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SENATE BILL 05-081

BY SENATOR(S) Sandoval, Entz, Evans, Hanna, Williams, Windels, Fitz-Gerald, Gordon, Groff, Grossman, Johnson, Keller, Shaffer, Tapia, Tochtrop, and Tupa;
also REPRESENTATIVE(S) Madden, Benefield, Butcher, Coleman, Frangas, Marshall, Merrifield, Plant, Solano, and Todd.

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

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

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

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

(1) THE GENERAL ASSEMBLY HEREBY RECOGNIZES THAT:

(a) OVERWEIGHT CHILDREN AND YOUTH AND OBESITY AMONG CHILDREN AND YOUTH ARE MAJOR PUBLIC HEALTH THREATS, AND BEING OVERWEIGHT IS NOW THE MOST COMMON MEDICAL CONDITION OF CHILDHOOD. AN ESTIMATED NINE MILLION YOUNG PEOPLE IN THE UNITED STATES ARE CONSIDERED OVERWEIGHT. IN COLORADO, OBESITY IN THE

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

ADULT POPULATION HAS MORE THAN DOUBLED SINCE 1991. CHILDHOOD OBESITY IS RELATED TO THE DEVELOPMENT OF A NUMBER OF PREVENTABLE CHRONIC CHILDHOOD DISEASES SUCH AS TYPE 2 DIABETES AND HYPERTENSION, AND OVERWEIGHT CHILDREN ARE LIKELY TO BECOME OVERWEIGHT ADULTS WITH INCREASED RISK OF DEVELOPING HIGH CHOLESTEROL, HEART DISEASE, STROKE, OSTEOPOROSIS, GALLBLADDER DISEASE, ARTHRITIS, AND ENDOMETRIAL, BREAST, PROSTATE, AND COLON CANCERS.

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

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

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

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

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

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

(a) EVERY STUDENT HAS ACCESS TO HEALTHFUL FOOD CHOICES IN APPROPRIATE PORTION SIZES THROUGHOUT THE SCHOOL DAY. AT A

MINIMUM, THIS INCLUDES THE PROVISION OF:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) ESTABLISHES A PLAN FOR MEASURING IMPLEMENTATION OF THE LOCAL WELLNESS POLICY, INCLUDING DESIGNATION OF ONE OR MORE

PERSONS WITHIN THE SCHOOL DISTRICT OR AT EACH SCHOOL, AS APPROPRIATE, CHARGED WITH OPERATIONAL RESPONSIBILITY FOR ENSURING THAT THE SCHOOL MEETS THE LOCAL WELLNESS POLICY; AND

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

(6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE SALE OR DISTRIBUTION OF ANY FOOD OR BEVERAGE ITEM THROUGH PERIODIC FUNDRAISERS BY A STUDENT, TEACHER, OR SCHOOL GROUP WHEN THE ITEM IS FOR SALE AFTER COMPLETION OF THE SCHOOL DAY.

SECTION 2. 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 that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 10, 2005, if adjournment sine die is on May 11, 2005); except that, if a referendum petition is filed against this act or an item,

section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO