

CHAPTER 227

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 09-230

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also REPRESENTATIVE(S) May, Balmer, Casso, Gardner B., Kerr J., King S., Lambert, Looper, Murray, Nikkel, Rice, Scanlan,
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AN ACT

**CONCERNING THE AUTHORIZATION OF CHARTER SCHOOLS AS SCHOOL FOOD AUTHORITIES, AND
MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

SECTION 1. 22-32-120 (1) and (2), Colorado Revised Statutes, are amended, and the said 22-32-120 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-32-120. Food services - facilities - school food authorities - rules - repeal.
(1) (a) A board of education may establish, maintain, equip, and operate a food-service facility, and expend the moneys of the district therefor, for pupils enrolled in the public schools of the district, for persons participating in or attending a school-sponsored activity, and for the employees of the district. Any such food-service facility shall be deemed to be an integral part of the program of the district and shall be maintained, operated, and governed in the same manner as the schools of the district.

(b) A SCHOOL FOOD AUTHORITY MAY ESTABLISH, MAINTAIN, EQUIP, AND OPERATE A FOOD-SERVICE FACILITY FOR PUPILS ENROLLED IN A DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL THAT CONTRACTS WITH THE SCHOOL FOOD AUTHORITY, FOR PERSONS PARTICIPATING IN OR ATTENDING A DISTRICT CHARTER SCHOOL-SPONSORED OR INSTITUTE CHARTER SCHOOL-SPONSORED ACTIVITY, AND FOR THE EMPLOYEES OF A DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL THAT CONTRACTS WITH THE SCHOOL FOOD AUTHORITY.

(2) All food shall be sold by a food-service facility as nearly as practicable on a nonprofit basis, but a ~~district~~ SCHOOL FOOD AUTHORITY may sell food at lower than

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

cost and may provide food free of charge to those pupils entitled thereto pursuant to the provisions of the FEDERAL "National School Lunch Act", 42 U.S.C. SEC. 1751 ET SEQ. Capital outlay and rental costs shall not be included in computing the cost of the meals served.

(4) IF A DISTRICT CHARTER SCHOOL REQUESTS IN WRITING THAT THE SCHOOL DISTRICT OF THE DISTRICT CHARTER SCHOOL PROVIDE FOOD SERVICES PURSUANT TO A CONTRACT WITH THE DISTRICT CHARTER SCHOOL THAT INCLUDES TERMS SPECIFIED BY THE DISTRICT CHARTER SCHOOL, THE SCHOOL DISTRICT BOARD OF EDUCATION MAY ATTEMPT TO NEGOTIATE THE TERMS OF THE CONTRACT WITH THE DISTRICT CHARTER SCHOOL. IF THE SCHOOL DISTRICT BOARD OF EDUCATION AND THE DISTRICT CHARTER SCHOOL ATTEMPT TO NEGOTIATE CONTRACT TERMS THAT ARE MUTUALLY SATISFACTORY, AND THE NEGOTIATIONS FAIL TO PRODUCE SUCH MUTUALLY SATISFACTORY TERMS, THE SCHOOL DISTRICT BOARD OF EDUCATION SHALL:

(a) AGREE TO PROVIDE FOOD SERVICES TO THE DISTRICT CHARTER SCHOOL ACCORDING TO THE TERMS REQUESTED BY THE DISTRICT CHARTER SCHOOL; OR

(b) ALLOW THE DISTRICT CHARTER SCHOOL TO TRANSFER THE MAINTENANCE, SUPERVISION, AND OPERATION OF THE DISTRICT CHARTER SCHOOL'S FOOD-SERVICE FACILITY FROM THE DISTRICT TO A SCHOOL FOOD AUTHORITY.

(5) (a) USING THE TIMELINE AND PROCEDURES ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO PARAGRAPH (a) OF SUBSECTION (7) OF THIS SECTION, A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL MAY APPLY TO THE DEPARTMENT OF EDUCATION FOR AUTHORIZATION AS A SCHOOL FOOD AUTHORITY.

(b) USING THE TIMELINE, STANDARDS, AND PROCEDURES ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL GRANT OR DENY AUTHORIZATION AS A SCHOOL FOOD AUTHORITY TO A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT APPLIES FOR THE AUTHORIZATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5).

(6) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6), BUT BEFORE OCTOBER 1, 2009, A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL MAY SUBMIT A WRITTEN REQUEST TO THE DEPARTMENT OF EDUCATION FOR PROVISIONAL AUTHORIZATION AS A SCHOOL FOOD AUTHORITY.

(b) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6), BUT BEFORE OCTOBER 1, 2009, THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE MAY GRANT OR DENY PROVISIONAL AUTHORIZATION AS A SCHOOL FOOD AUTHORITY TO A DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL THAT SUBMITS A WRITTEN REQUEST FOR SUCH AUTHORIZATION TO THE DEPARTMENT OF EDUCATION. A PROVISIONAL AUTHORIZATION GRANTED PURSUANT TO THIS SUBSECTION (6) SHALL EXPIRE ON APRIL 1, 2010.

(c) IF THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE GRANTS PROVISIONAL AUTHORIZATION TO A DISTRICT CHARTER SCHOOL OR AN INSTITUTE

CHARTER SCHOOL AS A SCHOOL FOOD AUTHORITY PURSUANT TO THIS SUBSECTION (6), THE DEPARTMENT OF EDUCATION SHALL REVIEW THE PROVISIONAL AUTHORIZATION AND, USING THE STANDARDS ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD OF EDUCATION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (7) OF THIS SECTION, GRANT OR DENY AUTHORIZATION AS A SCHOOL FOOD AUTHORITY TO THE DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL ON OR BEFORE APRIL 1, 2010.

(d) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (6) TO THE CONTRARY, THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE SHALL NOT GRANT PROVISIONAL AUTHORIZATION AS A SCHOOL FOOD AUTHORITY TO MORE THAN FOUR APPLICANT DISTRICT CHARTER SCHOOLS OR INSTITUTE CHARTER SCHOOLS.

(e) THIS SUBSECTION (6) IS REPEALED, EFFECTIVE JULY 1, 2010.

(7) ON OR BEFORE OCTOBER 1, 2009, THE STATE BOARD OF EDUCATION SHALL PROMULGATE RULES ESTABLISHING:

(a) A TIMELINE AND PROCEDURES BY WHICH A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL MAY APPLY TO THE DEPARTMENT OF EDUCATION FOR AUTHORIZATION AS A SCHOOL FOOD AUTHORITY; AND

(b) A TIMELINE, STANDARDS, AND PROCEDURES FOR THE DEPARTMENT OF EDUCATION TO USE IN GRANTING OR DENYING AUTHORIZATION AS A SCHOOL FOOD AUTHORITY TO A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL. THE STANDARDS SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING REQUIREMENTS:

(I) THE DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL SHALL SERVE AT LEAST A MINIMUM NUMBER OF CHILDREN, SPECIFIED BY RULE, WHO ARE ENROLLED IN THE DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL;

(II) THE DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL SHALL DEMONSTRATE ITS SOUND FINANCIAL STATUS TO THE SATISFACTION OF THE DEPARTMENT OF EDUCATION;

(III) THE DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL SHALL DEMONSTRATE, TO THE SATISFACTION OF THE DEPARTMENT OF EDUCATION, ITS CAPACITY TO OPERATE A FOOD SERVICE PROGRAM;

(IV) THE DISTRICT CHARTER SCHOOL OR INSTITUTE CHARTER SCHOOL SHALL INCLUDE IN ITS APPLICATION A STATEMENT OF ITS WILLINGNESS TO CONTRACT, TO THE EXTENT PRACTICABLE, WITH OTHER DISTRICT CHARTER SCHOOLS AND INSTITUTE CHARTER SCHOOLS TO PROVIDE A FOOD SERVICE PROGRAM; AND

(V) THE DEPARTMENT SHALL NOT GRANT AUTHORIZATION AS A SCHOOL FOOD AUTHORITY TO MORE THAN FOUR APPLICANT DISTRICT CHARTER SCHOOLS OR INSTITUTE CHARTER SCHOOLS UNTIL JULY 1, 2011, INCLUDING ANY DISTRICT CHARTER SCHOOLS OR INSTITUTE CHARTER SCHOOLS THAT HAVE BEEN GRANTED PROVISIONAL AUTHORIZATION PURSUANT TO SUBSECTION (6) OF THIS SECTION.

(8) AS USED IN THIS SECTION, "SCHOOL FOOD AUTHORITY" MEANS:

(a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(b) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(I) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SUBSECTION (6) OF THIS SECTION; OR

(II) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SUBSECTION (5) OF THIS SECTION.

