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An Act

HOUSE BILL 22-1414

BY REPRESENTATIVE(S) Gonzales-Gutierrez and Michaelson Jenet, Amabile, Bacon, Benavidez, Bernett, Bird, Boesenecker, Caraveo, Cutter, Daugherty, Esgar, Exum, Froelich, Jodeh, Kennedy, Kipp, Lindsay, Lontine, McCormick, Mullica, Ortiz, Ricks, Roberts, Sirota, Sullivan, Tipper, Titone, Valdez A., Weissman, Woodrow, Garnett; also SENATOR(S) Pettersen and Fields, Moreno, Bridges, Buckner, Danielson, Donovan, Ginal, Gonzales, Hansen, Hinrichsen, Jaquez Lewis, Kolker, Lee, Story, Winter, Zenzinger, Fenberg.

CONCERNING PROVIDING HEALTHY MEALS TO ALL PUBLIC SCHOOL STUDENTS, AND, IN CONNECTION THEREWITH, CREATING THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM AND PROVIDING FUNDING FOR THE PROGRAM BY CAPPING ITEMIZED AND STANDARD STATE INCOME TAX DEDUCTIONS FOR TAXPAYERS WHO HAVE FEDERAL ADJUSTED GROSS INCOME OF \$300,000 OR MORE.

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

SECTION 1. In Colorado Revised Statutes, **add** part 2 to article 82.9 of title 22 as follows:

PART 2

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

HEALTHY SCHOOL MEALS FOR ALL PROGRAM

22-82.9-201. Short title. THE SHORT TITLE OF THIS PART 2 IS THE "HEALTHY SCHOOL MEALS FOR ALL ACT".

22-82.9-202. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) NO COLORADO CHILD SHOULD EXPERIENCE HUNGER, AND EVERY PUBLIC SCHOOL STUDENT SHOULD BENEFIT FROM ACCESS TO HEALTHY, LOCALLY PROCURED, AND FRESHLY PREPARED MEALS DURING THE SCHOOL DAY;

(b) HEALTHY SCHOOL MEALS ARE NECESSARY FOR ALL STUDENTS FOR EFFECTIVE LEARNING, AND COLORADO'S INVESTMENT IN EDUCATION SHOULD INCLUDE HEALTHY SCHOOL MEALS FOR ALL STUDENTS TO SUPPORT THE NOURISHMENT STUDENTS NEED TO ACHIEVE ACADEMIC SUCCESS;

(c) ACCESS TO HEALTHY SCHOOL MEALS SHOULD NOT CAUSE STIGMA OR STRESS FOR ANY STUDENT SEEKING AN EDUCATION;

(d) COLORADO'S HEALTHY SCHOOL MEALS PROGRAM SHOULD SUPPORT COLORADO'S FOOD SYSTEMS, INCLUDING LOCAL FARMERS AND RANCHERS;

(e) COLORADO'S HEALTHY SCHOOL MEALS PROGRAM MUST SUPPORT STUDENTS' NUTRITION AND PROVIDE QUALITY MEALS TO BOOST THE HEALTH AND WELL-BEING OF COLORADO STUDENTS;

(f) DURING THE COVID-19 PANDEMIC, THE UNITED STATES DEPARTMENT OF AGRICULTURE EASED PROGRAM RESTRICTIONS TO ALLOW FREE MEALS TO CONTINUE TO BE AVAILABLE TO ALL STUDENTS UNIVERSALLY, ENSURING THAT ALL STUDENTS FACING HUNGER HAD ACCESS TO FOOD WHILE IN SCHOOL; AND

(g) NOW THAT STRATEGIES EXIST TO PREVENT HUNGER FOR ALL STUDENTS DURING THE SCHOOL DAY, IT IS IMPERATIVE THAT THE STATE EMBRACE THESE STRATEGIES TO MOVE TOWARD THE GOAL OF ENDING CHILD HUNGER.

(2) THE GENERAL ASSEMBLY FINDS, THEREFORE, THAT IT IS IN THE BEST INTERESTS OF THE STUDENTS OF COLORADO AND THEIR FAMILIES TO ENACT THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM TO PROVIDE FREE MEALS IN PUBLIC SCHOOLS FOR ALL STUDENTS.

22-82.9-203. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS" MEANS ALL FRUITS, VEGETABLES, GRAINS, MEATS, AND DAIRY PRODUCTS, EXCEPT LIQUID MILK, GROWN, RAISED, OR PRODUCED IN COLORADO AND MINIMALLY PROCESSED PRODUCTS OR VALUE-ADDED PROCESSED PRODUCTS THAT MEET THE STANDARDS FOR THE COLORADO PROUD DESIGNATION, AS ESTABLISHED BY THE COLORADO DEPARTMENT OF AGRICULTURE, EVEN IF THE PRODUCT DOES NOT HAVE THE COLORADO PROUD DESIGNATION.

(2) "COMMUNITY ELIGIBILITY PROVISION" MEANS THE FEDERAL PROGRAM CREATED IN 42 U.S.C. SEC. 1759a (a)(1)(F) THAT ALLOWS SCHOOL DISTRICTS TO CHOOSE TO RECEIVE FEDERAL SPECIAL ASSISTANCE PAYMENTS FOR SCHOOL MEALS IN EXCHANGE FOR PROVIDING FREE SCHOOL MEALS TO ALL STUDENTS ENROLLED IN ALL OR SELECTED SCHOOLS OF THE SCHOOL DISTRICT.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION CREATED IN SECTION 24-1-115.

(4) "ELIGIBLE MEAL" MEANS A LUNCH OR BREAKFAST THAT MEETS THE NUTRITIONAL REQUIREMENTS SPECIFIED IN 7 CFR 210.10, OR SUCCESSOR REGULATIONS, FOR THE NATIONAL SCHOOL LUNCH PROGRAM OR THE NATIONAL SCHOOL BREAKFAST PROGRAM.

(5) "FEDERAL FREE REIMBURSEMENT RATE" MEANS THE FREE REIMBURSEMENT RATE SET BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR MEALS THAT QUALIFY FOR REIMBURSEMENT UNDER THE NATIONAL SCHOOL BREAKFAST PROGRAM AND THE NATIONAL SCHOOL LUNCH PROGRAM.

(6) "IDENTIFIED STUDENT PERCENTAGE" MEANS THE PERCENTAGE OF A PUBLIC SCHOOL'S OR SCHOOL DISTRICT'S STUDENT ENROLLMENT WHO ARE CERTIFIED AS ELIGIBLE FOR FREE MEALS BASED ON DOCUMENTATION OF

BENEFIT RECEIPT OR CATEGORICAL ELIGIBILITY AS DESCRIBED IN 7 CFR 245.6, OR SUCCESSOR REGULATIONS.

(7) "MINIMALLY PROCESSED PRODUCTS" MEANS RAW OR FROZEN FABRICATED PRODUCTS; PRODUCTS THAT RETAIN THEIR INHERENT CHARACTER, SUCH AS SHREDDED CARROTS OR DICED ONIONS; AND DRIED PRODUCTS, SUCH AS BEANS, BUT DOES NOT INCLUDE ANY PRODUCTS THAT ARE HEATED, COOKED, OR CANNED.

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

(9) "NATIONAL SCHOOL LUNCH PROGRAM" MEANS THE FEDERAL SCHOOL LUNCH PROGRAM CREATED IN THE "RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

(10) "PARTICIPATING SCHOOL FOOD AUTHORITY" MEANS A SCHOOL FOOD AUTHORITY THAT CHOOSES TO PARTICIPATE IN THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM.

(11) "PROGRAM" MEANS THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM CREATED IN SECTION 22-82.9-204.

(12) "SCHOOL FOOD AUTHORITY" HAS THE SAME MEANING AS PROVIDED IN SECTION 22-32-120 (8).

(13) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

(14) "VALUE-ADDED PROCESSED PRODUCTS" MEANS PRODUCTS THAT ARE ALTERED FROM THEIR UNPROCESSED OR MINIMALLY PROCESSED STATE THROUGH PRESERVATION TECHNIQUES, INCLUDING COOKING, BAKING, OR CANNING.

22-82.9-204. Healthy school meals for all program - created - rules. (1) (a) THERE IS CREATED IN THE DEPARTMENT THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM THROUGH WHICH EACH SCHOOL FOOD AUTHORITY THAT CHOOSES TO PARTICIPATE IN THE PROGRAM:

(I) OFFERS ELIGIBLE MEALS, WITHOUT CHARGE, TO ALL STUDENTS ENROLLED IN THE PUBLIC SCHOOLS SERVED BY THE PARTICIPATING SCHOOL FOOD AUTHORITY THAT PARTICIPATE IN THE NATIONAL SCHOOL LUNCH PROGRAM OR NATIONAL SCHOOL BREAKFAST PROGRAM;

(II) RECEIVES REIMBURSEMENT FOR THE MEALS AS DESCRIBED IN SUBSECTION (1)(b) OF THIS SECTION;

(III) IS ELIGIBLE TO RECEIVE A LOCAL FOOD PURCHASING GRANT PURSUANT TO SECTION 22-82.9-205, SUBJECT TO SUBSECTION (4)(b) OF THIS SECTION;

(IV) IS ELIGIBLE TO RECEIVE FUNDING PURSUANT TO SECTION 22-82.9-206 TO INCREASE WAGES OR PROVIDE STIPENDS FOR INDIVIDUALS WHOM THE PARTICIPATING SCHOOL FOOD AUTHORITY EMPLOYS TO DIRECTLY PREPARE AND SERVE FOOD FOR SCHOOL MEALS, SUBJECT TO SUBSECTION (4)(b) OF THIS SECTION; AND

(V) IS ELIGIBLE TO RECEIVE ASSISTANCE THROUGH THE LOCAL SCHOOL FOOD PURCHASING TECHNICAL ASSISTANCE AND EDUCATION GRANT PROGRAM PURSUANT TO SECTION 22-82.9-207, SUBJECT TO SUBSECTION (4)(b) OF THIS SECTION.

(b) THE AMOUNT OF THE REIMBURSEMENT PROVIDED THROUGH THE PROGRAM TO EACH PARTICIPATING SCHOOL FOOD AUTHORITY FOR EACH BUDGET YEAR IS EQUAL TO THE FEDERAL FREE REIMBURSEMENT RATE MULTIPLIED BY THE TOTAL NUMBER OF ELIGIBLE MEALS THAT THE PARTICIPATING SCHOOL FOOD AUTHORITY SERVES DURING THE APPLICABLE BUDGET YEAR MINUS THE TOTAL AMOUNT OF REIMBURSEMENT FOR ELIGIBLE MEALS SERVED DURING THE APPLICABLE BUDGET YEAR THAT THE PARTICIPATING SCHOOL FOOD AUTHORITY RECEIVES PURSUANT TO THE NATIONAL SCHOOL BREAKFAST PROGRAM, THE NATIONAL SCHOOL LUNCH PROGRAM, SECTIONS 22-54-123 AND 22-54-123.5, ARTICLE 82.7 OF THIS TITLE 22, AND PART 1 OF THIS ARTICLE 82.9.

