

## CHAPTER 326

---

**EDUCATION - PUBLIC SCHOOLS**

---

**HOUSE BILL 10-1335**

BY REPRESENTATIVE(S) Massey and Scanlan, Apuan, Benefield, Fischer, Gardner B., Kefalas, Labuda, Middleton, Primavera, Riesberg, Ryden, Schafer S., Solano, Stephens, Todd, Vigil, Looper, Merrifield, Pace, Summers;  
also SENATOR(S) Sandoval, Bacon, Boyd, Foster, Hodge, Hudak, Newell, Schwartz, Steadman, Tochtrop.

**AN ACT**

**CONCERNING THE AUTHORIZATION OF BOARDS OF COOPERATIVE SERVICES AS SCHOOL FOOD AUTHORITIES, AND, IN CONNECTION THEREWITH, CREATING THE BOCES HEALTHY FOOD GRANT PROGRAM.**

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

**SECTION 1.** Article 5 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**22-5-120. School food authority operations - contracts for provision of food and beverages.** (1) EACH BOARD OF COOPERATIVE SERVICES IS AUTHORIZED TO MAINTAIN, EQUIP, AND OPERATE A FOOD-SERVICE FACILITY AS A SCHOOL FOOD AUTHORITY, AS DEFINED IN SECTION 22-32-120 (8).

(2) EACH BOARD OF COOPERATIVE SERVICES THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY IS ENCOURAGED TO PROCURE AND DISTRIBUTE TO SCHOOLS OF ITS CONSTITUENT SCHOOL DISTRICTS FOOD AND BEVERAGES THAT:

(a) SATISFY NUTRITIONAL STANDARDS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE; AND

(b) HAVE BEEN LOCALLY GROWN OR PRODUCED.

(3) EACH BOARD OF COOPERATIVE SERVICES THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, AND DONATIONS TO FACILITATE ITS OPERATIONS AS A SCHOOL FOOD AUTHORITY; EXCEPT THAT A BOARD OF COOPERATIVE SERVICES SHALL NOT ACCEPT A GIFT, GRANT, OR DONATION IF IT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS

---

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

ARTICLE OR ANY OTHER LAW OF THE STATE.

**22-5-121. BOCES healthy food grant program - application process - fund - rules - repeal.** (1) **Program created.** (a) THERE IS HEREBY CREATED IN THE DEPARTMENT OF EDUCATION THE BOCES HEALTHY FOOD GRANT PROGRAM, REFERRED TO IN THIS SECTION AS THE "PROGRAM". THE OBJECTIVES OF THE PROGRAM ARE TO:

(I) MAKE GRANTS AVAILABLE TO BOARDS OF COOPERATIVE SERVICES THAT MAINTAIN, EQUIP, AND OPERATE FOOD-SERVICE FACILITIES AS SCHOOL FOOD AUTHORITIES PURSUANT TO SECTION 22-5-120; AND

(II) REQUIRE EACH BOARD OF COOPERATIVE SERVICES THAT RECEIVES A GRANT FROM THE PROGRAM TO PROCURE AND DISTRIBUTE TO SCHOOLS OF ITS CONSTITUENT SCHOOL DISTRICTS ONLY FOOD AND BEVERAGES THAT SATISFY NUTRITIONAL STANDARDS FOR FOOD AND BEVERAGES SERVED TO CHILDREN DURING THE SCHOOL DAY, WHICH STANDARDS ARE ESTABLISHED BY A RESEARCH INSTITUTION NOT LESS THAN FORTY YEARS OLD THAT EXAMINES POLICY MATTERS PERTAINING TO THE HEALTH OF THE PUBLIC AND IS CHARTERED BY THE UNITED STATES CONGRESS TO ADVISE THE FEDERAL GOVERNMENT REGARDING SCIENTIFIC AND TECHNICAL MATTERS, WHICH RESEARCH INSTITUTION IS IDENTIFIED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO PARAGRAPH (d) OF SUBSECTION (7) OF THIS SECTION.

(b) THE DEPARTMENT OF EDUCATION SHALL ADMINISTER THE PROGRAM IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE DEPARTMENT, THE COMMISSIONER OF EDUCATION, AND THE STATE BOARD SHALL NOT BE REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SECTION UNTIL SUCH TIME AS SUFFICIENT MONEYS, AS DETERMINED BY THE DEPARTMENT, ARE CREDITED TO THE BOCES HEALTHY FOOD GRANT PROGRAM CASH FUND CREATED IN SUBSECTION (5) OF THIS SECTION.

(2) **Application process.** (a) A BOARD OF COOPERATIVE SERVICES THAT IS OPERATING AS A SCHOOL FOOD AUTHORITY MAY APPLY FOR A GRANT FROM THE PROGRAM IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(b) IN ACCORDANCE WITH THE RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION, THE DEPARTMENT OF EDUCATION SHALL DEVELOP A STANDARD APPLICATION FORM FOR A BOARD OF COOPERATIVE SERVICES TO USE IN APPLYING FOR A GRANT FROM THE PROGRAM. THE DEPARTMENT SHALL MAKE THE STANDARD APPLICATION FORM ELECTRONICALLY AVAILABLE TO THE PUBLIC.

(c) EACH BOARD OF COOPERATIVE SERVICES THAT APPLIES FOR A GRANT FROM THE PROGRAM SHALL USE THE STANDARD APPLICATION FORM DEVELOPED BY THE DEPARTMENT OF EDUCATION PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2). IN SUBMITTING THE STANDARD APPLICATION FORM, THE BOARD OF COOPERATIVE SERVICES SHALL PROVIDE ALL THE INFORMATION REQUESTED ON THE FORM AS WELL

AS ANY OTHER INFORMATION THAT THE DEPARTMENT MAY REQUEST.

(d) (I) UPON RECEIVING AN APPLICATION FROM A BOARD OF COOPERATIVE SERVICES, THE DEPARTMENT OF EDUCATION SHALL SUBMIT THE APPLICATION TO THE COMMISSIONER OF EDUCATION. THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL REVIEW EACH APPLICATION AND, SUBJECT TO THE RECEIPT OF SUFFICIENT GIFTS, GRANTS, OR DONATIONS PURSUANT TO PARAGRAPH (d) OF SUBSECTION (5) OF THIS SECTION, DETERMINE AND ANNOUNCE ON OR BEFORE JUNE 1, 2011, AND ON OR BEFORE JUNE 1 EACH YEAR THEREAFTER, WHICH BOARDS OF COOPERATIVE SERVICES, IF ANY, SHALL RECEIVE GRANTS AND THE AMOUNT OF THE GRANT THAT EACH RECIPIENT BOARD OF COOPERATIVE SERVICES SHALL RECEIVE. PURSUANT TO THIS DETERMINATION, THE DEPARTMENT SHALL TRANSFER THE APPROPRIATE GRANT AMOUNT TO EACH RECIPIENT BOARD OF COOPERATIVE SERVICES.

(II) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, IF THE DEPARTMENT OF EDUCATION DOES NOT RECEIVE SUFFICIENT GIFTS, GRANTS, OR DONATIONS ON OR BEFORE MARCH 1 OF ANY YEAR, THE DEPARTMENT SHALL NOT BE REQUIRED TO DETERMINE AND ANNOUNCE GRANT RECIPIENTS ON OR BEFORE JUNE 1 OF THAT YEAR, AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d). IF THE DEPARTMENT OF EDUCATION RECEIVES SUFFICIENT GIFTS, GRANTS, OR DONATIONS ONLY AFTER MARCH 1 OF ANY YEAR, THE DEPARTMENT SHALL DETERMINE AND ANNOUNCE GRANT RECIPIENTS, AS DESCRIBED IN SAID SUBPARAGRAPH (I), NO MORE THAN NINETY DAYS AFTER THE DATE UPON WHICH THE DEPARTMENT RECEIVED SUFFICIENT GIFTS, GRANTS, OR DONATIONS.

**(3) Eligibility - selection criteria.** (a) THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE SHALL AWARD A GRANT FROM THE PROGRAM ONLY TO A BOARD OF COOPERATIVE SERVICES THAT:

(I) MAINTAINS, EQUIPS, AND OPERATES A FOOD-SERVICE FACILITY AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; AND

(II) PROCURES AND DISTRIBUTES TO SCHOOLS OF ITS CONSTITUENT SCHOOL DISTRICTS ONLY FOOD AND BEVERAGES THAT SATISFY NUTRITIONAL STANDARDS FOR FOOD AND BEVERAGES SERVED TO CHILDREN DURING THE SCHOOL DAY, WHICH STANDARDS ARE ESTABLISHED BY A RESEARCH INSTITUTION NOT LESS THAN FORTY YEARS OLD THAT EXAMINES POLICY MATTERS PERTAINING TO THE HEALTH OF THE PUBLIC AND IS CHARTERED BY THE UNITED STATES CONGRESS TO ADVISE THE FEDERAL GOVERNMENT REGARDING SCIENTIFIC AND TECHNICAL MATTERS, WHICH RESEARCH INSTITUTION IS IDENTIFIED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO PARAGRAPH (d) OF SUBSECTION (7) OF THIS SECTION.

(b) IN SELECTING BOARDS OF COOPERATIVE SERVICES TO RECEIVE GRANTS FROM THE PROGRAM AND IN DETERMINING THE AMOUNT OF THE GRANT TO BE AWARDED TO EACH RECIPIENT BOARD OF COOPERATIVE SERVICES, THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE SHALL USE THE CRITERIA AND PROCEDURES ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION.

