLUDING BUT NOT LIMITED TO COMPLETING AND SUBMITTING THE REQUIRED FEDERAL APPLICATION FORM FOR EACH STUDENT WHO CHOOSES TO PARTICIPATE IN THE SCHOOL LUNCH PROGRAM.

(4) THE OBJECTIVES OF THE PROGRAM ARE TO:

(a) ELIMINATE THE REDUCED PRICE PAID BY COLORADO STUDENTS IN KINDERGARTEN THROUGH SECOND GRADE WHO ARE PARTICIPATING IN THE SCHOOL LUNCH PROGRAM;

(b) INCREASE THE NUMBER OF COLORADO STUDENTS WHO CONSUME A HEALTHY LUNCH EACH DAY;

(c) DECREASE STATEWIDE HEALTH CARE COSTS BY IMPROVING THE HEALTH OF SCHOOL-AGE CHILDREN;

(d) LESSEN STUDENTS' RISK OF OBESITY AND TYPE 2 DIABETES BY PROVIDING HEALTHY SCHOOL LUNCH OPTIONS;

(e) ENCOURAGE CHARTER SCHOOLS AND SCHOOL DISTRICTS TO PARTICIPATE IN THE SCHOOL LUNCH PROGRAM;

(f) INCREASE STUDENTS' CONSUMPTION OF WHOLE GRAINS, FRUITS AND VEGETABLES, VITAMINS, CALCIUM, PROTEIN, FIBER, AND IRON; AND REDUCE THE CONSUMPTION OF SODIUM, CHOLESTEROL, SUGAR, AND CALORIES;

(g) MAKE LUNCH MORE ACCESSIBLE TO UNDERPRIVILEGED STUDENTS;

(h) LESSEN THE STIGMA ASSOCIATED WITH CHILDREN WHO RECEIVE REDUCED-COST LUNCHES;

(i) REDUCE CHILD HUNGER IN COLORADO; AND

(j) CONTINUE TO STRENGTHEN AND SUPPORT CHILD NUTRITION PROGRAMS.

22-82.9-105. Program funding - appropriation. (1) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE BY SEPARATE LINE ITEM IN THE ANNUAL GENERAL APPROPRIATION BILL AN AMOUNT OF NOT LESS THAN EIGHT HUNDRED FIFTY THOUSAND DOLLARS AND NOT MORE THAN ONE MILLION FIVE HUNDRED THOUSAND DOLLARS TO THE DEPARTMENT OF EDUCATION TO ALLOW SCHOOL DISTRICTS TO PROVIDE LUNCHESES AT NO CHARGE FOR CHILDREN IN KINDERGARTEN THROUGH SECOND GRADE PARTICIPATING IN THE SCHOOL LUNCH PROGRAM WHO WOULD OTHERWISE BE REQUIRED TO PAY A REDUCED PRICE FOR LUNCH. THE APPROPRIATION TO THE DEPARTMENT OF EDUCATION FOR THE PROGRAM SHALL BE IN ADDITION TO ANY APPROPRIATION MADE BY THE GENERAL ASSEMBLY PURSUANT TO SECTION 22-54-123 OR 22-54-123.5 (1). THE DEPARTMENT MAY EXPEND NOT MORE THAN TWO PERCENT OF THE MONEYS ANNUALLY APPROPRIATED FOR THE PROGRAM TO OFFSET THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING THE PROGRAM PURSUANT TO THIS ARTICLE.

(2) THE DEPARTMENT IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS FROM PUBLIC AND PRIVATE SOURCES FOR THE PURPOSES OF THIS ARTICLE, BUT RECEIPT OF GIFTS, GRANTS, AND DONATIONS SHALL NOT BE A PREREQUISITE TO THE IMPLEMENTATION OF THE PROGRAM.

(3) TO THE EXTENT PERMITTED BY LAW, THE DEPARTMENT MAY, AT ITS DISCRETION, DIRECT OTHER MONEYS TO FUND THE PROGRAM.

22-82.9-106. Program - procedures. THE DEPARTMENT SHALL DEVELOP PROCEDURES TO ALLOCATE AND DISBURSE THE MONEYS IN THE PROGRAM AMONG PARTICIPATING SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS EACH YEAR, IN AN EQUITABLE MANNER AND IN COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

22-82.9-107. No individual entitlement. (1) NOTHING IN THIS ARTICLE SHALL BE INTERPRETED TO CREATE A LEGAL ENTITLEMENT TO ANY PARTICIPANT TO ASSISTANCE PROVIDED PURSUANT TO THE PROGRAM.

(2) THE DEPARTMENT IN ADMINISTERING THE PROGRAM AND A

SCHOOL DISTRICT, THE STATE CHARTER SCHOOL INSTITUTE, OR A CHARTER SCHOOL IN IMPLEMENTING THE PROGRAM MAY NOT CREATE AND SHALL NOT BE DEEMED TO CREATE A LEGAL ENTITLEMENT TO ANY PARTICIPANT TO ASSISTANCE PROVIDED PURSUANT TO THE PROGRAM.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the state education fund created in section 17 (4) of article IX of the state constitution not otherwise appropriated, to the department of education, for the child nutrition school lunch protection program created in section 22-82.9-104, Colorado Revised Statutes, the sum of eight hundred fifty thousand dollars (\$850,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item,

section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Peter C. Groff
PRESIDENT OF
THE SENATE

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO