

Date of Hearing: June 29, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 1481 (Becker) – As Introduced February 18, 2022

SENATE VOTE: 35-0

SUBJECT: Preschools, child daycare facilities, and Trustline providers: meals

SUMMARY: Establishes, subject to an appropriation, a free, universal meal program through the Child and Adult Care Food Program (CACFP) by increasing state reimbursement to the existing federal meal program for children in the California State Preschool Program (CSPP), general child care, and specified licensed-exempt care; expands eligibility for free meals in these programs; and creates a grant program to encourage expansion and participation in the CACFP in underserved communities. Specifically, **this bill:**

- 1) Requires the California Department of Education (CDE) to provide funding for up to two free daily meals to all children enrolled in a CSPP through the CACFP, by providing a supplemental state meal reimbursement, subject to an appropriation for this purpose.
- 2) Requires the California Department of Social Services (CDSS) to provide funding for up to two free daily meals to all children enrolled in child daycare facilities including Trustline providers, as well as licensed childcare centers and licensed family child care homes, participating in the CACFP, by providing a supplemental state meal reimbursement, subject to an appropriation for this purpose.
- 3) Requires that the supplemental state reimbursement rate be equivalent to the state meal reimbursement for local educational agencies (LEAs).
- 4) Requires both departments to provide grants to childcare facilities to encourage participation in, and expansion of, the CACFP.
- 5) Requires the departments, in awarding grants, to give preference to facilities located in or serving historically under-resourced communities, including areas of concentrated poverty.
- 6) Increases the meal reimbursement rate for family daycare homes to 100% of the meals served.
- 7) Specifies that the provisions of this bill are subject to an appropriation for this purpose in the annual Budget Act or another statute.

EXISTING LAW:

- 1) Establishes the “California Child Day Care Facilities Act,” creating a separate licensing category for child daycare centers and family daycare homes within CDSS’s existing licensing structure. (Health and Safety Code Section (HSC) 1596.70 *et seq.*)
- 2) Establishes the “Child Care and Development Services Act” to provide childcare and development services as part of a coordinated, comprehensive, and cost-effective system serving children from birth to 13 years old and their parents including a full range of

supervision, health, and support services through full- and part-time programs. (Welfare and Institutions Code Section (WIC) 10207 *et seq.*)

- 3) Establishes the “Early Education Act” to provide an inclusive and cost-effective preschool program that provides high-quality learning experiences, coordinated services, and referrals for families to access health and social-emotional support services through full- and part-day programs and that all families have equitable access to a high-quality preschool program, regardless of race or ethnic status, cultural, religious, or linguistic background, family composition, or children with exceptional needs. (Education Code (EC) 8200 *et seq.*)
- 4) Defines “child daycare facility” to mean a facility that provides nonmedical care to children under 18 years of age, as specified, including daycare centers, employer-sponsored childcare centers, and family daycare homes. (HSC 1596.750)
- 5) Defines “family daycare home” to mean a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider’s own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home, as defined. (HSC 1596.78)
- 6) Establishes the CACFP as a state and federally funded Child Nutrition Program that provides reimbursements for nutritious meals and snacks to eligible children and adults who are enrolled for care at participating child care centers, daycare homes, and adult daycare centers. Additionally, establishes the child care component of CACFP to provide reimbursement to licensed and license-exempt childcare centers and daycare homes for healthy meals and snacks. Eligible providers include Early Head Start and Head Start centers, infant care centers, preschools, family care homes, and after school programs, as specified. (42 United States Code Section 1766)
- 7) Shifts state responsibility for the CACFP from the CDE to the CDSS effective July 1, 2021. (WIC 10203)
- 8) Requires childcare programs operating under Title 22 of the California Code of Regulations to offer meals/snacks to children as follows: full-day programs must provide lunch as well as a midmorning and midafternoon snack; part-day programs must provide a midmorning or midafternoon snack. Further requires that snacks include at least one serving from each of two or more food groups. (22 California Code of Regulations Section 101227)
- 9) Requires the CDE to reimburse LEAs participating in the federal School Breakfast Program and National School Lunch Program for all non-reimbursed expenses accrued in providing reimbursable meals to students, and prohibits the amount of per-meal reimbursements from exceeding the difference between the sum of the amounts calculated from meals claimed based on the free combined breakfast and lunch reimbursement rates established by the United States Department of Agriculture (USDA) and state meal contributions as established, and the combined federal and state amounts reimbursed for reduced-priced and paid meals claimed. (EDC 49501.5)
- 10) Authorizes the governing board of any school district to establish rules to determine which pupils are needy except for family daycare homes; requires family daycare homes to be reimbursed for 75% of the meals served; and provides that pupils are determined needy if categorically eligible for aid or services, as specified. (EDC 49501, 49550(a), 49552)

- 11) Defines “needy children” to mean children who meet federal eligibility criteria for free and reduced price meals. (EDC 49552)
- 12) Provides that it is the policy of this state that no child be hungry while attending a preschool program, and that preschools have an obligation to provide for the nutritional needs of children in attendance. (EDC 8204)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) While the bill’s provisions would be subject to an appropriation, it could create significant and ongoing Proposition 98 General Fund cost pressure to fund the additional meal reimbursements and likely increased participation in the meal programs. A precise amount is unknown and would depend on the exact number of meals served, but it could be in the tens of millions of dollars each year. An increase in participation in the meal programs would lead to a corresponding increase in federal meal reimbursements.
- 2) By requiring the CDSS to provide grants to initiate or expand participation in the meal programs, this bill could result in one-time Proposition General Fund cost pressure in the millions to low tens of millions of dollars. The magnitude of these costs would depend on the number and size of the grants provided, both of which are not specified in the bill. This provision would be subject to an appropriation.

COMMENTS:

Need for the bill. According to the author, “Child care is the largest setting to support access to nutritious foods during the critical early years of development. However, existing law in California only reimbursed for 75% of the meals served to the children in their care. Whereas California reimburses K-12 schools for these meals, families and child care providers are forced to make up the difference, covering fees that amount to over \$34 million each year. California’s youngest children cannot be left out of our state’s groundbreaking universally free school meals policy to tackle food insecurity among learners. SB 1481 would ensure that all families can send their kids to child care sites offering free, nutritious meals. The Food with Care bill would also remove the financial burden on child care providers who currently aren’t fully reimbursed for providing meals to children.

The pandemic has exposed the weaknesses of and widened the gaps in our child care system, while simultaneously exacerbating food insecurity among households with young children. Childcare providers have had to scramble to feed even hungrier kids, all while struggling with increasing food costs, limited supplies, inconsistent enrollment, and inadequate support from the state. Underlying federal rules for the Childcare Food Program don’t reflect California’s true level of poverty—keeping many children from accessing nutritious, affordable meals. As a result, the families that qualify for subsidized childcare will not necessarily qualify for free meals, creating unnecessary barriers to food and childcare access. The per-meal pay penalty acts as an additional hurdle to providing quality care at the detriment of California’s children.

Providing free breakfast and lunch to California’s youngest learners will create peace of mind for families and allow providers to improve their care without taking on additional financial burdens. Expunging the per-meal pay penalty will help facilitate the process of undoing a legacy of racist childcare laws in the state that underpay and diminish the value of labor performed largely by Black, Latina, and immigrant women. SB 1481 offers a method to reduce childhood hunger and

eliminate costs that disproportionately impact low income families throughout the state. SB 1481 invests in our children's health and our state's childcare workforce early and substantially, and it continues California's commitment to create better outcomes for future generations.”

California has a complex system of early childhood programs. California's system of subsidized early care and education (ECE) is made up of a complex system of programs serving children from birth through 13 years, funded through a mix of federal and state dollars, and administered through a mixed delivery system by LEAs, community-based providers, and family childcare providers including, but not limited to:

- General Child Care and Development Programs include center-based or family childcare home care, provide part or full-time care for children from 0-5 years and out-of-school care for school age children up to age 13 from income eligible families who have a need for care;
- Alternative Payment Programs (APP) provide voucher-based childcare subsidies to low-income parents to access childcare through a wide range of providers. Includes vouchers offered through California's state welfare program, California Work Opportunity and Responsibility to Kids (CalWORKs), those for working families, as well as programs specifically for migrant children;
- CSPP provides center-based preschool for 3- and 4-year-old children from income eligible families, or who are otherwise eligible;
- FCCHENs provide child care and development services in family child care home settings. CDE contracts with FCCHEN contractors to provide ongoing training and support to network providers in order to assist these family child care home providers in offering early education and child care to eligible families with children ages birth through 13 years of age;
- Head Start and Early Head Start are federally-funded preschool and child development programs serving children from families with incomes below the federal poverty level, and offer education, childcare, extensive family engagement, and wraparound services;

These programs are provided by a wide range of providers. As of September 30, 2021, California had:

- 14,964 licensed center-based childcare programs;
- 196 license-exempt center-based childcare programs;
- 28,098 licensed family childcare homes; and
- 30,575 license-exempt family childcare homes.

According to the CDE, California had approximately 841,000 licensed spaces for children from birth to age 12 in 2019. They note that not all children under five need non-parental care, many of the approximately 2.8 million children of this age do require childcare. Clearly, California lacks the licensed capacity to meet the needs of all children and families.

TrustLine Providers: TrustLine is California's registry of unlicensed childcare providers, often referred to as Family, Friend, and Neighbor care. All childcare providers listed with TrustLine

are cleared through a background check process by submitting their fingerprints to the California Department of Justice and having no disqualifying criminal convictions in California. Caregivers can use the TrustLine Registry if they want to hire a nanny or license-exempt childcare provider. To be eligible to participate in the CACFP, TrustLine providers must provide care in their home, versus the child's home, and must work with a sponsor agency.

School Meal Reimbursement Rates. School meal reimbursement, by both the federal government and the state, varies each year. In order to receive reimbursement, schools must follow a certain meal pattern determined by the USDA. Depending on the age range, a full meal consists of a specified amount of fruits, vegetables, grains, meat/meat alternate, and milk.

In order to be reimbursed under the National School Lunch Program, a school must make nutritionally adequate meals available to all students. The level of reimbursement for schools and childcare nutrition programs under the state program is set annually through the annual Budget Act and generally includes provisions for increases due to cost of living adjustments.

Beginning in the 2022-23 school year, California will implement the Universal School Meals program, in which all public school districts, COEs, and charter schools serving students in grades TK-12 must provide breakfast and lunch to all students free of charge regardless of eligibility. The meals are also required to be nutritionally adequate meals that qualify for federal reimbursement. Any remaining unreimbursed costs are covered by the state for up to the federal free per-meal rate annually. Current reimbursement for the National School Lunch and School Breakfast programs are found in the tables below:

School Breakfast Program:

Type of meal	Free	Reduced-Price	Paid
Basic Breakfast	\$1.97	\$1.67	\$0.33
Especially Needy Breakfast	\$2.35	\$2.05	\$0.33

School Lunch Program:

Type of meal	Free	Reduced-Price	Paid
Agencies that serve less than 60% free/reduced-price lunches	\$3.66	\$3.26	\$0.35
Agencies that serve more than 60% free/reduced-price lunches	\$3.68	\$3.28	\$0.37
USDA meal rate	\$0.3975	\$0.3975	\$0.3975

The state provides additional reimbursements to LEAs of \$.2487 per free and reduced-price breakfast and lunch meals served within the federal meal programs.

Child and Adult Care Food Program. The CACFP is a state and federally funded program that provides funding to licensed childcare centers, adult daycare centers, and organizations that sponsor daycare homes to ensure participants receive nutritionally adequate meals while in care. The objectives of the program are to improve the diets of children under 13 years of age by providing children with nutritious, well-balanced meals, and to develop good eating habits in children. The USDA has requirements for preschool meal patterns which specify requirements

for foods served in order to qualify for reimbursements under the CACFP. The rules limit servings of juice, prohibit grain-based desserts, and limit the sugar content of cereal and yogurt served.

Any public or private nonprofit institution providing non-residential daycare to children is eligible to apply for funding under this program, including:

- Childcare centers;
- Sponsored day care homes;
- Preschool centers;
- Head Start centers; and
- Outside-school hours care centers.

Reimbursement rates for the CACFP are determined annually by the Food and Nutrition Service of the USDA. The rates for 2021-22 are as follows:

CACFP reimbursement for childcare centers

Type of meal	Free	Reduced-price	Base
Breakfast	\$1.97	\$1.67	\$0.33
Lunch/Supper	\$3.66	\$3.26	\$0.35
Snacks	\$1.00	\$0.50	\$0.09

Childcare programs operated by public schools are also eligible to receive state funding supplements of \$0.18 per meal for free and reduced-price breakfast and lunch.

CACFP reimbursement for daycare homes

Type of meal	
Breakfast	\$1.40
Lunch/Supper	\$2.63
Snacks	\$0.78

Childcare providers in daycare homes currently receive lower reimbursement rates than those provided for childcare centers. There is currently no additional state reimbursement for these providers, unless they are sponsored through a public school nutrition authority.

Impact of COVID on childcare meal programs. According to the Food Research and Action Center, CACFP saw a significant drop in the number of meals served as millions of children across the country lost access to childcare during COVID-19. Yet, CACFP provided support for many children and their families by providing nutritious onsite and “grab and go” meals. During the first seven months of COVID-19 (March through September 2020), CACFP served 480 million fewer meals, a 41% decrease, compared to the same months in 2019. As a result, CACFP childcare providers’ reimbursements decreased by \$690 million (-37%), a loss which creates

instability in the infrastructure for providing childcare in the U.S. Many childcare providers have already been forced to close or stop using CACFP as evidenced by the 17% decrease in the number of CACFP outlets in March through September 2020 compared to the same months in 2019. When children miss out on CACFP meals and snacks, it strains family budgets, contributing to food insecurity.

Access of young children to nutritious meals and snacks. A 2022 policy brief by the University of California’s Nutrition Policy Institute, *Research shows that CACFP helps fill nutrition gaps for preschoolers*, notes that the CACFP provides balanced and nutritious meals to nearly 800,000 California preschoolers daily. The brief notes that nutrition quality in childcare sites that participate in CACFP is better than sites that do not. They cite research demonstrating that children are not eating enough fruits and vegetables, particularly children and families with low-incomes. Lack of healthy food has been consistently associated with childrens’ poorer overall health status, and acute and chronic health problems later in life. For example, lack of healthy food increases risk of overweight and obesity:

- In 2010, 16% of California children aged 2-5 were overweight and another 17% were obese. Children with obesity are at increased risk of prediabetes, type 2 diabetes, and other risk factors for heart disease, such as high blood pressure, high cholesterol, and fatty liver disease; as well as sleep apnea, early puberty, and psychological issues;
- In California, child overweight or obesity is twice as common in families under 100% of the federal poverty level (FPL) as in families over 400% of the FPL, (44% vs. 21%); and
- In the U.S. in 2016, 26% of Hispanic children and 22% of non-Hispanic Black children have obesity, compared with 14% of White children and 11% of Asian children.

Parity in reimbursement rates. This bill requires that reimbursement rates for meals provided to children and pupils be equivalent, regardless of whether the child is in a public school, a childcare center, or a family childcare home. As noted earlier, childcare homes currently receive a lower reimbursement rate for meals. In addition, childcare centers and childcare homes do not receive supplementary funding for meals provided by the state, unless they are sponsored by a public school food authority.

Current law requires public school meals to meet specified criteria to qualify for reimbursement, including following USDA meal patterns and not serving food containing artificial trans fat, or food that has been fried or produced using prohibited oils or fats. Current law encourages, but does not require child development programs to comply with these guidelines.

Arguments in support. Nourish California, a sponsor of the bill, notes, “California recently became the first state in the nation to expand free meals to all K-12 students. It’s time to make a similar investment in our youngest learners.

Federal rules for childcare meal programs don’t reflect California’s true level of poverty—keeping many children from accessing nutritious, affordable meals. For example, a family of four must make less than \$34,060 a year in order for a childcare center to serve a free meal. Childcare providers take the hit financially for federal rules that don’t take into account California’s high cost of living. Each year, providers absorb tens of millions of dollars in costs for meals served to children who don’t qualify for free meals, but who need them all the same.

The harm to children and the burden on providers is exacerbated by state policies that financially penalize childcare providers for feeding younger children. Existing statute creates a pay penalty that limits providers to only 75% of the state reimbursement for meals served. The pay penalty is the result of a racist legacy of childcare laws—still in place today—that undercompensate labor historically performed by Black, Latina, and immigrant women.

With adequate funding and support, the federal Child and Adult Care Food Program, has the power to fill the gap in equitable access to healthy meals in childcare while supporting the financial stability of the workforce.”

Recommended Committee amendments. Staff recommend that the bill be amended to strongly encourage meals provided to children in childcare centers or homes, to meet all requirements specified in Section 49430.7, namely: following the USDA meal pattern; not serving a food item that has been deep fried, par fried, or flash fried; not serving food containing artificial trans-fat; and not serving items that the manufacturer has deep fried, pan fried, or flash fried in a prohibited oil or fat.

Related legislation. AB 130 (Committee on Budget), Chapter 44, Statutes of 2021, requires, beginning in fiscal year 2022-23 and upon a budget appropriation, LEAs to offer breakfast and lunch to all students who request it, regardless of a student’s ability to pay. Further requires, on or before June 30, 2022, that an LEA that has high-poverty schools in its jurisdiction apply to operate a federal universal meal service provision, as specified.

AB 842 (Limon) of the 2019-20 Session would have required each part-day CSPP to provide at least one nutritious meal per program day, and each full-day CSPP to provide at least two nutritious meals or two snacks and one nutritious meal per program day. Further, this bill would have required each LEA, including a charter school, that maintains a child care and development program to provide at least one nutritionally adequate free or reduced-price meal to each needy child, and would have removed the requirement that family daycare homes, funded through school district programs, be reimbursed for 75% of the meals served. AB 842 was vetoed by Governor Newsom with the following message:

Providing nutritious meals in childcare and preschool settings is an important feature of ensuring our youngest children get a healthy start in life, and is currently required of providers who participate in the state's subsidized childcare system. However, this bill places stricter requirements on our preschools and daycare providers without fully considering the additional costs it would place on them. While federal and state reimbursement programs may offset a portion of these costs, it is unclear whether many providers can readily access those programs. Moreover, this bill creates ongoing costs in the low millions of dollars and should be considered in the annual budget process.

California is in the process of taking a much-needed holistic look at our early learning and care system. It is premature to saddle additional requirements on these providers until the state understands the true cost of care, including the cost of the nutrition requirements placed on providers.

REGISTERED SUPPORT / OPPOSITION:**Support**

Nourish California (Co-sponsor)
CACFP Roundtable (Co-sponsor)
All Five
American Heart Association
Berkeley Food Network
Building Better Communities Foundation
California Academy of Nutrition and Dietetics
California Association of Food Banks
California Family Child Care Network
California Food and Farming Network
Child Care Providers United
Children's Partnership
Coalition of California Welfare Rights Organizations
Cocokids
Council for a Strong America
Early Care and Education Consortium
Fight Crime: Invest in Kids
First 5 Alameda County
First 5 Association of California
Food Bank of Contra Costa and Solano
Glide
Head Start California
Kidango
Los Angeles County Office of Education
Los Angeles Regional Food Bank
Mission: Readiness
Multi-faith Action Coalition
National Association of Social Workers, California Chapter
ReadyNation
River City Food Bank
San Diego Hunger Coalition
San Francisco-Marin Food Bank
Second Harvest Food Bank of Orange County
Second Harvest of Silicon Valley
Silicon Valley Community Foundation
Solano Family & Children's Services
The Gubbio Project
UDW/AFSCME Local 3930
Unbox

Opposition

None on file

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