(c) THE DEPARTMENT SHALL DEVELOP PROCEDURES TO ALLOCATE AND DISBURSE, BEGINNING IN THE 2023-24 BUDGET YEAR, THE MONEY APPROPRIATED AS REIMBURSEMENTS PURSUANT TO THIS SECTION AMONG PARTICIPATING SCHOOL FOOD AUTHORITIES EACH BUDGET YEAR IN AN EQUITABLE MANNER AND IN COMPLIANCE WITH THE REQUIREMENTS OF THE

NATIONAL SCHOOL BREAKFAST PROGRAM AND THE NATIONAL SCHOOL LUNCH PROGRAM.

(2) A SCHOOL FOOD AUTHORITY THAT CHOOSES TO PARTICIPATE IN THE PROGRAM MUST ANNUALLY GIVE NOTICE OF PARTICIPATION TO THE DEPARTMENT AS PROVIDED BY RULE OF THE STATE BOARD. AT A MINIMUM, THE NOTICE MUST INCLUDE EVIDENCE THAT THE SCHOOL FOOD AUTHORITY IS PARTICIPATING IN THE COMMUNITY ELIGIBILITY PROVISION AS REQUIRED IN SUBSECTION (3) OF THIS SECTION.

(3) IF THE UNITED STATES DEPARTMENT OF AGRICULTURE CREATES THE OPTION FOR THE STATE, AS A WHOLE, TO PARTICIPATE IN THE COMMUNITY ELIGIBILITY PROVISION, THE DEPARTMENT SHALL PARTICIPATE IN THE OPTION AND SHALL WORK WITH SCHOOL FOOD AUTHORITIES AND THE NECESSARY STATE AND LOCAL DEPARTMENTS TO COLLECT DATA AND IMPLEMENT THE COMMUNITY ELIGIBILITY PROVISION STATEWIDE. UNTIL SUCH TIME AS COLORADO PARTICIPATES IN THE COMMUNITY ELIGIBILITY PROVISION AS A STATE, EACH PARTICIPATING SCHOOL FOOD AUTHORITY, AS A CONDITION OF PARTICIPATING IN THE PROGRAM, MUST MAXIMIZE THE AMOUNT OF FEDERAL REIMBURSEMENT BY PARTICIPATING IN THE COMMUNITY ELIGIBILITY PROVISION FOR ALL SCHOOLS THAT QUALIFY FOR THE COMMUNITY ELIGIBILITY PROVISION AND THAT THE PARTICIPATING SCHOOL FOOD AUTHORITY SERVES.

(4)(a) AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS PART 2, THE DEPARTMENT SHALL APPLY TO THE FEDERAL SECRETARY OF AGRICULTURE TO PARTICIPATE IN THE DEMONSTRATION PROJECT OPERATED PURSUANT TO 42 U.S.C. SEC. 1758 (b)(15) FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS, WITH THE INTENT THAT THE DEMONSTRATION PROJECT IS IMPLEMENTED STATEWIDE TO THE EXTENT ALLOWABLE UNDER FEDERAL LAW. IF THE STATE IS SELECTED TO PARTICIPATE IN THE DEMONSTRATION PROJECT, THE DEPARTMENT SHALL COMPLY WITH ALL OF THE REQUIREMENTS OF THE DEMONSTRATION PROJECT, INCLUDING ENTERING INTO AN AGREEMENT WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO ESTABLISH PROCEDURES BY WHICH A STUDENT MAY BE CERTIFIED, WITHOUT FURTHER APPLICATION, AS MEETING THE ELIGIBILITY REQUIREMENTS FOR FREE OR REDUCED-PRICE MEALS PURSUANT TO THE NATIONAL SCHOOL BREAKFAST PROGRAM AND THE NATIONAL SCHOOL LUNCH PROGRAM BASED ON INFORMATION COLLECTED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING IN

IMPLEMENTING THE MEDICAID PROGRAM.

(b) IMPLEMENTATION OF SECTIONS 22-82.9-205 TO 22-82.9-207 IS CONDITIONAL UPON THE STATE OF COLORADO BEING CERTIFIED TO PARTICIPATE IN THE DEMONSTRATION PROJECT FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS THAT IS OPERATED PURSUANT TO 42 U.S.C. SEC. 1758 (b)(15).

(5) THE STATE BOARD SHALL PROMULGATE RULES AS NECESSARY TO IMPLEMENT THE PROGRAM, INCLUDING RULES TO MAXIMIZE THE AMOUNT OF FEDERAL FUNDING AVAILABLE TO IMPLEMENT THE PROGRAM.

22-82.9-205. Local food purchasing grant - amount - advisory committee - verification of invoices. (1) (a) SUBJECT TO SUBSECTION (5) OF THIS SECTION, EACH PARTICIPATING SCHOOL FOOD AUTHORITY THAT CREATES AN ADVISORY COMMITTEE AS DESCRIBED IN SUBSECTION (3) OF THIS SECTION IS ELIGIBLE TO RECEIVE A LOCAL FOOD PURCHASING GRANT PURSUANT TO THIS SECTION TO PURCHASE COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS.