SECTION 2. 22-30.5-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-103. Definitions. As used in this part 1, unless the context otherwise requires:

(6.7) "SCHOOL FOOD AUTHORITY" MEANS:

(a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(b) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(I) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (6); OR

(II) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (5).

SECTION 3. 22-30.5-104 (7) (b), Colorado Revised Statutes, is amended, and the said 22-30.5-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-30.5-104. Charter school - requirements - authority. (7) (b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, the state of Colorado, A SCHOOL FOOD AUTHORITY, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the charter school is required or chooses to perform in order to carry out the educational program described in its charter contract. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(10) A CHARTER SCHOOL MAY APPLY FOR AUTHORIZATION AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120.

SECTION 4. 22-30.5-502, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-502. Definitions. As used in this part 5, unless the context otherwise requires:

(10.5) "SCHOOL FOOD AUTHORITY" MEANS:

(a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(b) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(I) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (6); OR

(II) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (5).

SECTION 5. 22-30.5-505, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules. (14) IF AN INSTITUTE CHARTER SCHOOL REQUESTS IN WRITING THAT THE INSTITUTE PROVIDE FOOD SERVICES PURSUANT TO A CONTRACT WITH THE INSTITUTE CHARTER SCHOOL THAT INCLUDES CERTAIN TERMS SPECIFIED BY THE INSTITUTE CHARTER SCHOOL, THE INSTITUTE MAY ATTEMPT TO NEGOTIATE THE TERMS OF THE CONTRACT WITH THE INSTITUTE CHARTER SCHOOL. IF THE INSTITUTE AND THE INSTITUTE CHARTER SCHOOL ATTEMPT TO NEGOTIATE CONTRACT TERMS THAT ARE MUTUALLY SATISFACTORY, AND THE NEGOTIATIONS FAIL TO PRODUCE SUCH MUTUALLY SATISFACTORY TERMS, THE INSTITUTE SHALL:

(a) AGREE TO PROVIDE FOOD SERVICES TO THE INSTITUTE CHARTER SCHOOL ACCORDING TO THE TERMS REQUESTED BY THE INSTITUTE CHARTER SCHOOL; OR

(b) ALLOW THE INSTITUTE CHARTER SCHOOL TO TRANSFER THE MAINTENANCE, SUPERVISION, AND OPERATION OF THE INSTITUTE CHARTER SCHOOL'S FOOD-SERVICE FACILITY FROM THE INSTITUTE TO A SCHOOL FOOD AUTHORITY.

SECTION 6. 22-30.5-507 (8) (b), Colorado Revised Statutes, is amended, and the said 22-30.5-507 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-30.5-507. Institute charter school - requirements - authority. (8) (b) An institute charter school may negotiate and contract with a school district, the governing body of a state college or university, A SCHOOL FOOD AUTHORITY, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the institute charter school is required to perform in order to carry out the educational program described in its charter contract. The institute charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(11) AN INSTITUTE CHARTER SCHOOL MAY APPLY FOR AUTHORIZATION AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120.

SECTION 7. 22-54-123, Colorado Revised Statutes, is amended to read:

22-54-123. National school lunch act - appropriation of state matching funds. (1) For the 2001-02 budget year and budget years thereafter, the general assembly shall appropriate by separate line item an amount to comply with the requirements for state matching funds under the FEDERAL "National School Lunch Act", 42 U.S.C. sec. 1751 et seq. The department of education shall develop procedures to allocate and disburse the funds among participating ~~school districts and institute charter schools~~ SCHOOL FOOD AUTHORITIES each year in an equitable manner as to comply with the requirements of said act. In any participating ~~school district~~ SCHOOL FOOD AUTHORITY that, prior to the enactment of this section, subsidized school lunch service with moneys from the ~~school district's~~ SCHOOL FOOD AUTHORITY'S general fund, moneys received by such ~~school district~~ SCHOOL FOOD AUTHORITY pursuant to this section shall be applied in addition to, and not in lieu of, the amount of the ~~school district's~~ SCHOOL FOOD AUTHORITY'S subsidy. Any moneys received pursuant to this section shall be used only for the provision of the ~~school district's or institute charter school's~~ SCHOOL FOOD AUTHORITY'S school lunch program.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "SCHOOL FOOD AUTHORITY" MEANS:

(a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(b) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(I) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (6); OR

(II) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (5).

SECTION 8. 22-54-123.5 (1) (a), (1) (c), and (2), Colorado Revised Statutes, are amended to read:

22-54-123.5. School breakfast program - appropriation - low-performing schools. (1) (a) For the 2002-03 budget year and each budget year thereafter, the general assembly may appropriate by separate line item an amount to assist ~~school districts and institute charter schools~~ SCHOOL FOOD AUTHORITIES that are providing a school breakfast program through participation in programs authorized under the FEDERAL "National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the FEDERAL "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq. The department OF EDUCATION shall develop procedures to appropriately allocate and disburse the funds among participating ~~school districts and institute charter schools~~ SCHOOL FOOD AUTHORITIES.

(c) A DISTRICT CHARTER SCHOOL OR an institute charter school THAT IS A SCHOOL FOOD AUTHORITY shall only be eligible to receive moneys pursuant to this section if it is a low-performing school. A DISTRICT CHARTER SCHOOL OR an institute charter school THAT IS A SCHOOL FOOD AUTHORITY that receives moneys pursuant to this section shall use such moneys to create, expand, or enhance its school

breakfast program with the goal of improving the academic performance of the students attending the DISTRICT CHARTER SCHOOL OR AN institute charter school.

(2) As used in this section:

(a) "Low-performing school" means a school that received in the preceding school year an academic performance rating of low or unsatisfactory pursuant to section 22-7-604.

(b) "SCHOOL FOOD AUTHORITY" MEANS:

(I) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(II) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(A) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (6); OR

(B) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (5).

SECTION 9. 22-82.7-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-82.7-102. Definitions. As used in this article, unless the context otherwise requires:

(5) "SCHOOL FOOD AUTHORITY" MEANS:

(a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(b) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(I) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (6); OR

(II) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (5).

SECTION 10. 22-82.7-104 (1), Colorado Revised Statutes, is amended to read:

22-82.7-104. 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 seven hundred thousand dollars and not more than one million five hundred thousand dollars to the fund created in section 22-82.7-105 to allow ~~school districts~~ SCHOOL FOOD AUTHORITIES to provide free breakfasts to children participating in the school breakfast program who would otherwise be required to pay a reduced price for breakfast and to offset the costs incurred by facility schools in providing breakfasts to students who are placed in the facility and are eligible to participate in the school breakfast program. The appropriation to the fund shall be in addition to any appropriation made by the general assembly

pursuant to section 22-54-123 or 22-54-123.5 (1).

SECTION 11. 22-82.7-106, Colorado Revised Statutes, is amended to read:

22-82.7-106. Program - procedures. The department shall develop procedures to allocate and disburse the moneys in the fund among participating ~~school districts, institute charter schools~~ SCHOOL FOOD AUTHORITIES and facility 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.

SECTION 12. 22-82.7-107 (2), Colorado Revised Statutes, is amended to read:

22-82.7-107. No individual entitlement. (2) The department in administering the program and a ~~school district, the state charter school institute, a charter school,~~ SCHOOL FOOD AUTHORITY or a facility school in implementing the program may not create and shall not be deemed to create a legal entitlement in any participant to assistance provided pursuant to the program.

SECTION 13. 22-82.9-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-82.9-103. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "SCHOOL FOOD AUTHORITY" MEANS:

(a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE; OR

(b) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER SCHOOL THAT:

(I) THE COMMISSIONER OR HIS OR HER DESIGNEE PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (6); OR

(II) THE DEPARTMENT OF EDUCATION AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-32-120 (5).

SECTION 14. 22-82.9-105 (1), Colorado Revised Statutes, is amended to read:

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~~ SCHOOL FOOD AUTHORITIES to provide lunches 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.

SECTION 15. 22-82.9-106, Colorado Revised Statutes, is amended to read:

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~~ SCHOOL FOOD AUTHORITIES 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.

SECTION 16. 22-82.9-107 (2), Colorado Revised Statutes, is amended to read:

22-82.9-107. No individual entitlement. (2) The department in administering the program and a ~~school district, the state charter school institute, or a charter school~~ SCHOOL FOOD AUTHORITY 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 17. Appropriation - adjustments to the 2009 long bill. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2009, shall be adjusted as follows: The federal funds appropriation to the department of education, assistance to public schools, grant programs, distributions, and other assistance, health and nutrition, is increased by 1.0 FTE.

SECTION 18. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 4, 2009