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SENATE BILL 25-214

BY SENATOR(S) Bridges and Amabile, Kirkmeyer, Marchman, Michaelson Jenet, Mullica, Snyder, Wallace;
also REPRESENTATIVE(S) Sirota and Taggart, Bird, Bacon, Boesenecker, Camacho, Clifford, Duran, Garcia, Gilchrist, Hamrick, Jackson, Lieder, Lindsay, Lindstedt, McCormick, Phillips, Stewart R., Story, Zokaie, English, Joseph, Ricks, Rutinel, Valdez, Woodrow, McCluskie.

CONCERNING REIMBURSEMENTS FOR ELIGIBLE MEALS PROVIDED THROUGH
THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, AND, IN
CONNECTION THEREWITH, MAKING AND REDUCING AN
APPROPRIATION.

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

SECTION 1. Legislative declaration. The general assembly finds and declares that, in the event of unanticipated federal action, changes in the amount of tax revenue collected in connection with the Healthy School Meals for All program, or changes in the utilization of the Healthy School Meals for All program it is the general assembly's intent to prioritize reimbursing the cost of meals served for those students who are certified as eligible for free meals based on documentation of benefit receipt or categorical eligibility as described in 7 CFR 245.9 (f)(1)(iii) and by those

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.

schools that participate in the federal community eligibility provision program created in 42 U.S.C. sec. 1759a (a)(1)(F).

SECTION 2. In Colorado Revised Statutes, 22-82.9-204, **amend** (1)(a)(I), (1)(a)(II), (1)(b), and (2); and **add** (1)(b.3) and (1)(b.5) as follows:

22-82.9-204. Healthy school meals for all program - created - advisory group - report - rules - definition - repeal. (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 THAT ARE served by the participating school food authority, ~~that~~ participate in the national school lunch program or national school breakfast program, AND FOR WHICH THE DEPARTMENT MAY REIMBURSE THE PARTICIPATING SCHOOL FOOD AUTHORITY PURSUANT TO SUBSECTION (1)(b) OR (1)(b.3) OF THIS SECTION;

(II) Receives reimbursement for the meals as described in ~~subsection (1)(b) of this section~~ THIS SUBSECTION (1);

(b) (I) FOR ELIGIBLE MEALS SERVED BEFORE JANUARY 1, 2026, 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.

(II) (A) NOTWITHSTANDING ANY LAW TO THE CONTRARY, IF A REFERRED MEASURE THAT WOULD, IN COMBINATION WITH SECTION 39-22-104 (3)(p.5), RESULT IN THE COLLECTION OF AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2026, IN CONNECTION WITH THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, AS ESTIMATED IN THE FISCAL IMPACT STATEMENT PREPARED PURSUANT TO SECTION 1-40-124.5 FOR THAT REFERRED MEASURE, IS APPROVED BY THE VOTERS VOTING ON THE REFERRED MEASURE AT THE

STATEWIDE ELECTION HELD ON NOVEMBER 4, 2025, FOR ELIGIBLE MEALS SERVED ON OR AFTER JANUARY 1, 2026, 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.

(B) IF A REFERRED MEASURE THAT WOULD, IN COMBINATION WITH SECTION 39-22-104 (3)(p.5), RESULT IN THE COLLECTION OF AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2026, IN CONNECTION WITH THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, AS ESTIMATED IN THE FISCAL IMPACT STATEMENT PREPARED PURSUANT TO SECTION 1-40-124.5 FOR THAT REFERRED MEASURE, IS NOT APPROVED BY THE VOTERS VOTING ON THE REFERRED MEASURE AT THE STATEWIDE ELECTION HELD ON NOVEMBER 4, 2025, THIS SUBSECTION (1)(b)(II) IS REPEALED, EFFECTIVE JULY 1, 2026.

(b.3) (I) IF A REFERRED MEASURE THAT WOULD, IN COMBINATION WITH SECTION 39-22-104 (3)(p.5), RESULT IN THE COLLECTION OF AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2026, IN CONNECTION WITH THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, AS ESTIMATED IN THE FISCAL IMPACT STATEMENT PREPARED PURSUANT TO SECTION 1-40-124.5 FOR THAT REFERRED MEASURE, IS NOT APPROVED BY THE VOTERS VOTING ON THE REFERRED MEASURE AT THE STATEWIDE ELECTION HELD ON NOVEMBER 4, 2025, FOR ELIGIBLE MEALS SERVED ON OR AFTER JANUARY 1, 2026, THE DEPARTMENT SHALL ONLY REIMBURSE PARTICIPATING SCHOOL FOOD AUTHORITIES FOR MEALS SERVED AT ELIGIBLE SITES.

(II) THE AMOUNT OF THE REIMBURSEMENT PROVIDED THROUGH THE PROGRAM TO EACH PARTICIPATING SCHOOL FOOD AUTHORITY FOR EACH BUDGET YEAR FOR ELIGIBLE MEALS SERVED AT ELIGIBLE SITES ON OR AFTER JANUARY 1, 2026, IS EQUAL TO THE FEDERAL FREE REIMBURSEMENT RATE

MULTIPLIED BY THE TOTAL NUMBER OF ELIGIBLE MEALS THAT THE PARTICIPATING SCHOOL FOOD AUTHORITY SERVES AT ELIGIBLE SITES DURING THE APPLICABLE BUDGET YEAR MINUS THE TOTAL AMOUNT OF REIMBURSEMENT FOR ELIGIBLE MEALS SERVED AT ELIGIBLE SITES 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.

(III) AS USED IN THIS SUBSECTION (1)(b.3), UNLESS THE CONTEXT OTHERWISE REQUIRES, "ELIGIBLE SITE" MEANS A SITE THAT, FOR THE SCHOOL YEAR DURING THE RELEVANT BUDGET YEAR:

(A) QUALIFIES FOR THE COMMUNITY ELIGIBILITY PROVISION PROGRAM, AS THAT PROGRAM EXISTS ON NOVEMBER 15, 2025; OR

(B) IS IDENTIFIED AS AN ELIGIBLE SITE BY THE DEPARTMENT BASED ON THE AMOUNT THAT THE GENERAL ASSEMBLY APPROPRIATES FOR THE PURPOSE OF PROVIDING REIMBURSEMENTS TO A PARTICIPATING SCHOOL FOOD AUTHORITY FOR OFFERING ELIGIBLE MEALS WITHOUT CHARGE PURSUANT TO THIS SUBSECTION (1) AND THE PERCENTAGE OF A SITE'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 245.9 (f)(1)(iii) OR ANY SUCCESSOR REGULATIONS.

(IV) IF A REFERRED MEASURE THAT WOULD, IN COMBINATION WITH SECTION 39-22-104 (3)(p.5), RESULT IN THE COLLECTION OF AT LEAST ONE HUNDRED FIFTY MILLION DOLLARS FOR THE INCOME TAX YEAR COMMENCING ON JANUARY 1, 2026, IN CONNECTION WITH THE HEALTHY SCHOOL MEALS FOR ALL PROGRAM, AS ESTIMATED IN THE FISCAL IMPACT STATEMENT PREPARED PURSUANT TO SECTION 1-40-124.5 FOR THAT REFERRED MEASURE, IS APPROVED BY THE VOTERS VOTING ON THE REFERRED MEASURE AT THE STATEWIDE ELECTION HELD ON NOVEMBER 4, 2025, THIS SUBSECTION (1)(b.3) IS REPEALED, EFFECTIVE JULY 1, 2026.

(b.5) (I) IF THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, ESTIMATES, FOR ANY BUDGET YEAR, THAT THE AMOUNT THAT THE GENERAL ASSEMBLY APPROPRIATED FOR THE

PURPOSE OF PROVIDING REIMBURSEMENTS TO A PARTICIPATING SCHOOL FOOD AUTHORITY FOR OFFERING ELIGIBLE MEALS WITHOUT CHARGE PURSUANT TO THIS SUBSECTION (1) AFTER JANUARY 1, 2026, WILL BE LESS THAN THE COSTS OF THE DEPARTMENT PROVIDING THOSE REIMBURSEMENTS, THE DEPARTMENT SHALL PROVIDE NOTICE OF THIS ESTIMATION TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY AND THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY AND THE DEPARTMENT MAY DETERMINE A PRORATED, REDUCED REIMBURSEMENT AMOUNT FOR THE REIMBURSEMENTS THAT THE DEPARTMENT PROVIDES PURSUANT TO SUBSECTION (1)(b) OR (1)(b.3) OF THIS SECTION AS APPLICABLE FOR THE REMAINDER OF THAT BUDGET YEAR.

(II) BEFORE PROVIDING THE PRORATED, REDUCED REIMBURSEMENT AMOUNTS DESCRIBED IN SUBSECTIONS (1)(b.5)(I) OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE TIMELY WRITTEN NOTICE TO EACH PARTICIPATING SCHOOL FOOD AUTHORITY.