(b) ON OR BEFORE AUGUST 1 OF THE FIRST FULL BUDGET YEAR IN WHICH THIS SECTION IS EFFECTIVE AS PROVIDED IN SUBSECTION (5) OF THIS SECTION AND ON OR BEFORE AUGUST 1 OF EACH BUDGET YEAR THEREAFTER, EACH PARTICIPATING SCHOOL FOOD AUTHORITY SHALL TRACK AND REPORT TO THE DEPARTMENT FOR THE PRECEDING BUDGET YEAR:

(I) THE TOTAL AMOUNT SPENT IN PURCHASING ALL PRODUCTS USED IN PREPARING MEALS AND HOW MUCH OF THAT TOTAL WAS ATTRIBUTABLE TO THE LOCAL FOOD PURCHASING GRANT THE PARTICIPATING SCHOOL FOOD AUTHORITY RECEIVED;

(II) THE TOTAL AMOUNT SPENT TO PURCHASE COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS AND HOW MUCH OF THAT TOTAL WAS ATTRIBUTABLE TO THE LOCAL FOOD PURCHASING GRANT THE PARTICIPATING SCHOOL FOOD AUTHORITY RECEIVED;

(III) THE TOTAL AMOUNT SPENT TO PURCHASE VALUE-ADDED PROCESSED PRODUCTS AND HOW MUCH OF THAT TOTAL WAS ATTRIBUTABLE TO THE LOCAL FOOD PURCHASING GRANT THE PARTICIPATING SCHOOL FOOD AUTHORITY RECEIVED; AND

(IV) THE TOTAL NUMBER OF ELIGIBLE MEALS THE PARTICIPATING SCHOOL FOOD AUTHORITY PROVIDED TO STUDENTS.

(2) (a) SUBJECT TO THE PROVISIONS OF SUBSECTION (2)(b) OF THIS SECTION, AT THE BEGINNING OF EACH BUDGET YEAR THE DEPARTMENT, SUBJECT TO AVAILABLE APPROPRIATIONS, SHALL DISTRIBUTE TO EACH PARTICIPATING SCHOOL FOOD AUTHORITY THAT IS ELIGIBLE TO RECEIVE A GRANT PURSUANT TO THIS SECTION THE GREATER OF FIVE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO TWENTY-FIVE CENTS MULTIPLIED BY THE NUMBER OF LUNCHESES THAT QUALIFIED AS AN ELIGIBLE MEAL THAT THE PARTICIPATING SCHOOL FOOD AUTHORITY SERVED TO STUDENTS IN THE PRECEDING SCHOOL YEAR. THE PARTICIPATING SCHOOL FOOD AUTHORITY SHALL USE THE MONEY RECEIVED PURSUANT TO THIS SECTION TO PURCHASE ONLY COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS AND AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION AND SHALL NOT USE MORE THAN TWENTY-FIVE PERCENT OF THE AMOUNT RECEIVED TO PURCHASE VALUE-ADDED PROCESSED PRODUCTS. IN ADDITION, A SCHOOL FOOD AUTHORITY MAY USE UP TO TEN PERCENT OF THE MONEY RECEIVED PURSUANT TO THIS SECTION TO PAY ALLOWABLE COSTS, AS IDENTIFIED BY RULES OF THE STATE BOARD, INCURRED IN COMPLYING WITH THIS SECTION.

(b) AT THE BEGINNING OF EACH BUDGET YEAR, EACH PARTICIPATING SCHOOL FOOD AUTHORITY SHALL SUBMIT TO THE DEPARTMENT AN ESTIMATE OF THE AMOUNT IT EXPECTS TO SPEND TO PURCHASE COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS FOR THE BUDGET YEAR; A DESCRIPTION OF THE ITEMS AND AMOUNTS IT EXPECTS TO PURCHASE; AND A LIST OF THE SUPPLIERS FROM WHICH IT EXPECTS TO PURCHASE THE ITEMS. IF, BASED ON THE INFORMATION PROVIDED, THE DEPARTMENT DETERMINES THAT A PARTICIPATING SCHOOL FOOD AUTHORITY IS UNLIKELY TO SPEND THE FULL AMOUNT OF THE GRANT DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, THE DEPARTMENT SHALL REDUCE THE AMOUNT OF THE GRANT ACCORDINGLY. THE DEPARTMENT SHALL DISTRIBUTE TO OTHER PARTICIPATING SCHOOL FOOD AUTHORITIES THAT ARE ELIGIBLE TO RECEIVE GRANTS PURSUANT TO THIS SECTION ANY AMOUNT THAT IS RETAINED PURSUANT TO THIS SUBSECTION (2)(b). THE DEPARTMENT SHALL DISTRIBUTE THE ADDITIONAL AMOUNTS TO THE PARTICIPATING SCHOOL FOOD AUTHORITIES FOR WHICH THE GRANT AMOUNT CALCULATED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION IS LESS THAN TWENTY-FIVE THOUSAND DOLLARS, PRIORITIZED BASED ON THE HIGHEST IDENTIFIED STUDENT PERCENTAGES AND GREATEST FINANCIAL NEED.

(3)(a) TO RECEIVE A LOCAL FOOD PURCHASING GRANT PURSUANT TO THIS SECTION, A PARTICIPATING SCHOOL FOOD AUTHORITY MUST ESTABLISH AN ADVISORY COMMITTEE MADE UP OF STUDENTS AND PARENTS OF STUDENTS ENROLLED IN THE PUBLIC SCHOOLS SERVED BY THE PARTICIPATING SCHOOL FOOD AUTHORITY. IN SELECTING STUDENTS AND PARENTS TO SERVE ON THE ADVISORY COMMITTEE, THE PARTICIPATING SCHOOL FOOD AUTHORITY SHALL ENSURE THAT THE MEMBERSHIP OF THE ADVISORY COMMITTEE REFLECTS THE RACIAL, ETHNIC, AND SOCIOECONOMIC DEMOGRAPHICS OF THE STUDENT POPULATION ENROLLED BY THE PARTICIPATING SCHOOL FOOD AUTHORITY. THE ADVISORY COMMITTEE SHALL ADVISE THE PARTICIPATING SCHOOL FOOD AUTHORITY CONCERNING THE SELECTION OF FOODS TO ENSURE THAT MEALS ARE CULTURALLY RELEVANT, HEALTHY, AND APPEALING TO ALL AGES OF THE STUDENT POPULATION.

