

CHAPTER 293

GOVERNMENT - STATE

SENATE BILL 10-106

BY SENATOR(S) Bacon, Boyd, Newell, Sandoval, Carroll M., Hudak, Romer, Schwartz, Shaffer B., White, Williams;
also REPRESENTATIVE(S) Looer, Apuan, Casso, Court, Curry, Ferrandino, Fischer, Gagliardi, Hullinghorst, Labuda,
McFadyen, Primavera, Riesberg, Schafer S., Solano, Summers, Todd, Vigil.

AN ACT

CONCERNING THE CREATION OF A FOOD SYSTEMS ADVISORY COUNCIL, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 37.3
Colorado Food Systems Advisory Council

24-37.3-101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IN SEPTEMBER 2009, THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION REPORTED THAT NO STATE IN THE UNITED STATES WAS MEETING NATIONAL GOALS FOR THE AMOUNT OF FRUITS AND VEGETABLES THAT AMERICANS SHOULD BE EATING. AS A RESULT, THE CENTERS FOR DISEASE CONTROL AND PREVENTION IDENTIFIED THE CREATION OF FOOD POLICY COUNCILS, CONSISTING OF MULTI-STAKEHOLDER ORGANIZATIONS, AS AN EFFECTIVE WAY TO SUPPORT SYSTEM CHANGES TO IMPROVE LOCAL, REGIONAL, AND STATE FOOD ECONOMIES.

(b) FOOD COUNCILS FORMED IN OTHER STATES HAVE BEEN EFFECTIVE IN BRINGING TOGETHER A BROAD ARRAY OF FOOD-RELATED GOVERNMENT AND NONGOVERNMENT CONSTITUENCIES TO EMPLOY A FOOD SYSTEMS APPROACH THAT FACILITATES EVALUATION AND PROGRAM DEVELOPMENT AT EVERY STAGE OF THE FOOD PROCESS FROM FARM TO TABLE;

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) FORMATION OF A STATE FOOD ADVISORY COUNCIL IS INTENDED TO BENEFIT COLORADO AGRICULTURISTS AND OTHERS INVOLVED IN ALL ASPECTS OF AGRICULTURAL PRODUCTION;

(d) CREATION OF A STATE FOOD ADVISORY COUNCIL WILL PROVIDE INCREASED FOCUS ON THE ECONOMIC DEVELOPMENT OPPORTUNITIES OF COLORADO'S FOOD SYSTEM ALONG WITH IMPROVEMENTS TO AGRICULTURAL PRODUCTION, COMMUNITY WELL-BEING, AND PUBLIC HEALTH;

(e) NOTHING IN THIS ARTICLE IS INTENDED TO IMPEDE, CAUSE HARM TO, OR LIMIT CONVENTIONALLY PRODUCED AGRICULTURAL PRODUCTS OR THE PERSONS WHO PRODUCE THEM.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT BUILDING LOCAL, REGIONAL, AND STATE FOOD ECONOMIES WILL CREATE JOBS, STIMULATE STATEWIDE ECONOMIC DEVELOPMENT, AND CIRCULATE MONEY FROM LOCAL FOOD SALES WITHIN LOCAL COMMUNITIES. THE GENERAL ASSEMBLY FINDS THAT BUILDING ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES IN COLORADO WILL PRESERVE AND PROTECT THE NATURAL ENVIRONMENT, INCREASE CONSUMER ACCESS TO FRESH, HEALTHY, AND SAFE FOODS, AND PROVIDE GREATER FOOD SECURITY FOR ALL COLORADANS.

24-37.3-102. Colorado food systems advisory council - created - membership - terms - vacancies. (1) THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT OF AGRICULTURE THE COLORADO FOOD SYSTEMS ADVISORY COUNCIL, REFERRED TO IN THIS ARTICLE AS THE "COUNCIL". THE COUNCIL IS CREATED AS AN ADVISORY COMMITTEE TO FOSTER A HEALTHY FOOD SUPPLY AVAILABLE TO ALL COLORADO RESIDENTS WHILE ENHANCING THE STATE'S AGRICULTURAL AND NATURAL RESOURCES, ENCOURAGING ECONOMIC GROWTH, EXPANDING THE VIABILITY OF AGRICULTURE, AND IMPROVING THE HEALTH OF OUR COMMUNITIES AND RESIDENTS. THE COUNCIL'S ROLE IS TO MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY AND TO THE APPROPRIATE REGULATORY AGENCIES, NOT TO CREATE POLICY. THE COUNCIL SHALL USE A METHOD OF DIALOGUE AND CONSENSUS DECISION-MAKING TO ARRIVE AT ITS RECOMMENDATIONS.

(2) THE COUNCIL CONSISTS OF THIRTEEN MEMBERS AS FOLLOWS:

(a) THE EXECUTIVE DIRECTOR, OR HIS OR HER DESIGNEE, OF EACH OF THE FOLLOWING STATE DEPARTMENTS:

(I) THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT;

(II) THE DEPARTMENT OF AGRICULTURE;

(III) THE DEPARTMENT OF HUMAN SERVICES;

(IV) THE DEPARTMENT OF EDUCATION;

(b) NINE MEMBERS APPOINTED BY THE GOVERNOR WHO REPRESENT AND HAVE EXPERTISE IN ONE OF FIVE FUNCTIONAL AREAS OF FOOD SYSTEMS, AS FOLLOWS:

(I) TWO MEMBERS WHO REPRESENT NUTRITION AND HEALTH;

(II) THREE MEMBERS WHO REPRESENT AGRICULTURAL PRODUCTION;

(III) TWO MEMBERS WHO REPRESENT FOOD WHOLESALERS OR FOOD RETAILERS;

(IV) ONE MEMBER WHO REPRESENTS ANTI-HUNGER AND FOOD ASSISTANCE PROGRAMS;

(V) ONE MEMBER WHO IS KNOWLEDGEABLE ABOUT A LOCAL, STATE, OR FEDERAL AGENCY AND WHO HAS EXPERTISE IN RURAL COMMUNITY AND REGIONAL DEVELOPMENT PROGRAMS OR COMMUNITY AND ECONOMIC DEVELOPMENT PROGRAMS.

(3) IN MAKING APPOINTMENTS TO THE COUNCIL, THE GOVERNOR SHALL ENSURE THAT THE MEMBERSHIP OF THE COUNCIL INCLUDES GEOGRAPHIC REPRESENTATION FROM ALL AREAS OF THE STATE. THE GOVERNOR SHALL ALSO CONSIDER APPOINTING PERSONS WHO HAVE EXPERTISE IN MORE THAN ONE FUNCTIONAL AREA. NO MORE THAN FIVE MEMBERS OF THE COUNCIL APPOINTED BY THE GOVERNOR SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

(4) EACH MEMBER OF THE COUNCIL WHO IS APPOINTED PURSUANT TO SUBSECTION (2) OF THIS SECTION SHALL SERVE AT THE PLEASURE OF THE APPOINTING AUTHORITY WHO APPOINTED THE MEMBER. EACH MEMBER OF THE COUNCIL SHALL SERVE A THREE-YEAR TERM; EXCEPT THAT THE GOVERNOR SHALL APPOINT FOUR MEMBERS TO SERVE TWO-YEAR TERMS.

(5) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL APPOINTMENTS TO THE COUNCIL NO LATER THAN OCTOBER 1, 2010.

(6) ANY VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME MANNER IN WHICH THE ORIGINAL APPOINTMENT WAS MADE, AND THE TERM SHALL BE FOR THE BALANCE OF THE UNEXPIRED TERM OF THE MEMBER WHOSE TERM IS VACANT.

(7) A MAJORITY OF THE MEMBERS OF THE COUNCIL SHALL ELECT A CHAIR AND A VICE-CHAIR WHO SHALL SERVE FOR TWO-YEAR TERMS. A MEMBER OF THE COUNCIL WHO IS AN EXECUTIVE DIRECTOR OF A STATE DEPARTMENT OR HIS OR HER DESIGNEE MAY BE ELECTED TO BE A CHAIR OR A VICE-CHAIR OF THE COUNCIL, BUT BOTH POSITIONS SHALL NOT BE HELD AT THE SAME TIME BY MEMBERS WHO ARE EXECUTIVE DIRECTORS OF STATE DEPARTMENTS OR THEIR DESIGNEES.