(c) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) AND SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS

SUBSECTION (3), THE NUTRITIONAL REQUIREMENTS DESCRIBED IN SAID PROVISIONS SHALL NOT APPLY TO FRUIT WITH NO ADDED SWEETENERS, NUTS, NUT BUTTERS WITH NO ADDED SWEETENERS, SEEDS, LOW-FAT CHEESE WITH NO ADDED SWEETENERS, OR EGGS.

**(4) Permissible uses of grant moneys.** (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (4), A BOARD OF COOPERATIVE SERVICES THAT RECEIVES A GRANT FROM THE PROGRAM SHALL USE ALL THE GRANT MONEYS TO FACILITATE ITS OPERATIONS AS A SCHOOL FOOD AUTHORITY, WHICH OPERATIONS INCLUDE, BUT ARE NOT LIMITED TO, ADMINISTRATIVE FUNCTIONS RELATING TO ITS OPERATIONS AS A SCHOOL FOOD AUTHORITY.

(b) A BOARD OF COOPERATIVE SERVICES THAT RECEIVES A GRANT FROM THE PROGRAM MAY USE A PORTION OF THE GRANT MONEYS TO GATHER, RECORD, AND ASSEMBLE DATA FOR THE PURPOSE OF PREPARING THE REPORTS DESCRIBED IN SUBSECTION (6) OF THIS SECTION.

**(5) Fund created.** (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE BOCES HEALTHY FOOD GRANT PROGRAM CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND". THE FUND SHALL CONSIST OF:

(I) ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE DEPARTMENT OF EDUCATION FOR THE FUND PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (5); AND

(II) ANY OTHER MONEYS THAT THE DEPARTMENT OF EDUCATION MAY ALLOCATE TO THE FUND PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (5).

(b) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF EDUCATION FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE PROGRAM PURSUANT TO THE PROVISIONS OF THIS SECTION; EXCEPT THAT ANY FEDERAL MONEYS ALLOCATED TO THE FUND PURSUANT TO PARAGRAPH (e) OF THIS SUBSECTION (5) SHALL NOT BE SUBJECT TO APPROPRIATION. OF THE MONEYS ANNUALLY APPROPRIATED FROM THE FUND, THE DEPARTMENT OF EDUCATION MAY EXPEND NO MORE THAN TEN PERCENT TO OFFSET THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING THE PROGRAM PURSUANT TO THIS SECTION.

(c) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES OF THIS SECTION 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; EXCEPT THAT ALL UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AS OF JUNE 30, 2015, SHALL BE TRANSFERRED TO THE GENERAL FUND.

(d) THE DEPARTMENT OF EDUCATION IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF

THIS SECTION; EXCEPT THAT THE DEPARTMENT SHALL NOT ACCEPT A GIFT, GRANT, OR DONATION IF IT IS SUBJECT TO CONDITIONS THAT ARE INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE. THE DEPARTMENT SHALL TRANSMIT ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. NOTHING IN THIS SECTION SHALL BE INTERPRETED AS REQUIRING THE DEPARTMENT TO SOLICIT FUNDING FOR THE PROGRAM.

(e) TO THE EXTENT PERMITTED BY LAW, THE DEPARTMENT OF EDUCATION MAY, AT ITS DISCRETION, ALLOCATE OTHER MONEYS TO FUND THE PROGRAM.

(6) **Reports.** (a) NOT LATER THAN JANUARY 1, 2015, THE DEPARTMENT OF EDUCATION SHALL PREPARE AND SUBMIT TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, A REPORT THAT DESCRIBES THE ACTIVITIES CARRIED OUT UNDER THIS SECTION AND EVALUATES THE EFFECTIVENESS OF THE PROGRAM.

(b) THE REPORT PREPARED BY THE DEPARTMENT OF EDUCATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL, AT A MINIMUM, INCLUDE THE FOLLOWING:

(I) THE TOTAL NUMBER OF BOARDS OF COOPERATIVE SERVICES THAT RECEIVED MONEYS AWARDED AS GRANTS UNDER THE PROGRAM;

(II) THE AMOUNT OF MONEYS AWARDED TO EACH BOARD OF COOPERATIVE SERVICES THAT RECEIVED A GRANT UNDER THE PROGRAM;

(III) INFORMATION DEMONSTRATING THE DEPARTMENT'S COMPLIANCE WITH THE PROVISIONS OF THIS SECTION AND ANY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION; AND

(IV) STATISTICAL EVIDENCE OR OTHER INFORMATION TO ASSIST THE COMMITTEES IN EVALUATING THE EFFECTIVENESS OF THE PROGRAM.

(7) **Rules.** THE STATE BOARD SHALL PROMULGATE RULES PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISHING POLICIES AND PROCEDURES FOR THE ADMINISTRATION OF THE PROGRAM, INCLUDING BUT NOT LIMITED TO:

(a) PROCEDURES BY WHICH A BOARD OF COOPERATIVE SERVICES MAY APPLY FOR A GRANT FROM THE PROGRAM;

(b) MINIMUM REQUIREMENTS FOR THE STANDARD APPLICATION FORM DEVELOPED BY THE DEPARTMENT OF EDUCATION PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION. AT A MINIMUM, EACH APPLICATION SUBMITTED TO THE DEPARTMENT BY A BOARD OF COOPERATIVE SERVICES SHALL INCLUDE:

(I) INFORMATION THAT IS SUFFICIENT TO DEMONSTRATE THAT THE BOARD OF COOPERATIVE SERVICES IS OPERATING AS A SCHOOL FOOD AUTHORITY;

(II) A WRITTEN CONFIRMATION FROM THE CHIEF ADMINISTRATOR OF THE BOARD

OF COOPERATIVE SERVICES THAT THE BOARD OF COOPERATIVE SERVICES IS PROCURING AND DISTRIBUTING TO SCHOOLS OF ITS CONSTITUENT SCHOOL DISTRICTS ONLY FOOD AND BEVERAGES THAT SATISFY NUTRITIONAL STANDARDS ESTABLISHED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE; AND

(III) A PROPOSAL INDICATING HOW THE BOARD OF COOPERATIVE SERVICES PLANS TO USE GRANT MONEYS AWARDED UNDER THE PROGRAM. THE PROPOSAL SHALL ENSURE THAT THE ENTIRE AMOUNT OF THE GRANT MONEYS AWARDED UNDER THE PROGRAM SHALL BE USED FOR THE PURPOSES DESCRIBED IN SUBSECTION (4) OF THIS SECTION.

(c) CRITERIA AND PROCEDURES FOR THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE TO USE IN SELECTING BOARDS OF COOPERATIVE SERVICES TO RECEIVE GRANTS UNDER THE PROGRAM AND IN DETERMINING THE AMOUNT OF THE GRANT TO BE AWARDED TO EACH RECIPIENT BOARD OF COOPERATIVE SERVICES.

(d) FOR THE PURPOSES OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE IDENTIFICATION OF A RESEARCH INSTITUTION NOT LESS THAN FORTY YEARS OLD THAT EXAMINES POLICY MATTERS PERTAINING TO THE HEALTH OF THE PUBLIC AND IS CHARTERED BY THE UNITED STATES CONGRESS TO ADVISE THE FEDERAL GOVERNMENT REGARDING SCIENTIFIC AND TECHNICAL MATTERS.

(8) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2015.

**SECTION 2.** 22-5-118 (3) (b) (VI), Colorado Revised Statutes, is amended, and the said 22-5-118 (3) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**22-5-118. Implementation and financing of regional education and support services - plan - annual report.** (3) (b) Each plan shall include but is not limited to measures concerning:

(VI) Agreements to act as a regional administrative unit for transportation, cooperative purchasing, ~~food~~, and other noninstructional support services, as may be appropriate;

(VI.5) AGREEMENTS PERTAINING TO THE BOARD'S OPERATIONS, IF ANY, AS A SCHOOL FOOD AUTHORITY, PURSUANT TO SECTION 22-5-120; AND

**SECTION 3.** 22-30.5-103 (6.7) (a), Colorado Revised Statutes, is amended, and the said 22-30.5-103 (6.7) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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~~

(a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 4.** 22-30.5-502 (10.5) (a), Colorado Revised Statutes, is amended, and the said 22-30.5-502 (10.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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~~

(a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 5.** 22-32-120 (8) (a), Colorado Revised Statutes, is amended, and the said 22-32-120 (8) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**22-32-120. Food services - facilities - school food authorities - rules - repeal.** (8) As used in this section, "school food authority" means:

(a) A school district or the state charter school institute; ~~or~~

(a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 6.** 22-54-123 (2) (a), Colorado Revised Statutes, is amended, and the said 22-54-123 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**22-54-123. National school lunch act - appropriation of state matching funds.** (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~~

(a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 7.** 22-54-123.5 (2) (b) (I), Colorado Revised Statutes, is amended, and the said 22-54-123.5 (2) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**22-54-123.5. School breakfast program - appropriation - low-performing**

**schools.** (2) As used in this section:

(b) "School food authority" means:

(I) A school district or the state charter school institute; ~~or~~

(I.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 8.** 22-82.7-102 (5) (a), Colorado Revised Statutes, is amended, and the said 22-82.7-102 (5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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~~

(a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 9.** 22-82.9-103 (2.5) (a), Colorado Revised Statutes, is amended, and the said 22-82.9-103 (2.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, 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~~

(a.5) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD AUTHORITY PURSUANT TO SECTION 22-5-120; OR

**SECTION 10. 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 27, 2010