(b) A PARTICIPATING SCHOOL FOOD AUTHORITY MAY USE UP TO TWELVE PERCENT OF THE AMOUNT RECEIVED PURSUANT TO SUBSECTION (2) OF THIS SECTION TO SUPPORT IMPLEMENTATION OF THE ADVISORY COMMITTEE REQUIRED IN SUBSECTION (3)(a) OF THIS SECTION.

(4) THE DEPARTMENT SHALL ANNUALLY REQUIRE A SELECTED GROUP OF PARTICIPATING SCHOOL FOOD AUTHORITIES THAT RECEIVED A GRANT PURSUANT TO THIS SECTION IN THE PRECEDING BUDGET YEAR TO SUBMIT TO THE DEPARTMENT A REPRESENTATIVE SAMPLE OF THE INVOICES FOR THE PRODUCTS PURCHASED USING THE GRANT MONEY. NO LATER THAN SEPTEMBER 1 OF THE SECOND BUDGET YEAR IN WHICH THIS SECTION IS EFFECTIVE AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, AND NO LATER THAN SEPTEMBER 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REVIEW THE INVOICES TO VERIFY THAT THE PRODUCTS PURCHASED MET THE REQUIREMENTS SPECIFIED IN THIS SECTION. IF THE DEPARTMENT FINDS THAT A PARTICIPATING SCHOOL FOOD AUTHORITY USED A SIGNIFICANT PORTION OF THE GRANT MONEY, AS DETERMINED BY RULE OF THE STATE BOARD, TO PURCHASE PRODUCTS THAT DID NOT MEET THE REQUIREMENTS OF THIS SECTION, THE PARTICIPATING SCHOOL FOOD AUTHORITY IS INELIGIBLE TO RECEIVE A GRANT PURSUANT TO THIS SECTION FOR THE NEXT BUDGET YEAR FOLLOWING THE BUDGET YEAR IN WHICH THE DEPARTMENT COMPLETES THE REVIEW.

(5) THIS SECTION IS EFFECTIVE BEGINNING IN THE FIRST FULL BUDGET YEAR AFTER THE STATE OF COLORADO IS CERTIFIED TO PARTICIPATE IN THE

FEDERAL DEMONSTRATION PROJECT FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS AS PROVIDED IN SECTION 22-82.9-204 (4) AND BEGINS INCLUDING MEDICAID DIRECT CERTIFICATION IN DETERMINING SCHOOL DISTRICTS' IDENTIFIED STUDENT PERCENTAGES.

22-82.9-206. School meals food preparation and service employees - wage increase or stipend. (1) SUBJECT TO SUBSECTION (2) OF THIS SECTION, IN ADDITION TO THE AMOUNTS RECEIVED PURSUANT TO SECTIONS 22-82.9-204 AND 22-82.9-205, A PARTICIPATING SCHOOL FOOD AUTHORITY MAY RECEIVE THE GREATER OF THREE THOUSAND DOLLARS OR AN AMOUNT EQUAL TO TWELVE CENTS MULTIPLIED BY THE NUMBER OF SCHOOL LUNCHES THAT QUALIFY AS ELIGIBLE MEALS THAT THE PARTICIPATING SCHOOL FOOD AUTHORITY PROVIDED IN THE PREVIOUS BUDGET YEAR, SO LONG AS THE PARTICIPATING SCHOOL FOOD AUTHORITY USES ONE HUNDRED PERCENT OF THE AMOUNT RECEIVED PURSUANT TO THIS SECTION TO INCREASE WAGES OR PROVIDE STIPENDS FOR INDIVIDUALS WHOM THE PARTICIPATING SCHOOL FOOD AUTHORITY EMPLOYS TO DIRECTLY PREPARE AND SERVE FOOD FOR SCHOOL MEALS. TO RECEIVE THE AMOUNT DESCRIBED IN THIS SECTION, A PARTICIPATING SCHOOL FOOD AUTHORITY MUST SUBMIT DOCUMENTATION TO THE DEPARTMENT AS REQUIRED BY RULES OF THE STATE BOARD TO DEMONSTRATE THAT THE INCREASE IN WAGES OR PROVISION OF STIPENDS USING THE AMOUNT RECEIVED PURSUANT TO THIS SECTION IS IMPLEMENTED FOR THE BUDGET YEAR IN WHICH THE AMOUNT IS RECEIVED.

(2) THIS SECTION IS EFFECTIVE BEGINNING IN THE FIRST FULL BUDGET YEAR AFTER THE STATE OF COLORADO IS CERTIFIED TO PARTICIPATE IN THE FEDERAL DEMONSTRATION PROJECT FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS AS PROVIDED IN SECTION 22-82.9-204 (4) AND BEGINS INCLUDING MEDICAID DIRECT CERTIFICATION IN DETERMINING SCHOOL DISTRICTS' IDENTIFIED STUDENT PERCENTAGES.

22-82.9-207. Local school food purchasing technical assistance and education grant program - created - report. (1) SUBJECT TO SUBSECTION (4) OF THIS SECTION, THERE IS CREATED IN THE DEPARTMENT THE LOCAL SCHOOL FOOD PURCHASING TECHNICAL ASSISTANCE AND EDUCATION GRANT PROGRAM TO ISSUE A GRANT TO A STATEWIDE NONPROFIT ORGANIZATION TO DEVELOP AND MANAGE A GRANT PROGRAM TO ASSIST WITH THE PROMOTION OF COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS TO PARTICIPATING SCHOOL FOOD AUTHORITIES AND TO ASSIST

PARTICIPATING SCHOOL FOOD AUTHORITIES IN PREPARING MEALS USING BASIC INGREDIENTS, WITH MINIMAL RELIANCE ON PROCESSED PRODUCTS.

(2) SUBJECT TO AVAILABLE APPROPRIATIONS, THE NONPROFIT ORGANIZATION MAY AWARD GRANTS FOR:

(a) TRAINING, TECHNICAL ASSISTANCE, AND PHYSICAL INFRASTRUCTURE, AWARDED TO PARTICIPATING SCHOOL FOOD AUTHORITIES, GROWER ASSOCIATIONS, OR OTHER ORGANIZATIONS THAT AGGREGATE PRODUCTS FROM PRODUCERS FOR:

(I) PROFESSIONAL CONTRACTING SERVICES TO SUPPORT THE DEVELOPMENT AND SUSTAINABILITY OF LOCAL AND REGIONAL FOOD SYSTEMS;

(II) CHEF TRAINING ON FOOD HANDLING, MEAL PREPARATION USING BASIC INGREDIENTS, AND PROCUREMENT PRACTICES, AND FOR KITCHEN EQUIPMENT PURCHASES;

(III) GOOD AGRICULTURAL PRACTICES CERTIFICATION COSTS AND GOOD HANDLING PRACTICES CERTIFICATION COSTS AND TRAINING ON SELLING TO SCHOOLS; AND

(IV) CAPACITY BUILDING FOR LOCAL VALUE-ADDED PROCESSED PRODUCTS; AND

(b) EDUCATION, OUTREACH, AND PROMOTION FOR:

(I) SCHOOLS TO ENGAGE FAMILIES AND COMMUNITIES ON THE BENEFITS OF FARM-TO-SCHOOL AND WAYS TO SUPPORT FARM-TO-SCHOOL; AND

(II) GROWER ASSOCIATIONS AND GROWERS TO COMMUNICATE TO SCHOOLS AND SCHOOL COMMUNITIES ABOUT THE MULTIPLE BENEFITS OF PURCHASING LOCAL PRODUCTS.

(3) THE NONPROFIT ORGANIZATION SHALL ANNUALLY REPORT TO THE DEPARTMENT ON IMPLEMENTATION OF THE TECHNICAL ASSISTANCE AND EDUCATION GRANT PROGRAM, INCLUDING:

(a) THE NUMBER AND TYPES OF ENTITIES RECEIVING GRANTS;

(b) THE NUMBER, TYPES, AND PURPOSES OF THE GRANTS AWARDED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION; AND

(c) THE TYPES OF EDUCATION, OUTREACH, AND PROMOTION CONDUCTED BY PARTICIPATING SCHOOL FOOD AUTHORITIES AND OTHERS PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION.

(4) THIS SECTION IS EFFECTIVE BEGINNING IN THE FIRST FULL BUDGET YEAR AFTER THE STATE OF COLORADO IS CERTIFIED TO PARTICIPATE IN THE FEDERAL DEMONSTRATION PROJECT FOR DIRECT CERTIFICATION FOR CHILDREN RECEIVING MEDICAID BENEFITS AS PROVIDED IN SECTION 22-82.9-204 (4) AND BEGINS INCLUDING MEDICAID DIRECT CERTIFICATION IN DETERMINING SCHOOL DISTRICTS' IDENTIFIED STUDENT PERCENTAGES.

22-82.9-208. Report - audit. (1) (a) ON OR BEFORE DECEMBER 1, 2024, AND ON OR BEFORE DECEMBER 1 EVERY TWO YEARS THEREAFTER, THE DEPARTMENT SHALL PREPARE A REPORT CONCERNING THE IMPLEMENTATION OF SECTION 22-82.9-204 AND SECTIONS 22-82.9-205, 22-82.9-206, AND 22-82.9-207, TO THE EXTENT THOSE SECTIONS ARE IN EFFECT AS PROVIDED IN SECTION 22-82.9-204 (4)(b). AT A MINIMUM, THE REPORT MUST DESCRIBE:

(I) THE INCREASE IN THE NUMBER OF STUDENTS WHO RECEIVE FREE ELIGIBLE MEALS AS A RESULT OF IMPLEMENTATION OF THE PROGRAM;

(II) THE EFFECT OF THE USE OF LOCAL FOOD PURCHASING GRANTS ON THE AMOUNT OF COLORADO GROWN, RAISED, OR PROCESSED PRODUCTS PURCHASED BY PARTICIPATING SCHOOL FOOD AUTHORITIES AND INCLUDE A COMPILATION OF THE INFORMATION REPORTED BY PARTICIPATING SCHOOL FOOD AUTHORITIES PURSUANT TO SECTION 22-82.9-205 (1)(b);

(III) THE EFFECT OF THE DISTRIBUTION OF MONEY PURSUANT TO SECTION 22-82.9-206 ON THE AMOUNT OF WAGES PAID OR THE AMOUNT OF STIPENDS PROVIDED TO INDIVIDUALS WHO ARE EMPLOYED BY PUBLIC SCHOOLS TO PREPARE AND SERVE SCHOOL MEALS; AND

(IV) A SUMMARY OF THE INFORMATION REPORTED BY THE NONPROFIT ORGANIZATION PURSUANT TO SECTION 22-82.9-207 (3) CONCERNING IMPLEMENTATION OF THE LOCAL SCHOOL FOOD PURCHASING

TECHNICAL ASSISTANCE AND EDUCATION GRANT PROGRAM.

(b) THE DEPARTMENT SHALL SUBMIT THE REPORT TO THE EDUCATION COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE; THE AGRICULTURE, LIVESTOCK, AND WATER COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND THE AGRICULTURE AND NATURAL RESOURCES COMMITTEE OF THE SENATE; OR ANY SUCCESSOR COMMITTEES.

(c) NOTWITHSTANDING THE REQUIREMENT IN SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO SUBMIT THE REPORT DESCRIBED IN THIS SUBSECTION (1) CONTINUES INDEFINITELY.

(2) THE DEPARTMENT SHALL CONTRACT WITH AN INDEPENDENT AUDITOR TO CONDUCT A BIENNIAL FINANCIAL AND PERFORMANCE AUDIT OF THE IMPLEMENTATION OF THE PROGRAM, INCLUDING IMPLEMENTATION OF SECTION 22-82.9-204 AND INCLUDING IMPLEMENTATION OF LOCAL FOOD PURCHASING GRANTS PURSUANT TO SECTION 22-82.9-205, DISTRIBUTIONS FOR THE INCREASE IN WAGES OR PROVISION OF STIPENDS PURSUANT TO SECTION 22-82.9-206, AND IMPLEMENTATION OF THE LOCAL SCHOOL FOOD PURCHASING TECHNICAL ASSISTANCE AND EDUCATION GRANT PROGRAM PURSUANT TO SECTION 22-82.9-207, TO THE EXTENT SAID SECTIONS ARE IN EFFECT AS PROVIDED IN SECTION 22-82.9-204 (4)(b). THE AUDIT OF THE TWO BUDGET YEARS IN EACH BIENNIAL CYCLE MUST BE COMPLETED BY DECEMBER 1 OF THE FOLLOWING BUDGET YEAR. THE DEPARTMENT SHALL MAKE THE AUDIT EASILY ACCESSIBLE BY THE PUBLIC ON THE DEPARTMENT WEBSITE.

22-82.9-209. Program - funding. FOR THE 2023-24 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL APPROPRIATE TO THE DEPARTMENT, BY SEPARATE LINE ITEM IN THE ANNUAL GENERAL APPROPRIATION BILL, THE AMOUNT NECESSARY TO IMPLEMENT THE PROGRAM, INCLUDING THE AMOUNT REQUIRED TO REIMBURSE PARTICIPATING SCHOOL FOOD AUTHORITIES FOR ELIGIBLE MEALS PROVIDED TO STUDENTS PURSUANT TO SECTION 22-82.9-204 AND INCLUDING THE AMOUNT DISTRIBUTED AS LOCAL FOOD PURCHASING GRANTS PURSUANT TO SECTION 22-82.9-205, THE AMOUNT DISTRIBUTED PURSUANT TO SECTION 22-82.9-206 TO INCREASE THE WAGES OR PROVIDE STIPENDS FOR STAFF WHO PREPARE AND SERVE SCHOOL MEALS, AND AT LEAST FIVE MILLION DOLLARS ANNUALLY TO IMPLEMENT THE LOCAL SCHOOL FOOD PURCHASING TECHNICAL ASSISTANCE AND EDUCATION GRANT PROGRAM PURSUANT TO

SECTION 22-82.9-207, TO THE EXTENT SAID SECTIONS ARE IN EFFECT AS PROVIDED IN SECTION 22-82.9-204 (4)(b). THE DEPARTMENT MAY EXPEND NOT MORE THAN ONE AND FIVE-TENTHS PERCENT OF THE TOTAL AMOUNT ANNUALLY APPROPRIATED PURSUANT TO THIS SECTION TO OFFSET THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN IMPLEMENTING THIS PART 2.

SECTION 2. In Colorado Revised Statutes, **amend** 22-82.9-101 as follows:

22-82.9-101. Short title. ~~This article shall be known and may be cited as~~ THE SHORT TITLE OF THIS PART 1 IS the "Child Nutrition School Lunch Protection Program Act".

SECTION 3. In Colorado Revised Statutes, 22-82.9-103, **amend** the introductory portion as follows:

22-82.9-103. Definitions. As used in this ~~article~~ PART 1, unless the context otherwise requires:

SECTION 4. In Colorado Revised Statutes, 22-82.9-105, **amend** (1) and (2) as follows:

22-82.9-105. Program funding. (1) For each fiscal year, the general assembly shall make an appropriation by separate line item in the annual general appropriation bill to allow school food authorities to provide lunches at no charge for children in state-subsidized early childhood education programs administered by public schools or in kindergarten through twelfth grade, participating in the school lunch program, who would otherwise be required to pay a reduced price for lunch. The appropriation to the department for the program must 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 money annually appropriated for the program to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this ~~article 82.9~~ PART 1.

(2) The department is authorized to seek and accept gifts, grants, and donations from public and private sources for the purposes of this ~~article~~ PART 1, but receipt of gifts, grants, and donations ~~shall not be~~ ARE

NOT a prerequisite to the implementation of the program.

SECTION 5. In Colorado Revised Statutes, 22-82.9-107, **amend** (1) as follows:

22-82.9-107. No individual entitlement. (1) ~~Nothing in this article shall be interpreted to~~ THIS PART 1 DOES NOT create a legal entitlement to any participant to assistance provided pursuant to the program.

SECTION 6. In Colorado Revised Statutes, 39-22-104, **amend** (3)(p) introductory portion; and **add** (3)(p.5) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - report - legislative declaration - definitions - repeal. (3) There shall be added to the federal taxable income:

(p) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3)(p.5) OF THIS SECTION, for income tax years commencing on or after January 1, 2022, for taxpayers who claim itemized deductions as defined in section 63 (d) of the internal revenue code and who have federal adjusted gross income in the income tax year equal to or exceeding four hundred thousand dollars:

(p.5) (I) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2023, FOR TAXPAYERS WHO CLAIM ITEMIZED DEDUCTIONS AS DEFINED IN SECTION 63 (d) OF THE INTERNAL REVENUE CODE OR THE STANDARD DEDUCTION AS DEFINED IN SECTION 63 (c) OF THE INTERNAL REVENUE CODE AND WHO HAVE FEDERAL ADJUSTED GROSS INCOME IN THE INCOME TAX YEAR EQUAL TO OR EXCEEDING THREE HUNDRED THOUSAND DOLLARS:

(A) FOR A TAXPAYER WHO FILES A SINGLE RETURN, THE AMOUNT BY WHICH THE ITEMIZED DEDUCTIONS DEDUCTED FROM GROSS INCOME UNDER SECTION 63 (a) OF THE INTERNAL REVENUE CODE EXCEED, OR THE STANDARD DEDUCTION DEDUCTED FROM GROSS INCOME UNDER SECTION 63 (c) OF THE INTERNAL REVENUE CODE EXCEEDS, TWELVE THOUSAND DOLLARS; AND

(B) FOR TAXPAYERS WHO FILE A JOINT RETURN, THE AMOUNT BY WHICH THE ITEMIZED DEDUCTIONS DEDUCTED FROM GROSS INCOME UNDER SECTION 63 (a) OF THE INTERNAL REVENUE CODE EXCEED, OR THE

STANDARD DEDUCTION DEDUCTED FROM GROSS INCOME UNDER SECTION 63 (c) OF THE INTERNAL REVENUE CODE EXCEEDS, SIXTEEN THOUSAND DOLLARS.

(II) FOR THE 2023-24 STATE FISCAL YEAR AND STATE FISCAL YEARS THEREAFTER, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE AN AMOUNT OF GENERAL FUND REVENUE AT LEAST EQUAL TO THE AMOUNT OF REVENUE GENERATED BY THE ADDITION TO FEDERAL TAXABLE INCOME DESCRIBED IN SUBSECTION (3)(p.5)(I) OF THIS SECTION, BUT NOT MORE THAN THE AMOUNT REQUIRED, TO FULLY FUND THE DIRECT AND INDIRECT COSTS OF IMPLEMENTING THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM AS PROVIDED IN SECTION 22-82.9-209. THE PROVISIONS OF SUBSECTION (3)(p.5)(I) OF THIS SECTION CONSTITUTE A VOTER-APPROVED REVENUE CHANGE, APPROVED BY THE VOTERS AT THE STATEWIDE ELECTION IN NOVEMBER OF 2022, AND THE REVENUE GENERATED BY THIS VOTER-APPROVED REVENUE CHANGE MAY BE COLLECTED, RETAINED, APPROPRIATED, AND SPENT WITHOUT SUBSEQUENT VOTER APPROVAL, NOTWITHSTANDING ANY OTHER LIMITS IN THE STATE CONSTITUTION OR LAW. THE ADDITION TO FEDERAL TAXABLE INCOME DESCRIBED IN SUBSECTION (3)(p.5)(I) OF THIS SECTION DOES NOT APPLY FOR AN INCOME TAX YEAR THAT COMMENCES AFTER THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, OR ANY SUCCESSOR PROGRAM, IS REPEALED. UPON REPEAL OF THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, OR ANY SUCCESSOR PROGRAM, THE COMMISSIONER OF EDUCATION SHALL PROMPTLY NOTIFY THE EXECUTIVE DIRECTOR IN WRITING THAT THE PROGRAM IS REPEALED.

SECTION 7. In Colorado Revised Statutes, 22-2-112, **add** (1)(v) as follows:

22-2-112. Commissioner - duties - report - legislative declaration - repeal. (1) Subject to the supervision of the state board, the commissioner has the following duties:

(v) UPON THE REPEAL OF PART 2 OF ARTICLE 82.9 OF THIS TITLE 22 AND IN ACCORDANCE WITH SECTION 39-22-104 (3)(p.5)(II), TO PROMPTLY NOTIFY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN WRITING THAT THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM IS REPEALED.

SECTION 8. Refer to people under referendum. At the election

held on November 8, 2022, the secretary of state shall submit this act by its ballot title to the registered electors of the state for their approval or rejection. Each elector voting at the election may cast a vote either "Yes/For" or "No/Against" on the following ballot title: "Shall state taxes be increased \$100,727,820 annually by a change to the Colorado Revised Statutes that, to support healthy meals for public school students, increases state taxable income only for individuals who have federal taxable income of \$300,000 or more by limiting itemized or standard state income tax deductions to \$12,000 for single tax return filers and \$16,000 for joint tax return filers, and, in connection therewith, creating the healthy school meals for all program to provide free school meals to students in public schools; providing grants for participating schools to purchase Colorado grown, raised, or processed products, to increase wages or provide stipends for employees who prepare and serve school meals, and to create parent and student advisory committees to provide advice to ensure school meals are healthy and appealing to all students; and creating a program to assist in promoting Colorado food products and preparing school meals using basic nutritious ingredients with minimal reliance on processed products?" Except as otherwise provided in section 1-40-123, Colorado Revised Statutes, if a

majority of the electors voting on the ballot title vote "Yes/For", then the act will become part of the Colorado Revised Statutes.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO