

CHAPTER 242

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 06-127

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also REPRESENTATIVE(S) Madden, Coleman, Frangas, Hodge, Marshall, McKinley, Merrifield, Plant, Riesberg, Todd, and
Vigil.

AN ACT**CONCERNING THE PROVISION OF FRESH PRODUCE IN PUBLIC SCHOOLS.**

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

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

- (a) Every Colorado child deserves a healthy start in life;
- (b) Children's diets can be an important influence on their health now and in the future;
- (c) There is clear and growing evidence that eating at least five portions of a variety of fruits and vegetables each day can help protect against chronic diseases such as heart disease and cancer;
- (d) Eating patterns acquired in early childhood are likely to continue into adolescence and adulthood;
- (e) The United States department of agriculture's 2005 dietary guidelines for all Americans recommend five to thirteen servings each day of fruits and vegetables, depending upon energy needs;
- (f) Children are more likely to achieve academic success when they have a healthy diet that includes fresh fruits and vegetables; and
- (g) All Colorado children should have access to fresh fruits and vegetables in the schools.

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

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

ARTICLE 82.5
Fresh Fruits and Vegetables Pilot Program

22-82.5-101. Fresh fruits and vegetables pilot program - creation. SUBJECT TO THE AVAILABILITY OF FUNDS PURSUANT TO SECTION 22-82.5-105, FOR THE 2006-07 AND 2007-08 SCHOOL YEARS, THERE IS HEREBY CREATED THE FRESH FRUITS AND VEGETABLES PILOT PROGRAM, REFERRED TO IN THIS ARTICLE AS "THE PILOT PROGRAM". THE PILOT PROGRAM SHALL BE MODELED AFTER THE UNITED STATES DEPARTMENT OF AGRICULTURE'S FRUIT AND VEGETABLE PILOT PROGRAM, AS DESCRIBED IN 42 U.S.C. SECTION 1769 (g), TO MAKE FREE FRUITS AND VEGETABLES AVAILABLE TO STUDENTS THROUGHOUT THE SCHOOL DAY IN ONE OR MORE PLACES DESIGNATED BY A PARTICIPATING SCHOOL.

22-82.5-102. Objectives of the pilot program. (1) THE OBJECTIVES OF THE PILOT PROGRAM ARE TO:

- (a) LESSEN CHILDREN'S RISK OF OBESITY;
- (b) REDUCE CHILDREN'S CONSUMPTION OF UNHEALTHY FOOD;
- (c) REDUCE THE NUMBER OF UNHEALTHY SNACKS THAT CHILDREN BRING TO SCHOOL FROM THEIR HOMES;
- (d) INCREASE CHILDREN'S AWARENESS OF, AND PREFERENCE FOR, A VARIETY OF FRESH FRUITS AND VEGETABLES;
- (e) CREATE A HEALTHIER SCHOOL ENVIRONMENT;
- (f) ENHANCE THE SCHOOL BREAKFAST PROGRAM CREATED IN SECTION 22-54-123.5 BY INCREASING THE AVAILABILITY OF FRESH FRUITS AND VEGETABLES IN SCHOOLS; AND
- (g) MAKE FRESH FRUITS AND VEGETABLES AVAILABLE THROUGHOUT THE SCHOOL DAY TO STUDENTS IN PARTICIPATING SCHOOLS.

22-82.5-103. Pilot program - application process - policies and procedures - mandatory application contents. (1) IN IMPLEMENTING THE PILOT PROGRAM, THE DEPARTMENT OF EDUCATION SHALL SOLICIT APPLICATIONS FROM INTERESTED SCHOOL DISTRICTS.

(2) THE STATE BOARD OF EDUCATION MAY ADOPT POLICIES AND PROCEDURES CONCERNING THE APPLICATION PROCESS FOR PARTICIPATION IN THE PILOT PROGRAM.

(3) EACH APPLICATION SUBMITTED TO THE DEPARTMENT OF EDUCATION BY A SCHOOL DISTRICT SHALL INCLUDE:

- (a) INFORMATION PERTAINING TO THE PERCENTAGE OF STUDENTS ENROLLED IN

THE SCHOOL DISTRICT WHO ARE ELIGIBLE FOR FREE OR REDUCED-COST LUNCH UNDER THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ;

(b) A CERTIFICATION OF SUPPORT FOR PARTICIPATION IN THE PILOT PROGRAM SIGNED BY THE SCHOOL DISTRICT'S DIRECTOR OF FOOD AND NUTRITION, IF ANY, THE PARTICIPATING SCHOOLS' PRINCIPALS, AND THE SCHOOL DISTRICT'S SUPERINTENDENT; AND

(c) SUCH OTHER INFORMATION AS MAY BE REQUESTED BY THE DEPARTMENT OF EDUCATION.

(4) UPON RECEIVING APPLICATIONS FROM INTERESTED SCHOOL DISTRICTS, THE DEPARTMENT OF EDUCATION SHALL REVIEW THE APPLICATIONS AND MAKE RECOMMENDATIONS TO THE STATE BOARD OF EDUCATION REGARDING THE SELECTION OF SCHOOL DISTRICTS FOR PARTICIPATION IN THE PILOT PROGRAM BASED ON THE CRITERIA SPECIFIED IN SECTION 22-82.5-104.

22-82.5-104. Pilot program - selection criteria. (1) IN SELECTING SCHOOL DISTRICTS TO RECOMMEND FOR PARTICIPATION IN THE PILOT PROGRAM, THE DEPARTMENT OF EDUCATION SHALL:

(a) ENSURE, TO THE MAXIMUM EXTENT PRACTICABLE, THAT STUDENTS IN BOTH URBAN AND RURAL AREAS OF THE STATE PARTICIPATE IN THE PILOT PROGRAM;

(b) ENSURE, TO THE MAXIMUM EXTENT PRACTICABLE, THAT NOT LESS THAN SEVENTY-FIVE PERCENT OF THE STUDENTS PARTICIPATING IN THE PILOT PROGRAM ARE FROM SCHOOL DISTRICTS IN WHICH NOT LESS THAN FIFTY PERCENT OF THE ENROLLED STUDENTS ARE ELIGIBLE FOR FREE OR REDUCED-COST LUNCH UNDER THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ;

(c) REQUIRE THAT PARTICIPATING SCHOOLS, TO THE MAXIMUM EXTENT PRACTICABLE, USE COLORADO FRESH FRUITS AND VEGETABLES IN THE PILOT PROGRAM; AND

(d) GIVE PRIORITY TO SCHOOL DISTRICTS THAT SUBMIT A PLAN FOR IMPLEMENTATION OF THE PILOT PROGRAM, WHICH PLAN INCLUDES A PARTNERSHIP WITH ONE OR MORE ENTITIES, INCLUDING ENTITIES REPRESENTING THE PRODUCE INDUSTRY, TO PROVIDE:

(I) THE ACQUISITION, HANDLING, PROMOTION, OR DISTRIBUTION OF FRESH FRUITS AND VEGETABLES; OR

(II) OTHER SUPPORT THAT CONTRIBUTES TO THE OBJECTIVES OF THE PILOT PROGRAM, DECLARED IN SECTION 22-82.5-102.

22-82.5-105. Pilot program - funding. (1) IF THE GENERAL ASSEMBLY APPROPRIATES BY SEPARATE LINE ITEM AN AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS OR MORE TO ASSIST SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS THAT ARE PROVIDING A SCHOOL BREAKFAST PROGRAM PURSUANT TO SECTION 22-54-123.5, THE DEPARTMENT OF EDUCATION SHALL USE ONE HUNDRED FIFTY THOUSAND DOLLARS OF THE APPROPRIATION TO FUND THE PILOT PROGRAM

PURSUANT TO THIS ARTICLE.

(2) THE DEPARTMENT OF EDUCATION MAY SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS FROM PUBLIC AND PRIVATE SOURCES TO FUND THE PILOT PROGRAM, 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 OF EDUCATION MAY, AT ITS DISCRETION, DIRECT OTHER FUNDS TO FUND THE PILOT PROGRAM.

22-82.5-106. Reports. (1) NOT LATER THAN SEPTEMBER 30, 2007, AND SEPTEMBER 30, 2008, THE SUPERINTENDENT OF A SCHOOL DISTRICT THAT PARTICIPATES IN THE PILOT PROGRAM DURING THE PRECEDING SCHOOL YEAR SHALL SUBMIT TO THE DEPARTMENT OF EDUCATION A REPORT THAT DESCRIBES THE ACTIVITIES CARRIED OUT UNDER THIS ARTICLE DURING THE PRECEDING SCHOOL YEAR.

(2) THE STATE BOARD SHALL PROMULGATE POLICIES AND PROCEDURES REGARDING THE MANDATORY CONTENT OF THE REPORTS PREPARED BY THE SUPERINTENDENTS OF PARTICIPATING SCHOOL DISTRICTS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) NOT LATER THAN DECEMBER 31, 2008, THE DEPARTMENT OF EDUCATION SHALL SUBMIT TO THE GENERAL ASSEMBLY A REPORT THAT SUMMARIZES THE REPORTS PREPARED BY THE SUPERINTENDENTS OF THE PARTICIPATING SCHOOL DISTRICTS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

22-82.5-107. Pilot program - policies and procedures. THE STATE BOARD SHALL PROMULGATE POLICIES AND PROCEDURES FOR THE IMPLEMENTATION OF THIS ARTICLE.

22-82.5-108. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JANUARY 1, 2009.

SECTION 3. 22-54-123.5 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-54-123.5. School breakfast program - appropriation - low-performing schools. (1) (d) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SUBSECTION (1), FOR THE 2006-07 AND 2007-08 BUDGET YEARS, IF THE GENERAL ASSEMBLY APPROPRIATES AN AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS OR MORE TO ASSIST SCHOOL DISTRICTS AND INSTITUTE CHARTER SCHOOLS THAT ARE PROVIDING A SCHOOL BREAKFAST PROGRAM PURSUANT TO THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL USE ONE HUNDRED FIFTY THOUSAND DOLLARS OF THE APPROPRIATION TO FUND THE FRESH FRUITS AND VEGETABLES PILOT PROGRAM PURSUANT TO ARTICLE 82.5 OF THIS TITLE.

SECTION 4. 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 25, 2006