(8) EACH MEMBER OF THE COUNCIL SHALL SERVE WITHOUT COMPENSATION, BUT MAY BE REIMBURSED FROM THE FOOD SYSTEMS ADVISORY COUNCIL FUND CREATED IN SECTION 24-37.3-105 FOR ACTUAL AND NECESSARY SUBSISTENCE AND TRAVEL EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES AS A MEMBER OF THE COUNCIL.

(9) THE CHAIR SHALL CALL THE MEETINGS AND NOTIFY THE MEMBERS OF EACH MEETING BEING CALLED AT LEAST SEVEN DAYS IN ADVANCE. MEETINGS SHALL BE HELD AS OFTEN AS THE CHAIR DEEMS NECESSARY, BUT NOT LESS THAN FOUR TIMES

EACH CALENDAR YEAR. A QUORUM FOR THE TRANSACTION OF BUSINESS CONSISTS OF SEVEN MEMBERS OF THE COUNCIL.

24-37.3-103. Council - purpose and duties. (1) THE PURPOSE OF THE COUNCIL IS TO:

(a) IDENTIFY AND USE EXISTING STUDIES OF THE FOOD SYSTEM AND EXAMPLES OF BEST PRACTICES, WHENEVER POSSIBLE;

(b) WORK WITH OTHER TASK FORCES, COMMITTEES, OR ORGANIZATIONS THAT ARE PURSUING INITIATIVES OR STUDIES SIMILAR TO THE PURPOSES AND DUTIES OUTLINED IN THIS ARTICLE AND DEVELOP RELATIONSHIPS WITH OTHER TASK FORCES, COMMITTEES, OR ORGANIZATIONS TO COLLABORATE ON SIMILAR EFFORTS;

(c) DEVELOP LOCAL FOOD RECOMMENDATIONS THAT PROMOTE THE BUILDING OF ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES;

(d) DEVELOP RECOMMENDATIONS REGARDING HUNGER AND FOOD ACCESS;

(e) COLLABORATE WITH, SERVE AS A RESOURCE TO, AND RECEIVE INPUT FROM LOCAL AND REGIONAL FOOD POLICY COUNCILS IN THE STATE;

(f) COLLABORATE WITH THE DEPARTMENT OF AGRICULTURE IN PROMOTING THE MARKETING PROGRAM KNOWN AS "COLORADO PROUD", WHICH HELPS CONSUMERS, RESTAURANTS, AND RETAILERS TO IDENTIFY AND PURCHASE COLORADO FOOD AND AGRICULTURAL PRODUCTS; AND

(g) DEVELOP RECOMMENDATIONS FOR ACTIONS THAT STATE AND LOCAL GOVERNMENTS, BUSINESSES, AGRICULTURISTS, AND CONSUMERS CAN TAKE TO BUILD ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES.

(2) IN DEVELOPING ITS RECOMMENDATIONS, THE COUNCIL SHALL CONSIDER, BUT NOT BE LIMITED TO, THE FOLLOWING AREAS OF INTEREST:

(a) (I) AN EXAMINATION OF FOODS MADE AVAILABLE TO CHILDREN, INCLUDING THOSE IN PUBLIC SCHOOLS, AND CONSIDERATION OF WAYS TO IMPROVE THE NUTRITIONAL QUALITY OF THOSE FOODS AND INCREASE CHILDREN'S ACCESS TO LOCALLY GROWN FOODS.

(II) IN DESIGNING RECOMMENDATIONS TO IMPROVE SCHOOL NUTRITION AND INCREASE ACCESS TO LOCALLY GROWN FOODS, THE COUNCIL SHALL INCORPORATE INPUT FROM, AND COORDINATE WITH THE WORK OF, THE COLORADO CAMPAIGN TO END CHILDHOOD HUNGER BY 2015, INITIATED BY EXECUTIVE ORDER OF THE GOVERNOR.

(b) A STUDY OF EFFORTS TO MAKE LOCAL, HEALTHY, AND SAFE FOODS AVAILABLE UNDER PUBLIC ASSISTANCE PROGRAMS, INCLUDING THE POSSIBILITY OF USING ELECTRONIC BENEFIT CARDS FOR THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM (SNAP) AND FEDERAL FARMERS' MARKET NUTRITION PROGRAM (FMNP) COUPONS AT LOCAL FARMERS' MARKETS;

(c) AN IN-DEPTH EXAMINATION OF LOCAL AND REGIONAL EFFORTS TO STRENGTHEN AND DEVELOP ROBUST, RESILIENT, AND LONG-TERM LOCAL FOOD ECONOMIES BY SUPPORTING AND PROMOTING URBAN, SUBURBAN, AND RURAL AGRICULTURAL PRODUCTION; IDENTIFYING AND DEVELOPING SOLUTIONS TO REGULATORY AND POLICY BARRIERS; AND STRENGTHENING LOCAL INFRASTRUCTURE AND ENTREPRENEURIAL EFFORTS;

(d) THE POTENTIAL IMPACTS THAT THE PRODUCTION OF LOCAL, HEALTHY, AND SAFE FOODS WOULD HAVE ON ECONOMIC DEVELOPMENT IN COLORADO, INCLUDING BOTH THE DIRECT IMPACTS FOR THE PRODUCERS OF LOCAL FOOD AND THE ACTUAL AND POTENTIAL INDIRECT IMPACTS, SUCH AS ENCOURAGING RESTAURANTS TO FEATURE LOCALLY RAISED AGRICULTURAL PRODUCTS AND PROMOTING FOOD AND WINE TOURISM; AND

(e) ANY OTHER ISSUES THE COUNCIL, BY CONSENSUS, CONSIDERS PERTINENT.

24-37.3-104. Subcommittees of the council. (1) (a) THE COUNCIL MAY CREATE SUBCOMMITTEES, AS THE COUNCIL DEEMS NECESSARY, TO CARRY OUT THE WORK OF THE COUNCIL. THESE SUBCOMMITTEES MAY INCLUDE BUT ARE NOT LIMITED TO:

(I) LOCAL AND REGIONAL FOOD COUNCILS;

(II) LOCAL GOVERNMENT;

(III) SCHOOL DISTRICTS, THE MEMBERS OF WHICH SHALL INCLUDE PERSONS WITH EXPERTISE IN NUTRITION AND IN SCHOOL FINANCING; AND

(IV) A COORDINATION SUBCOMMITTEE TO COLLABORATE WITH OTHER TASK FORCES, COMMITTEES, AND ORGANIZATIONS, INCLUDING THE INTERAGENCY FARM-TO-SCHOOL COORDINATION TASK FORCE CREATED IN SECTION 22-82.6-104, C.R.S.

(b) THE SUBCOMMITTEES SHALL INCLUDE REPRESENTATIVES OF THE COUNCIL AND MAY INCLUDE PERSONS APPOINTED BY THE CHAIR AND THE VICE-CHAIR OF THE COUNCIL WHO ARE NOT MEMBERS OF THE COUNCIL.

(2) THE COUNCIL MAY ENGAGE IN ANY OTHER ACTIVITY THE COUNCIL DETERMINES IS NECESSARY TO ACCOMPLISH THE PURPOSES OUTLINED IN THIS ARTICLE.

24-37.3-105. Fund - acceptance of gifts, grants, or donations. (1) FOR THE PURPOSES OF CARRYING OUT THE DUTIES OF THE COUNCIL, THE COUNCIL IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS, INCLUDING IN-KIND DONATIONS, FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS ARTICLE; EXCEPT THAT THE COUNCIL MAY NOT ACCEPT A GIFT, GRANT, OR DONATION THAT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS ARTICLE OR ANY OTHER LAW OF THE STATE. THE COUNCIL MAY ACCEPT IN-KIND DONATIONS OF STAFF SERVICES FROM THE PRIVATE SECTOR TO STAFF THE COUNCIL. THE COUNCIL IS ALSO AUTHORIZED TO ACCEPT AND EXPEND FEDERAL FUNDS AVAILABLE FOR FOOD POLICY COUNCILS. ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO

SHALL CREDIT THE SAME TO THE FOOD SYSTEMS ADVISORY COUNCIL FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF AGRICULTURE FOR ALLOCATION TO THE COUNCIL FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. 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 REVERT OR BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND; EXCEPT THAT, IF, AT THE TIME THIS ARTICLE IS REPEALED PURSUANT TO SECTION 24-37.3-107, THE FUND CONTAINS A BALANCE OF UNENCUMBERED AND UNEXPENDED MONEYS, THOSE MONEYS SHALL REVERT TO THE GENERAL FUND.

(2) MONEYS IN THE FUND MAY BE USED FOR THE FOLLOWING PURPOSES:

(a) THE ACTUAL AND NECESSARY EXPENSES INCURRED BY MEMBERS OF THE COUNCIL FOR SERVING ON THE COUNCIL;

(b) THE COSTS OF STAFFING THE COUNCIL; AND

(c) THE COSTS OF PREPARING AND SUBMITTING THE ANNUAL REPORT REQUIRED BY SECTION 24-37.3-106.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NO MONEYS FROM THE GENERAL FUND BE APPROPRIATED FOR THE COUNCIL. IT IS ALSO THE INTENT OF THE GENERAL ASSEMBLY THAT NO STATE EMPLOYEES BE HIRED TO IMPLEMENT THIS ARTICLE AND THAT THE ADMINISTRATIVE COSTS OF PROVIDING FISCAL SUPPORT TO THE COUNCIL BE ABSORBED BY THE DEPARTMENT OF AGRICULTURE.

(4) IF THE COUNCIL DOES NOT RECEIVE SUFFICIENT MONEYS THROUGH GIFTS, GRANTS, AND DONATIONS PURSUANT TO SUBSECTION (1) OF THIS SECTION TO CARRY OUT THE DUTIES OF THE COUNCIL, THE COUNCIL SHALL NOT MEET AND SHALL NOT PREPARE AN ANNUAL REPORT PURSUANT TO SECTION 24-37.3-106 UNTIL SUCH TIME AS SUFFICIENT MONEYS BECOME AVAILABLE.

24-37.3-106. Reports - recommendations. COMMENCING OCTOBER 1, 2011, AND ON OR BEFORE OCTOBER 1 OF EACH YEAR THEREAFTER, THE COUNCIL SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY LEGISLATIVE PROPOSALS OR PROPOSALS FOR ADMINISTRATIVE ACTION, TO THE GENERAL ASSEMBLY, THE GOVERNOR, AND THE COMMISSIONER OF AGRICULTURE PURSUANT TO SECTION 24-1-136 (9). NO LATER THAN JANUARY 31, 2012, AND EVERY JANUARY THEREAFTER, THE COUNCIL SHALL ALSO REPORT ITS FINDINGS AND RECOMMENDATIONS, INCLUDING ANY LEGISLATIVE PROPOSALS, TO THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE; THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE; THE HOUSE AGRICULTURE, LIVESTOCK, AND NATURAL RESOURCES COMMITTEE; AND THE SENATE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OR THEIR SUCCESSOR COMMITTEES.

24-37.3-107. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2013. PRIOR TO SUCH REPEAL, THE FOOD SYSTEMS ADVISORY COUNCIL SHALL BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

SECTION 2. 2-3-1203 (3) (z), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(z) July 1, 2013:

(VI) THE COLORADO FOOD SYSTEMS ADVISORY COUNCIL CREATED IN SECTION 24-37.3-102, C.R.S.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the food systems advisory council fund created in section 24-37.3-105, Colorado Revised Statutes, not otherwise appropriated, to the department of agriculture, for allocation to the Colorado food systems advisory council, for the fiscal year beginning July 1, 2010, the sum of twenty-two thousand five hundred thirty-one dollars (\$22,531) cash funds, or so much thereof as may be necessary, for the implementation of this act.

SECTION 4. Act subject to petition - 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 (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 26, 2010