(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 provisional programming if deemed necessary by the department. ~~The department may require school food authority modifications to the program throughout the year to maximize a school food authority's federal reimbursements as deemed necessary by the department.~~

SECTION 3. In Colorado Revised Statutes, 22-82.9-209, **amend** (2) as follows:

22-82.9-209. Program - funding. (2) (a) For the 2023-24 budget year and the 2024-25 budget year, the general assembly shall appropriate money from the state education fund created in section 17 (4) of article IX of the state constitution to cover program costs for which there is not sufficient money in the healthy school meals for all cash fund.

(b) FOR THE 2025-26 BUDGET YEAR, THE GENERAL ASSEMBLY MAY APPROPRIATE MONEY FROM THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION TO COVER PROGRAM COSTS FOR WHICH THERE IS NOT SUFFICIENT MONEY IN THE HEALTHY SCHOOL MEALS FOR ALL CASH FUND.

SECTION 4. In Colorado Revised Statutes, 22-82.9-211, **amend** (3)(a)(I) and (5); and **add** (8) as follows:

22-82.9-211. Healthy school meals for all program cash fund - creation - uses - reporting requirements - definitions - repeal.

(3) (a) Subject to annual appropriation by the general assembly, the department may expend money from the cash fund for the following purposes:

(I) Providing reimbursements to a participating school food authority for offering eligible meals without charge pursuant to ~~section 22-82.9-204 (1)(b)~~ SECTION 22-82.9-204 (1);

(5) (a) FOR FISCAL YEARS COMMENCING ON OR BEFORE JULY 1, 2024, if the department determines that there is an insufficient amount of money in the cash fund to provide for an expenditure authorized by the annual appropriation from the cash fund for the purposes described in subsection (3)(a)(I) of this section, the department may make the expenditure from the general fund.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JULY 1, 2026.

(8) (a) ON OR BEFORE JANUARY 15, 2027, THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF STATE PLANNING AND BUDGETING, SHALL REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY ON WHETHER THERE IS A SUFFICIENT BALANCE IN THE CASH FUND FOR:

(I) THE STATE TREASURER TO TRANSFER AN AMOUNT FROM THE CASH FUND TO THE STATE EDUCATION FUND EQUAL TO THE TOTAL AMOUNT OF EXPENDITURES FROM THE STATE EDUCATION FUND FOR THE PURPOSES OF SUBSECTION (3) OF THIS SECTION MINUS THE AMOUNT OF ADDITIONAL TAX REVENUE DEPOSITED IN THE STATE EDUCATION FUND AS A RESULT OF SECTION 39-22-104 (3)(p.5) FOR STATE FISCAL YEARS 2022-23, 2023-24, 2024-25, AND 2025-26; AND

(II) THE DEPARTMENT TO PROVIDE REIMBURSEMENTS TO A PARTICIPATING SCHOOL FOOD AUTHORITY FOR OFFERING ELIGIBLE MEALS WITHOUT CHARGE PURSUANT TO SECTION 22-82.9-204 (1).

(b) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 5. In Colorado Revised Statutes, 22-82.9-208, **amend** (1)(a)(II) as follows:

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:

(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)~~ SECTION 22-82.9-205 (1);

SECTION 6. In Colorado Revised Statutes, 24-75-109, **amend** (1)(f) and (5) as follows:

24-75-109. Controller may allow expenditures in excess of appropriations - limitations - appropriations for subsequent fiscal year restricted - repeal. (1) For the purpose of closing the state's books, and subject to the provisions of this section, the controller may, on or after May 1 of any fiscal year and before the forty-fifth day after the close thereof, upon approval of the governor, allow any department, institution, or agency of the state, including any institution of higher education, to make an expenditure in excess of the amount authorized by an item of appropriation for such fiscal year if:

(f) The overexpenditure is by the department of education for providing reimbursements to a participating school food authority for offering eligible meals without charge, pursuant to ~~section 22-82.9-204 (1)(b)~~ SECTION 22-82.9-204 (1), FOR STATE FISCAL YEARS COMMENCING ON OR BEFORE JULY 1, 2024; or

(5) The limitation on general fund appropriations and the requirement for a general fund reserve contained in section 24-75-201.1 shall not apply to overexpenditures from the general fund for medicaid

programs allowed pursuant to subsection (1)(a) of this section ~~to overexpenditures by the department of education allowed pursuant to subsection (1)(f) of this section~~ or to supplemental general fund appropriations for medicaid programs enacted pursuant to subsection (4) of this section. Overexpenditures for all other purposes allowed pursuant to subsection (1) of this section and supplemental general fund appropriations for all other purposes enacted pursuant to subsection (4) of this section shall be considered appropriations for the fiscal year in which the overexpenditure was allowed and shall accordingly be subject to the limitations and requirements of section 24-75-201.1.

SECTION 7. In Colorado Revised Statutes, 22-82.9-301, **add** (6.5) as follows:

22-82.9-301. Definitions. As used in this part 3, unless the context otherwise requires:

(6.5) "PURCHASING PROGRAM" MEANS THE LOCAL SCHOOL FOOD PURCHASING PROGRAM CREATED IN SECTION 22-82.9-302.

SECTION 8. In Colorado Revised Statutes, 22-82.9-302, **amend** (2)(b)(I), (2)(b)(II)(D), (2)(c), and (3)(a) as follows:

22-82.9-302. Local school food purchasing program - creation - rules. (2) (b) (I) The department shall select participating providers that served fewer than two million one hundred fifty thousand school lunches in the ~~2023-24~~ IMMEDIATELY PRECEDING school year. The department shall create a form for participating providers to track and report the Colorado grown, raised, or processed products purchased.

(II) The department shall give preference to applicants that:

(D) Served fewer than one million two hundred fifty thousand school lunches in the ~~2023-24~~ IMMEDIATELY PRECEDING school year count; and

(c) On or before August 1 of the year following the participating provider's application, AND AUGUST 1 OF EACH YEAR THEREAFTER THROUGH THE YEAR AFTER WHEN THE PARTICIPATING PROVIDER STOPS PARTICIPATING IN THE PURCHASING PROGRAM, the participating provider shall track and

report to the department for the school year in which it applied, and for the ~~2023-24~~ IMMEDIATELY PRECEDING school year, the total amount of Colorado grown, raised, or processed products it purchased for student meals and the total number of lunches that it provided to students.

(3) (a) In October 2024, AND EACH OCTOBER THEREAFTER, SUBJECT TO ANNUAL APPROPRIATION, the department shall reimburse each participating provider ~~participating in the purchasing program~~ at least five cents for every school lunch that the participating provider prepared in the ~~2023-24~~ IMMEDIATELY PRECEDING school year or a minimum of one thousand dollars, whichever is greater; except that a participating provider is not reimbursed for the amount of value-added processed products that exceeds twenty-five percent of the total of the Colorado grown, raised, or processed products it purchased AND THAT THE DEPARTMENT MAY PRORATE THESE REIMBURSEMENTS AS NECESSARY.

SECTION 9. In Colorado Revised Statutes, 22-82.9-304, **amend** (1) introductory portion and (1)(b) as follows:

22-82.9-304. Evaluation - report. (1) On or before December 1, 2025, AND EACH DECEMBER 1 THEREAFTER, the department shall submit a report to the education committees of the house of representatives and the senate, the house of representatives agriculture, water, and natural resources committee, the senate agriculture and natural resources committee, or their successor committees, on the effect of the purchasing program on the amount of Colorado grown, raised, or processed products purchased by participating providers, including:

(b) The dollar amount spent on Colorado grown, raised, or processed products during the purchasing program, including local purchasing data from the ~~2023-24~~ IMMEDIATELY PRECEDING school year, that the participating provider included in the application to the purchasing program;

SECTION 10. In Colorado Revised Statutes, **repeal** 22-82.9-306.

SECTION 11. Effective date. This act takes effect upon passage; except that section 24-75-109 (5), Colorado Revised Statutes, as amended in section 6 of this act, takes effect July 1, 2025.

SECTION 12. Appropriation - adjustments to 2025 long bill.

(1) To implement this act, appropriations made in the annual general appropriation act for the 2025-26 state fiscal year to the department of education for use by school district operations are adjusted as follows:

(a) The general fund appropriation for school meal reimbursements is decreased by \$42,240,242; and

(b) The cash funds appropriation from the state education fund created in section 17 (4)(a) of article IX of the state constitution for school meal reimbursements is increased by \$8,119,271.

(2) For the 2025-26 state fiscal year, \$675,729 is appropriated to the department of education for use by school district operations. This appropriation is from the state education fund created in section 17 (4)(a) of article IX of the state constitution, and is based on an assumption that the division will require an additional 0.4 FTE. To implement this act, the division may use this appropriation for local school food purchasing programs.

SECTION 13. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO