

First Regular Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 05-0231.01 Jane Ritter

**SENATE BILL 05-081**

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**SENATE SPONSORSHIP**

**Sandoval,** Entz, Evans, Hanna, Williams, and Windels

**HOUSE SPONSORSHIP**

**Madden,**

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**Senate Committees**

Education

**House Committees**

Education

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**A BILL FOR AN ACT**

101 **CONCERNING THE ADOPTION OF SCHOOL DISTRICT BOARD OF**  
102 **EDUCATION POLICIES RELATED TO IMPROVING CHILDREN'S**  
103 **NUTRITION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Encourages each school district board of education ("district board") to adopt a policy insuring a child's access to:

Healthful food and beverages on the school premises;

Nutritional information;

Daily physical activity; and

Instruction regarding proper nutrition and health.

Encourages each district board to adopt rules regarding

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
February 14, 2005

SENATE  
2nd Reading Unamended  
February 11, 2005

competitive food availability and also to adopt a local wellness policy as provided for in the federal "Child Nutrition and WIC Reauthorization Act of 2004".

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

2 **SECTION 1.** Article 32 of title 22, Colorado Revised Statutes, is  
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **22-32-136. Children's nutrition - healthful alternatives -**  
5 **information - facilities - local wellness policy - competitive foods.**

6 (1) THE GENERAL ASSEMBLY HEREBY RECOGNIZES THAT:

7 (a) OVERWEIGHT CHILDREN AND YOUTH AND OBESITY AMONG  
8 CHILDREN AND YOUTH ARE MAJOR PUBLIC HEALTH THREATS, AND BEING  
9 OVERWEIGHT IS NOW THE MOST COMMON MEDICAL CONDITION OF  
10 CHILDHOOD. AN ESTIMATED NINE MILLION YOUNG PEOPLE IN THE UNITED  
11 STATES ARE CONSIDERED OVERWEIGHT. IN COLORADO, OBESITY IN THE  
12 ADULT POPULATION HAS MORE THAN DOUBLED SINCE 1991. CHILDHOOD  
13 OBESITY IS RELATED TO THE DEVELOPMENT OF A NUMBER OF  
14 PREVENTABLE CHRONIC CHILDHOOD DISEASES SUCH AS TYPE 2 DIABETES  
15 AND HYPERTENSION, AND OVERWEIGHT CHILDREN ARE LIKELY TO BECOME  
16 OVERWEIGHT ADULTS WITH INCREASED RISK OF DEVELOPING HIGH  
17 CHOLESTEROL, HEART DISEASE, STROKE, OSTEOPOROSIS, GALLBLADDER  
18 DISEASE, ARTHRITIS, AND ENDOMETRIAL, BREAST, PROSTATE, AND COLON  
19 CANCERS.

20 (b) SCHOOLS CAN PLAY A MAJOR ROLE IN REDUCING THE NUMBER  
21 OF OVERWEIGHT AND OBESE CHILDREN AND YOUTH. SCHOOLS ARE A  
22 PLACE WHERE STUDENTS CAN GAIN THE KNOWLEDGE, MOTIVATION, AND  
23 SKILLS NEEDED FOR LIFELONG PHYSICAL ACTIVITY AND LIFELONG  
24 HEALTHY EATING HABITS AND ARE ALSO A PLACE FOR STUDENTS TO

1 PRACTICE HEALTHY EATING HABITS.

2 (c) MEETING A STUDENT'S BASIC NUTRITIONAL AND FITNESS NEEDS  
3 WILL INCREASE A STUDENT'S COGNITIVE ENERGY TO LEARN AND ACHIEVE,  
4 AND, AS A RESULT, THE OVERALL EDUCATIONAL PROCESS WILL BE MORE  
5 EFFECTIVE.

6 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
7 REQUIRES:

8 (a) "COMPETITIVE FOOD" MEANS ANY FOOD OR BEVERAGE  
9 AVAILABLE TO STUDENTS THAT IS SEPARATE FROM THE SCHOOL DISTRICT'S  
10 NONPROFIT, FEDERALLY REIMBURSED FOOD SERVICE PROGRAM AND IS  
11 PROVIDED BY A SCHOOL-APPROVED ORGANIZATION OR A  
12 SCHOOL-APPROVED OUTSIDE VENDOR.

13 (b) "SCHOOL DAY" MEANS ONE HOUR PRIOR TO THE START OF THE  
14 FIRST CLASS PERIOD TO ONE-HALF HOUR AFTER THE END OF THE LAST  
15 CLASS PERIOD; EXCEPT THAT, FOR SCHOOLS NOT OFFERING SCHOOL  
16 BREAKFAST, "SCHOOL DAY" MEANS ONE-HALF HOUR BEFORE THE FIRST  
17 CLASS PERIOD TO ONE-HALF HOUR AFTER THE END OF THE LAST CLASS  
18 PERIOD.

19 (3) ON OR BEFORE JULY 1, 2006, EACH SCHOOL DISTRICT BOARD  
20 OF EDUCATION IS ENCOURAGED TO ADOPT POLICIES ENSURING THAT:

21 (a) EVERY STUDENT HAS ACCESS TO HEALTHFUL FOOD CHOICES IN  
22 APPROPRIATE PORTION SIZES THROUGHOUT THE SCHOOL DAY. AT A  
23 MINIMUM, THIS INCLUDES THE PROVISION OF:

24 (I) HEALTHFUL MEALS IN THE SCHOOL CAFETERIA MADE  
25 AVAILABLE TO STUDENTS WITH AN ADEQUATE TIME TO EAT;

26 (II) HEALTHFUL ITEMS IN VENDING MACHINES, PURSUANT TO  
27 SECTION 22-32-134; AND

1 (III) HEALTHFUL ITEMS FOR FUNDRAISERS, CLASSROOM PARTIES,  
2 AND REWARDS IN THE SCHOOLS.

3 (b) (I) EVERY STUDENT AND HIS OR HER PARENT OR LEGAL  
4 GUARDIAN HAS ACCESS TO INFORMATION CONCERNING THE NUTRITIONAL  
5 CONTENT OF:

6 (A) FOOD AND BEVERAGES SOLD BY OR AVAILABLE FROM THE  
7 SCHOOL'S FOOD SERVICE DEPARTMENT AT BREAKFAST AND LUNCH AND  
8 THROUGHOUT THE SCHOOL DAY; AND

9 (B) COMPETITIVE FOOD SOLD OR AVAILABLE ANYWHERE ON  
10 SCHOOL DISTRICT PROPERTY ON A RECURRING BASIS DURING THE SCHOOL  
11 DAY.

12 (II) THE INFORMATION DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
13 PARAGRAPH (b) MAY BE MADE AVAILABLE BY PLACING THE INFORMATION  
14 ON THE SCHOOL DISTRICT WEBSITE OR PRINTING THE INFORMATION ON THE  
15 MENUS SENT HOME WITH STUDENTS OR BY POSTING THE INFORMATION IN  
16 A VISIBLE PLACE IN EACH SCHOOL BUILDING.

17 (c) EVERY STUDENT HAS ACCESS TO FRESH FRUITS AND  
18 VEGETABLES AT APPROPRIATE TIMES DURING THE SCHOOL DAY.  
19 WHENEVER PRACTICAL, SCHOOL DISTRICTS SHALL WORK TO ACQUIRE  
20 FRESH PRODUCE FROM COLORADO SOURCES.

21 (d) EVERY STUDENT HAS ACCESS TO AGE-APPROPRIATE AND  
22 CULTURALLY SENSITIVE INSTRUCTION DESIGNED TO TEACH LIFELONG  
23 HEALTHY EATING HABITS AND A HEALTHY LEVEL OF PHYSICAL ACTIVITY.

24 (e) EVERY STUDENT HAS ACCESS TO A SCHOOL FACILITY WITH A  
25 SUFFICIENT NUMBER OF FUNCTIONING WATER FOUNTAINS IN ACCORDANCE  
26 WITH LOCAL BUILDING CODES, OR OTHER MEANS WHICH PROVIDE HIM OR  
27 HER WITH SUFFICIENT WATER.

1 (f) EVERY STUDENT HAS ACCESS TO AGE-APPROPRIATE DAILY  
2 PHYSICAL ACTIVITY.

3 (4) EACH SCHOOL DISTRICT BOARD OF EDUCATION IS ENCOURAGED  
4 TO ESTABLISH RULES SPECIFYING THE TIME AND PLACE AT WHICH  
5 COMPETITIVE FOODS MAY BE SOLD ON SCHOOL PROPERTY IN ORDER TO  
6 ENCOURAGE THE SELECTION OF HEALTHFUL FOOD CHOICES BY STUDENTS.

7 (5) ON OR BEFORE JULY 1, 2006, EACH SCHOOL DISTRICT BOARD  
8 OF EDUCATION IS ENCOURAGED TO ADOPT A LOCAL WELLNESS POLICY AS  
9 PROVIDED FOR IN THE FEDERAL "CHILD NUTRITION AND WIC  
10 REAUTHORIZATION ACT OF 2004", PUBLIC LAW 108-265, WHICH  
11 PROVIDES, IN PART, THAT, NOT LATER THAN THE FIRST DAY OF THE SCHOOL  
12 YEAR BEGINNING AFTER JUNE 30, 2006, EACH SCHOOL DISTRICT  
13 PARTICIPATING IN A PROGRAM AUTHORIZED BY THE RICHARD B. RUSSELL  
14 NATIONAL SCHOOL LUNCH ACT, 42 U.S.C. 1751 ET. SEQ., OR THE  
15 CHILDREN'S NUTRITION ACT OF 1966, 42 U.S.C. 1771 ET SEQ., SHALL  
16 ESTABLISH A LOCAL SCHOOL WELLNESS POLICY FOR SCHOOLS UNDER THE  
17 LOCAL EDUCATIONAL AGENCY THAT, AT A MINIMUM:

18 (a) INCLUDES GOALS FOR NUTRITION EDUCATION, PHYSICAL  
19 ACTIVITY, AND OTHER SCHOOL-BASED ACTIVITIES THAT ARE DESIGNED TO  
20 PROMOTE STUDENT WELLNESS IN A MANNER THAT THE SCHOOL DISTRICT  
21 DETERMINES IS APPROPRIATE;

22 (b) INCLUDES NUTRITION GUIDELINES SELECTED BY THE LOCAL  
23 SCHOOL DISTRICT FOR ALL FOODS AVAILABLE ON EACH SCHOOL CAMPUS  
24 DURING THE SCHOOL DAY WITH OBJECTIVES OF PROMOTING STUDENT  
25 HEALTH AND REDUCING CHILDHOOD OBESITY AND OVERWEIGHT AND TYPE  
26 2 DIABETES;

27 (c) PROVIDES AN ASSURANCE THAT GUIDELINES FOR

1 REIMBURSABLE SCHOOL MEALS SHALL NOT BE LESS RESTRICTIVE THAN  
2 REGULATIONS AND GUIDANCE ISSUED BY THE SECRETARY OF AGRICULTURE  
3 PURSUANT TO SUBSECTIONS (a) AND (b) OF SECTION 10 OF THE CHILD  
4 NUTRITION ACT, 42 U.S.C. SEC. 1779, AND SECTIONS 9 (f) (1) AND 17 (a)  
5 OF THE RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT, 42 U.S.C.  
6 SECS. 1758 (f) (1) AND 1766 (a), AS THOSE REGULATIONS AND GUIDANCE  
7 APPLY TO SCHOOLS;

8 (d) ESTABLISHES A PLAN FOR MEASURING IMPLEMENTATION OF THE  
9 LOCAL WELLNESS POLICY, INCLUDING DESIGNATION OF ONE OR MORE  
10 PERSONS WITHIN THE SCHOOL DISTRICT OR AT EACH SCHOOL, AS  
11 APPROPRIATE, CHARGED WITH OPERATIONAL RESPONSIBILITY FOR  
12 ENSURING THAT THE SCHOOL MEETS THE LOCAL WELLNESS POLICY; AND

13 (e) INVOLVES PARENTS, REPRESENTATIVE OF THE SCHOOL FOOD  
14 AUTHORITY, THE SCHOOL BOARD AND SCHOOL ADMINISTRATORS, AND THE  
15 PUBLIC, IN THE DEVELOPMENT OF THE SCHOOL WELLNESS POLICY.

16 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT  
17 THE SALE OR DISTRIBUTION OF ANY FOOD OR BEVERAGE ITEM THROUGH A  
18 FUNDRAISER BY A STUDENT, TEACHER, OR SCHOOL GROUP.

19 **SECTION 2. Effective date.** This act shall take effect at 12:01  
20 a.m. on the day following the expiration of the ninety-day period after  
21 final adjournment of the general assembly that is allowed for submitting  
22 a referendum petition pursuant to article V, section 1 (3) of the state  
23 constitution (August 10, 2005, if adjournment sine die is on May 11,  
24 2005); except that, if a referendum petition is filed against this act or an  
25 item, section, or part of this act within such period, then the act, item,

1 section, or part, if approved by the people, shall take effect on the date of  
2 the official declaration of the vote thereon by proclamation of the  
3 governor.