

CHAPTER 229

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 07-059

BY SENATOR(S) Sandoval, Bacon, Boyd, Fitz-Gerald, Gordon, Groff, Morse, Schwartz, Shaffer, Tapia, Tochtrop, Tupa, Veiga, and Williams;
 also REPRESENTATIVE(S) Madden, Borodkin, Butcher, Casso, Curry, Gagliardi, Gallegos, Gibbs, Kefalas, Kerr A., Labuda, McFadyen, McGihon, Peniston, Primavera, Rice, Riesberg, and Todd.

AN ACT**CONCERNING THE START SMART NUTRITION PROGRAM, 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 recognizes that:

- (a) Every Colorado child deserves a healthy start in life, including access to a nutritious breakfast each day;
- (b) Children's diets are an important influence on their current and future health;
- (c) Children who begin their days with a nutritious breakfast are more likely to achieve academic success; and
- (d) A child should not be prevented from beginning his or her day with a nutritious breakfast because of insufficient family income.

(2) The general assembly further recognizes that:

- (a) Schools that participate in the federal school breakfast program created in 42 U.S.C. sec. 1773 serve breakfasts at a reduced price to students under the same terms and conditions as are set forth with respect to the service of lunches through the school lunch program authorized under the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; and
- (b) A school that receives breakfast assistance payments under the federal school

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

breakfast program created in 42 U.S.C. sec. 1773 may not charge a price of more than thirty cents for a reduced-price breakfast.

(3) The general assembly concludes that it will serve the best interests of Colorado students to create a fund to eliminate the reduced price paid by children who are eligible for reduced-price breakfasts under the terms and conditions set forth in the federal "National School Lunch Act", 42 U.S.C. sec. 1751 et seq. and who are participating in the federal school breakfast program created in 42 U.S.C. sec. 1773.

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

ARTICLE 82.7
Start Smart Nutrition Program

22-82.7-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "START SMART NUTRITION PROGRAM ACT".

22-82.7-102. 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) "FUND" MEANS THE START SMART NUTRITION PROGRAM FUND CREATED IN SECTION 22-82.7-105.

(3) "PROGRAM" MEANS THE START SMART NUTRITION PROGRAM CREATED IN SECTION 22-82.7-103.

(4) "SCHOOL BREAKFAST PROGRAM" MEANS THE FEDERAL SCHOOL BREAKFAST PROGRAM CREATED IN 42 U.S.C. SEC. 1773.

22-82.7-103. Start smart nutrition program - creation - administration - objectives. (1) THERE IS HEREBY CREATED THE START SMART NUTRITION PROGRAM TO ENSURE THAT EACH STUDENT IN COLORADO PUBLIC SCHOOLS HAS AN OPPORTUNITY TO BEGIN EACH DAY WITH A NUTRITIOUS BREAKFAST.

(2) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES DEVELOPED BY THE DEPARTMENT PURSUANT TO SECTION 22-82.7-106.

(3) THE OBJECTIVES OF THE PROGRAM ARE TO:

(a) APPROPRIATE MONEYS FROM THE STATE BUDGET TO ELIMINATE THE REDUCED PRICE PAID BY COLORADO STUDENTS PARTICIPATING IN THE SCHOOL BREAKFAST PROGRAM;

(b) INCREASE THE NUMBER OF COLORADO STUDENTS WHO CONSUME A NUTRITIOUS BREAKFAST EACH DAY;

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

(d) LESSEN STUDENTS' RISK OF OBESITY BY PROVIDING NUTRITIOUS BREAKFAST OPTIONS;

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

(f) INCREASE STUDENTS' CONSUMPTION OF WHOLE GRAINS, FRUITS AND VEGETABLES, VITAMINS A AND C, CALCIUM, PROTEIN, FIBER, AND IRON; AND

(g) MAKE BREAKFAST MORE ACCESSIBLE TO UNDERPRIVILEGED STUDENTS.

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 TO PROVIDE FREE BREAKFASTS TO CHILDREN PARTICIPATING IN THE SCHOOL BREAKFAST PROGRAM WHO WOULD OTHERWISE BE REQUIRED TO PAY A REDUCED PRICE FOR BREAKFAST. 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).

(2) THE DEPARTMENT MAY SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS FROM PUBLIC AND PRIVATE SOURCES TO FUND THE PROGRAM, BUT RECEIPT OF GIFTS, GRANTS, AND DONATIONS SHALL NOT BE A PREREQUISITE TO THE IMPLEMENTATION OF THE PROGRAM. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND.

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

22-82.7-105. Start smart nutrition program fund - creation - administrative costs. (1) THERE IS HEREBY CREATED IN THE STATE TREASURY THE START SMART NUTRITION PROGRAM FUND. THE FUND SHALL CONSIST OF:

(a) SUCH MONEYS AS ARE APPROPRIATED TO THE FUND BY THE GENERAL ASSEMBLY PURSUANT TO SECTION 22-82.7-104 (1);

(b) ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE DEPARTMENT FOR THE FUND PURSUANT TO SECTION 22-82.7-104 (2); AND

(c) ANY OTHER MONEYS DIRECTED TO THE FUND BY THE DEPARTMENT.

(2) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE PROGRAM PURSUANT TO THE PROVISIONS OF THIS ARTICLE. THE DEPARTMENT MAY EXPEND NOT MORE THAN ONE PERCENT OF THE

MONEYS ANNUALLY APPROPRIATED FROM THE FUND TO OFFSET THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING THE PROGRAM PURSUANT TO THIS ARTICLE.

(3) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

22-82.7-106. Program - procedures. THE DEPARTMENT SHALL DEVELOP PROCEDURES TO ALLOCATE AND DISBURSE THE MONEYS IN THE FUND 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.

22-82.7-107. No individual entitlement. (1) NOTHING IN THIS ARTICLE SHALL BE INTERPRETED TO CREATE A LEGAL ENTITLEMENT IN 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 IN ANY PARTICIPANT TO ASSISTANCE PROVIDED PURSUANT TO THE PROGRAM.

SECTION 3. Appropriation - adjustments to the 2007 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the start smart nutrition program fund created in section 22-82.7-105, Colorado Revised Statutes, for the fiscal year beginning July 1, 2007, the sum of seven hundred thousand dollars (\$700,000), and such sum, or so much thereof as may be necessary, is further appropriated to the department of education, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The general fund appropriation to the department of education, assistance to public schools, grant programs and other distributions, for the school breakfast program, is decreased by seven hundred thousand dollars (\$700,000).

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 15, 2007