

Date of Hearing: June 28, 2023

ASSEMBLY COMMITTEE ON EDUCATION

Al Muratsuchi, Chair

SB 348 (Skinner) – As Amended June 14, 2023

[This bill is double referred to the Assembly Committee on Human Services and will be heard by that Committee as it relates to their jurisdiction.]

SENATE VOTE: 40-0

SUBJECT: Pupil meals

SUMMARY: Requires the California Department of Education (CDE), in partnership with the California School Nutrition Association (CSNA) to develop guidelines to reduce the sugar and sodium content in school meals; requires schools to provide students with adequate time to eat following guidelines established by the CDE; authorizes meal reimbursement for meals served during the expanded learning opportunity program (ELOP); and makes various conforming changes to the school meal program to implement the free universal school breakfast and lunch program. Specifically, **this bill:**

- 1) Requires, to the extent allowable under federal law, ELOPs operated by local educational agencies (LEAs) to qualify as instructional time only for purposes of qualifying for the federal School Breakfast Program and the National School Lunch Program (NSLP).
- 2) Requires the CDE to convene representatives from the CSNA and cafeteria workers, to work in partnership to do all of the following:
 - a) Develop guidelines that establish the amount of added sugar that can be allowed in a nutritionally adequate breakfast or lunch;
 - b) Develop recommendations that conform to the American Academy of Pediatrics' (AAP) recommendation of less than 25 grams of added sugar per day for children two years of age and older;
 - c) Develop recommendations that conform to the maximum daily sodium intake recommendations for children and adolescents in the Dietary Guidelines for Americans, established by the United States Department of Agriculture (USDA) and the United States Department of Health and Human Services;
 - d) Ensure that schools prioritize foods with higher nutritional density when there is added sugar or salt in the food;
 - e) Use a methodology of compliance evaluation that considers an average weekly calculation; and
 - f) Develop guidelines and recommendations that allow for a nutritionally adequate breakfast or lunch to include the serving of a second entree to pupils who have a need for more calories during the schoolday.

- 3) States that a nutritionally adequate breakfast or lunch shall not consist of more added sugar than what is allowed by the guidelines developed by the CDE. States that any meal that is not in compliance with the guidelines and recommendations developed by the CDE are ineligible for state meal reimbursement.
- 4) Deletes the requirement for a chartering authority to provide technical assistance to a charter school regarding school meals and deletes the authorization for a charter school to contract with an existing school food service authority to provide school meals.
- 5) Requires school districts, county offices of education (COEs) and charter schools to provide adequate time to eat, as determined by the CDE.
- 6) Requires the CDE to submit a waiver request to the USDA to allow for one meal provided during the schoolday lasting four hours or less to be served in a noncongregate manner. States that if a waiver is approved, LEAs may provide either breakfast or lunch in a noncongregate manner. States that if the waiver is denied, LEAs shall serve either breakfast or lunch on schooldays less than four hours. Authorizes LEAs to serve breakfast and lunch on schooldays less than four hours.
- 7) Requires LEAs to serve a second meal to pupils who remain on a schoolsite after a shortened schoolday.
- 8) Authorizes a school district, COE or charter school to opt out of participating in a state or federal reimbursement program to choose to offer competitive foods, provided the entity can meet the nutrition requirements.
- 9) Requires the CDE to review available evidence-based research and studies and conduct a survey with school food authorities and school food workers, or their representatives, to make a recommendation for the amount of time that is adequate for a pupil to eat a school meal including, but not limited to, the steps necessary to ensure that a pupil has an adequate time to eat school meals and examining the role that breakfast in the classroom and other innovative breakfast models can play in supporting adequate time to eat. Requires these recommendations to be made public on the CDEs website on or before March 1, 2024.
- 10) Requires the CDE to work with the State Department of Social Services (DSS) to maximize participation in the federal Summer Electronic Benefit Transfer for Children (Summer EBT) program. Requires the two departments to share all data determined by the departments to be necessary to adhere to the requirements. Requires the CDE to follow the federal guidelines and regulations to maximize flexibility for LEAs to distribute summer meals through noncongregate distributions.
- 11) Deletes obsolete code sections regarding meal shaming, meal debt collection, charter school meal requirements and funding for school meals enacted prior to implementation of the free universal school breakfast and lunch program.
- 12) Defines “nutritionally adequate breakfast” as one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program.

- 13) Defines “nutritionally adequate lunch” as one that qualifies for reimbursement under the most current meal pattern for the federal NSLP.
- 14) Defines “school day” to mean any day that pupils in kindergarten or any of grades 1 to 12, inclusive, are attending school for purposes of classroom instruction, including, but not limited to, pupil attendance at minimum days, state-funded preschool, transitional kindergarten (TK), summer school including incoming kindergarten pupils, extended school year days, and Saturday school sessions.

EXISTING LAW:

- 1) Provides that, from one-half hour before the start of the school day to one-half hour after the school day, the only food that may be sold to students as competitive foods include individually-sold dairy or whole grain foods, and individually-sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes. (Education Code (EC) 49431)
- 2) Requires the *food* described above, if sold outside of a USDA meal program at an *elementary school*, to meet all of the following standards:
 - a) Not more than 35% of its total calories shall be from fat. Exempt from this standard are individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, or legumes;
 - b) Not more than 10% of its total calories shall be from saturated fat. Exempt from these standards are eggs or cheese packaged for individual sale;
 - c) Not more than 35% of its total weight shall be composed of sugar, including naturally occurring and added sugar. Exempt from this standard are fruit or vegetables that have not been deep fried; and
 - d) Not more than 200 calories per individual food item. (EC 49431)
- 3) Requires, at each *middle school or high school*, a competitive *entrée* sold by the district food service department the day, or the day after, it is served on the federal National School Lunch Program or federal School Breakfast Program menu to meet the following standards:
 - a) Contains not more than 400 calories per entrée item;
 - b) Not more than 35% of its total calories shall be from fat;
 - c) Contains less than 0.5 grams of trans fat per serving; and
 - d) Is offered in the same or smaller portion sizes as in the federal NSLP or federal School Breakfast Program. (EC 49431.2)

- 4) Provides that, from one-half hour before the start of the schoolday to one-half hour after the schoolday at an *elementary or middle school*, only the following *beverages* may be sold:
 - a) Fruit-based drinks that are composed of no less than 50% fruit juice and have no added sweetener;
 - b) Vegetable-based drinks that are composed of no less than 50% vegetable juice and have no added sweetener;
 - c) Plain water or plain carbonated water; and
 - d) 1%-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk. (EC 49431.5)
- 5) Provides that, from one-half hour before the start of the schoolday to one-half hour after the schoolday, at a *high school*, only the following *beverages* may be sold:
 - a) Fruit-based drinks that are composed of no less than 50% fruit juice and have no added sweetener;
 - b) Vegetable-based drinks that are composed of no less than 50% vegetable juice and have no added sweetener;
 - c) Plain water or plain carbonated water;
 - d) One-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk;
 - e) Flavored water or flavored carbonated water with no added sweetener that is labeled to contain less than 5 calories per 8 fluid ounces in a maximum serving size of 20 fluid ounces;
 - f) Flavored water or flavored carbonated water with no added sweetener that is labeled to contain no more than 40 calories per 8 fluid ounces in a maximum serving size of 12 fluid ounces;
 - g) Electrolyte replacement beverages that are labeled to contain less than 5 calories per 8 fluid ounces in a maximum serving size of 20 fluid ounces; and
 - h) Electrolyte replacement beverages that are labeled to contain no more than 40 calories per 8 fluid ounces in a maximum serving size of 12 fluid ounces. (EC 49431.5)
- 6) Prohibits a school or school district from selling food containing artificial trans fat to K-12 students, from one-half hour before the start of the schoolday to one-half hour after the schoolday. (EC 49431.7)

- 7) Requires, by July 1, 2023, the CDE, in consultation with the DSS, to develop guidance for LEAs that maintain kindergarten or any of grades 1 to 6, inclusive, on how to serve eligible nonschoolaged children breakfast or a morning snack at a LEA schoolsite. (EC 49495)
- 8) Requires, commencing with the 2022–23 school year all of the following:
 - a) A school district or county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period, except when it requires family daycare homes to be reimbursed for 75% of the meals served. Requires the meals provided to be nutritiously adequate meals that qualify for federal reimbursement;
 - b) A charter school to provide two school meals free of charge during each schoolday to any pupil who requests a meal, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period. Requires the meals to be nutritiously adequate meals that qualify for federal reimbursement; and
 - c) An LEA that has a reimbursable school breakfast program to not charge any pupil enrolled in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, any amount for any breakfast served to that pupil through the program, and to provide a breakfast free of charge to any pupil who requests one, without consideration of the pupil’s eligibility for a federally funded free or reduced-price meal. Requires the meals provided free of charge to be nutritiously adequate, and to count toward the total of two school meals required to be provided each schoolday. (EC 49501.5)
- 9) Requires each school district, or county superintendent of schools maintaining any kindergarten or any of grades 1 to 12, inclusive, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday. (EC 49550)
- 10) Requires a charter school to provide each needy pupil with one nutritionally adequate free or reduced-price meal during each schoolday. Requires a charter school that offers nonclassroom-based instruction to meet the requirements for any eligible pupil on any schoolday that the pupil is scheduled for educational activities lasting two or more hours at a schoolsite, resource center, meeting space, or other satellite facility operated by the charter school. (EC 47613.5)
- 11) Prohibits a school district or COE from denying a meal to any free or reduced-price eligible pupils, and requires that these pupils receive the same meal as all other pupils. (EC 49550 and 49557)

FISCAL EFFECT: According to the Senate Appropriations Committee, this bill could result in additional General Fund costs to the CDSS for ongoing outreach activities and payment system automation to enable the state to opt into the SEBTC and maximize participation. The 2023 May Revision includes a total of \$47 million for similar purposes which includes \$2 million for outreach (\$1 million General Fund) and \$45 million for automation (\$22.5 million General Fund). The CDE estimates ongoing General Fund costs of approximately \$172,000 and 1.0

position to support the SEBTC program and coordinate with the CDSS. By requiring charter schools to provide two meals, rather than one, and also to serve breakfast on four-hour schooldays, this bill will lead to increased participation in the federal and state meal programs. This could result in additional Proposition 98 General Fund costs in the low tens of thousands of dollars each year in meal reimbursements for these students. The bill's costs resulting from the proposed changes to school meal requirements are indeterminate, but could lead to schools not being eligible for reimbursement for meals that are not in compliance with state or federal guidelines or not nutritionally adequate.

COMMENTS:

Need for the bill. According to the author, "The newly proposed national school nutrition standards are a much-needed step to ensure that all American children can access healthy school meals. Now that California provides our K-12 students two free meals a day, we want those meals to be healthy and not contribute to health complications like diabetes, which is now the most common chronic disease among school-age children. SB 348 will ensure that California's school meals are nutritious and that California is a national leader in the fight against diabetes."

What does this bill do? This bill makes numerous changes to school meal requirements in six main areas:

- Requires the CDE, in partnership with the CSNA to develop guidelines to reduce the sugar and sodium content in school meals;
- Requires schools to provide students with adequate time to eat following guidelines established by the CDE;
- Authorizes meal reimbursement for meals served during the ELOP;
- Authorizes schools to serve only one meal, instead of both breakfast and lunch, on shortened schools days less than 4 hours;
- Requires the CDE to work with the DSS to maximize participation in the federal Summer Electronic Benefit Transfer for Children (Summer EBT) program; and
- Deletes obsolete code sections regarding meal shaming, meal debt collection, charter school meal requirements and funding for school meals prior to implementation of the free universal school breakfast and lunch program.

USDA meal programs. The CDE Nutrition Services Division administers many of the USDA meal programs at the state level, including:

- *The National School Lunch Program (NSLP).* The NSLP is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day;

- *The School Breakfast Program (SBP)*. The SBP provides reimbursement to states to operate nonprofit breakfast programs in schools and residential childcare institutions. The Food and Nutrition Service of the USDA administers the SBP at the federal level;
- *The Child and Adult Care Food Program (CACFP)*. The CACFP is a federal program that provides reimbursements for nutritious meals and snacks to eligible children and adults who are enrolled for care at participating childcare centers, day care homes, and adult day care centers. The CACFP also provides reimbursements for meals served to children and youth participating in afterschool programs, children residing in emergency shelters, and adults over the age of 60 or living with a disability and enrolled in day care facilities;
- *The Summer Food Service Program (SFSP)*. The SFSP is a federally-funded, state-administered program. The SFSP reimburses program operators who serve free healthy meals and snacks to children and teens in low-income areas; and
- *The Seamless Summer Option (SSO)*. Schools participating in the NSLP or SBP are eligible to apply for the SSO. This option allows public schools to combine features of the School Nutrition Programs and the SFSP along with reduced paperwork requirements, making it easier for schools to feed children during the traditional summer vacation periods and, for year-round schools, long school vacation periods.

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 of the students served, a full meal consists of a specified amount of fruits, vegetables, grains, meat/meat alternative, and milk. Most schools throughout the state participate in “offer versus serve,” which allows a student to pick three of the aforementioned five components in order for the school to receive full reimbursement for that student’s meal.

The federal school lunch reimbursement rates are \$4.41 for free lunch and \$4.01 for reduced priced lunch. Schools that serve more than 60% low income students receive \$0.02 more for both free and reduced priced lunches, as shown in the chart below.

National School Lunch Program

Description	Free	Free+8 cents*	Reduced-Price	Reduced-Price+8 cents*	Paid	Paid+8cents*
Agencies that served less than 60% free/reduced-price lunches in 2021–22	\$4.33	\$4.41	\$3.93	\$4.01	\$0.77	\$0.85
Agencies that served 60% or more free/reduced-price lunches in 2021–22	\$4.35	\$4.43	\$3.95	\$4.03	\$0.79	\$0.87
Commodity Value	\$0.4300	\$0.4300	\$0.4300	\$0.4300	\$0.4300	\$0.4300

Note: Payments listed for free and reduced-price lunches include both section 4 and section 11 funds of the National School Lunch Act.

(Source: CDE, 2022-23 school year)

Beginning with the 2022-23 school year, the state requires school districts and charter schools to provide two free meals per day to all students, regardless of free meal eligibility. The state reimburses school districts and charter schools for the cost of the meal, up to the federal free meal reimbursement rates for all students who are not eligible for federal free meals.

Meals served on shortened school days. Under federal law, schools may only serve federally reimbursable meals in a congregate setting, which means the student is eating the meal on the premises of the school grounds. Some schools operate with shortened days on certain days of the week. On these days, schools can only receive federal reimbursement if they serve a meal at school. With the state's new requirement that schools serve both breakfast and lunch each school day, anecdotal reports suggest that an unconfirmed number of schools are struggling to serve two congregate meals during the shortened day. This bill requires the CDE to apply for a federal waiver to authorize schools to serve one of those meals in a non-congregate setting, such as a grab and go meal. Previous waiver requests have been denied. Further, this bill relaxes the requirement for schools to serve only one meal on school days less than 4 hours. While an unconfirmed number of schools may be struggling to provide two congregate meals during shortened school days, other schools are not having trouble implementing the law. This bill relaxes the requirement to provide two meals on shortened school days for all schools, not just those that are struggling to implement the law. ***The Committee may wish to consider*** whether it is in the best interest of children, particularly low income children, for all schools to be authorized to serve only one meal on school days less than 4 hours, and whether to amend this bill to remove the authorization for schools to offer one meal on shortened school days.

What is adequate time to eat? The CDE, in the 2006 report "School Nutrition...by Design," specifies that one strategy for increasing student participation in school lunch is, "scheduling sufficient time to enable students to eat after being served—no less than 10 minutes for breakfast and no less than 20 minutes for lunch." This bill requires the CDE to establish guidelines for schools to provide an adequate time to eat, and requires schools to implement the guidelines. The following states have policies in place that require all schools to provide students with adequate time to eat: Colorado, Connecticut, Delaware, District of Columbia, Mississippi, New Mexico, Nevada, South Carolina, Texas, and West Virginia.

If a school does not currently provide the required adequate time for students to eat, a range of solutions could be implemented to increase the time available to eat. Some solutions include increasing the length of the school day, increasing the number of tables available, increasing the number of lunch periods, and increasing the number of lunch lines.

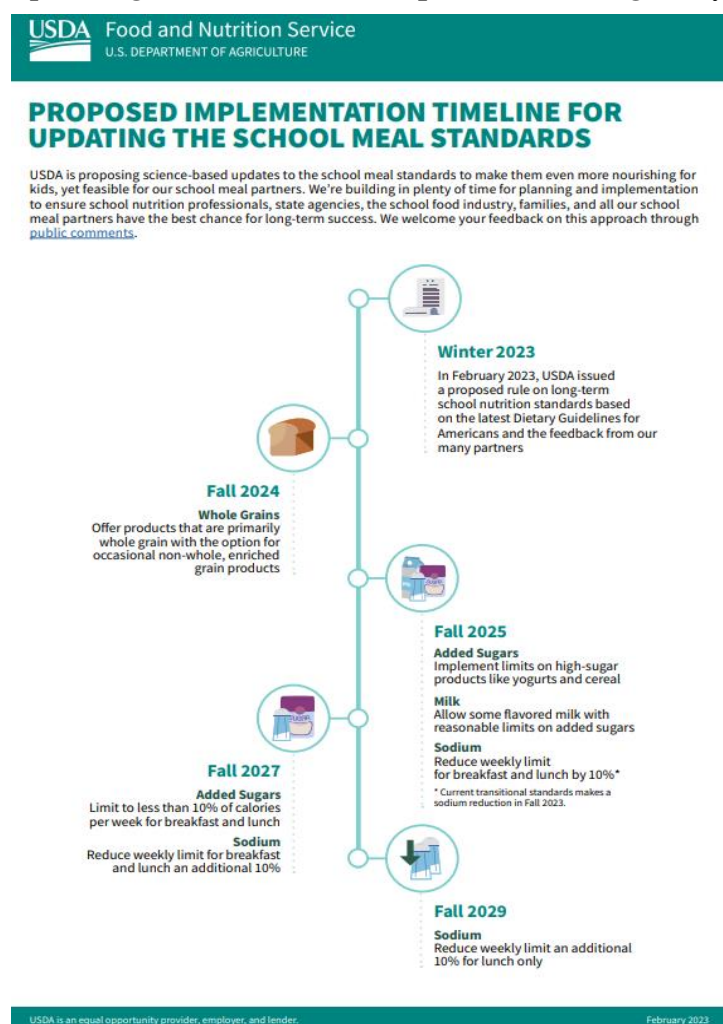
There could be some potential unintended consequences in implementing this bill. If the school determines that the school day must be lengthened to accommodate a longer lunch period, there could be collective bargaining implications. This bill creates a mandate; would the cost of lengthening the school day be reimbursable? ***The Committee may wish to consider*** how this bill will be implemented and the potential for unintended consequences.

Sugar and sodium content in school meals. This bill requires the CDE, in partnership with the CSNA to develop guidelines to reduce the sugar and sodium content in school meals to be consistent with current recommendations established by the American Academy of Pediatrics' and the Dietary Guidelines for Americans, established by the USDA and the United States Department of Health and Human Services.

Reduced sugar and sodium levels are calculated on a weekly average for school meals offered to students. This means that in order to meet the new reduced levels, schools will need to make different choices about the food items that are served. For example, a school may serve both muffins and flavored milk to students, which contain added sugar. Some schools may choose to stop serving flavored milk, while continuing to offer a muffin, in order to meet the new reduced sugar levels. Other schools may choose to offer flavored milk only once per week, while serving the muffin on the other days. How schools choose to change their menu to meet the new reduced sugar levels would be a local decision.

Flavored milk. Current law authorizes the sale of 1% fat and nonfat milk along with other non-dairy milk products. Current law does not prohibit the sale of flavored milk, such as chocolate or strawberry. Flavored milk contains significantly more sugar than plain milk. According to the New York City Center for Health Equity, “Children who drink chocolate milk twice a day consume about 80 grams of added sugar each week. This is more than six pounds of sugar per child each school year. Chocolate milk has more calories, sugar and sodium than plain milk, but no added health benefits.” Because of the increased sugar content, *the Committee may wish to consider* whether it is appropriate to sell flavored milk in school, particularly to elementary school students.

Upcoming USDA Nutrition Requirement Changes. By law, USDA is required to develop school nutrition standards that reflect the goals of the most recent edition of the *Dietary Guidelines for Americans*, which found that most kids are consuming too much sugar, sodium, and saturated fat, and not enough fruits, vegetables, and whole grains. This is leading to a rise in diet-related diseases.



In February 2022, USDA published a rule that served as a bridge to give schools the support they need as they work together to build back from the pandemic. The rule establishes transitional standards for school years 2022-2023 and 2023- 2024 in three key areas – milk, whole grains, and sodium per the chart above. On February 7, 2023, the USDA began the public comment process to receive feedback on their proposal making various changes to school meal nutrition. In time to plan for the 2024-2025 school year, “USDA plans to issue a final rule establishing practical, implementable, science based school meal standards that work for schools,

industry, and – most importantly – the more than 30 million school children that rely on the school meal programs every day.”

This bill would require the CDE, in consultation with stakeholders, to develop guidelines and recommendations on the appropriate levels of sugar and sodium content ahead of USDA’s upcoming regulations. This bill proposes sugar requirements that impose stricter guidance than what the USDA is proposing. The USDA has proposed two options:

- 1) *Product-based limits:* Beginning in school year (SY) 2025-2026, this rule proposes to implement quantitative limits for leading sources of added sugars in school meals, including grain-based desserts, breakfast cereals, yogurts, and flavored milks. For consistency, the rule proposes to apply the product-based added sugars limits for cereals and yogurts to the CACFP; the proposed added sugars limit would replace the current total sugars limits for these products in CACFP. Under the proposed rule:
 - Grain-based dessert, which include cereal bars, doughnuts, sweet rolls, toaster pastries, coffee cakes, and fruit turnovers, would be limited to no more than 2 ounce equivalents per week in school breakfast, consistent with the current limit for school lunch;
 - Breakfast cereal would be limited to no more than 6 grams of added sugars per dry ounce;
 - Yogurt would be limited to no more than 12 grams of added sugars per 6 ounces; and
 - Flavored milk would be limited to no more than 10 grams of added sugars per 8 fluid ounces or, for flavored milk sold as a competitive food for middle and high schools, 15 grams of added sugars per 12 fluid ounces.
- 2) *Weekly dietary limit:* Beginning in SY 2027-2028, this rule proposes to implement a dietary specification limiting school breakfasts and lunches to an average of less than 10% of calories per meal from added sugars. This weekly limit would be in addition to the product-based limits described above.

The proposed regulations regarding sugar content could change after the public comment period.

Charter school meals. AB 130 (Committee on Budget) Chapter 44, Statutes of 2021, requires charter schools to provide breakfast and lunch to students during each school day beginning in the 2022-23 school year. This bill deletes an obsolete code section authorizing charter schools to avoid this requirement during their first year of operation. This bill also deletes the authorization for charter schools to receive technical assistance from their chartering authority and to contract with existing school food authorities to provide school meals. ***The Committee may wish to consider*** amending the bill to reinstate the ability of a charter school to receive technical assistance and contract for school meals from existing school food authorities; and to require chartering authorities to contract with new charter schools to provide school meals until the charter school is approved or during the first year of operation, whichever occurs first, to assist charter schools in providing school meals in their first year of operation, before they are an approved school food authority.

Meals for students in independent study and the definition of schoolday. Existing law requires all schools to provide breakfast and lunch each schoolday. This bill redefines schoolday to only

include days in which students attend school for classroom instruction for purposes of the universal free meal program. This means that schools that provide independent study, or nonclassroom-based instruction may be exempt from the meal requirements.

Existing law requires nonclassroom-based charter schools, which operate an independent study model, to offer breakfast and lunch to students when they are in activities on the schoolsite for at least 2 hours on any schoolday. It is unclear how the definition of schoolday in Section 49501.5 interacts with the requirements for nonclassroom-based instruction in Section 47613.5. Further, it is unclear what the implications of the new definition would be for school districts and COEs that offer independent study to students who are in activities at the schoolsite during the day. It is possible that they would be exempt from offering breakfast and lunch to these students.

It is the intent of the Legislature that school districts, county offices of education and charter schools that provide independent study programs, where students are on campus for 2 hours or more per day, provide breakfast and lunch at designated meal times to any student on campus. *The Committee may wish to consider* amending the bill to create consistency among the rules for providing breakfast and lunch to students in independent study across school districts, COEs and charter schools.

Expanded Learning Opportunity Program (ELOP). The ELOP program, established in 2021, provides funding for afterschool and summer school enrichment programs for TK through 6th grade students. The state provided \$1.8 billion Proposition 98 funding in 2021-22 to establish this program, with a goal to reach \$5 billion annually by 2025-26. The Budget Act of 2022 provided \$4 billion in ongoing funding for ELOP.

School districts and charter schools are required to offer at least nine hours of combined in-person instructional time and expanded learning opportunities during the school day and for 30 days during the summer. The program must include educational and enrichment components with maximum student to staff ratios of 20:1.

Funding for ELOP is apportioned on a formula basis rather than through a competitive grant process. Funding is based on the district or charter's number of English learners and low-income students in grades TK-6th grade. In 2022-23, districts and charter schools with a student body that is equal to or more than 75% unduplicated pupils receive \$2,750 per unduplicated student enrolled in TK-6 for ELOP allowable services. LEAs with concentrations of unduplicated pupils less than 75% receive approximately \$2,000 per unduplicated student enrolled in TK-6, with a minimum apportionment of \$50,000.

Beginning in the 2023-24 school year, as a condition of ELOP funding, districts and charter schools with a student body that is equal to or more than 75% unduplicated pupils must offer the program to all TK through grade 6 students in classroom-based settings and provide access to any student whose parent or guardian requests their placement in a program. LEAs with less than 75% concentrations of unduplicated pupils must offer ELOP to all TK through grade 6 students attending classroom-based programs who are unduplicated and must provide access to at least 50% of those students.

Meals provided to students during ELOP. Existing law requires ELOP to provide meals to students, however, because the time spent in ELOP does not count as "instructional time," the meals that are served are not reimbursable under the NSLP. Instead, meals served during ELOP

fall under the Summer Food Service Program, which only provides meal funding to sites serving areas that are “area eligible” with 50% or more free and reduced priced eligible students in the designated area. This means that ELOP located on school sites that are “area eligible” receive federal meal reimbursement for the meals served to students; and ELOP located on school sites that are not “area eligible” do not receive any federal meal reimbursement. School sites that are not “area eligible” are currently using ELOP funding to pay for the meals provided to students, which is not financially sustainable. In order to provide students with more equitable access to meals during ELOP programs, the author intends to authorize state funding for meals provided during ELOP at school sites that are not “area eligible.” The bill is drafted to make state funding available only if the meals are reimbursed by the federal government which does not achieve the author’s intent, therefore, the *Committee may wish consider* amending the bill to clarify that state funding will be made available regardless of federal reimbursement.

Arguments in support. The San Diego Hunger Coalition states, “A diet high in added sugar and sodium increases the risk of many health problems for children, including diabetes, digestive issues, and a heightened risk of heart attack and stroke. Nutritional standards guiding added sugar content in school meals do not currently exist in California, and the insufficient time children have to eat at school encourages students to choose foods higher in sugar, fat, and salt. The combination of limited nutritious meal options, inadequate time to eat in school, and acute summertime hunger undermines the physical health and learning potential of California kids.”

Arguments in opposition. The Charter Schools Development Center states, “We share the goal of providing two free healthy meals a day for K-12 students. We appreciate the author’s leadership in reconciling the state and federal child nutrition programs and positioning California as a leader in providing the healthiest food for California kids. However, recent amendments to Education Code Section 47613.5 (a-e) appear to have a few technical deficiencies. We are concerned that striking all of this language may cause serious unintended consequences.”

Recommended Committee Amendments. *Staff recommends the bill be amended* as follows:

- 1) Delete the provisions authorizing schools to provide one meal on shortened school days.
- 2) Clarify that LEA operated ELOP programs operated at sites with less than 50% community eligibility are authorized to receive state apportionment for meals served to students, regardless of approval of federal meal reimbursement.
- 3) Delete the authorization for LEAs to opt out of participating in state or federal meal reimbursement programs.
- 4) Make the breakfast and lunch meal requirements consistent for independent study for school districts, COEs and charter schools, for programs where students are on campus for 2 hours per day or more.
- 5) Reinstate the authorization for charter schools to receive technical assistance from their authorizer and contract with an existing school food authority to provide meals; and, require charter authorizers to contract with new charter schools to provide breakfast and lunch until the charter school is an approved school food authority, or until July 1 after operation began, whichever occurs first.

- 6) Delete the requirement for the CDE to develop guidelines for serving a second entrée to pupils who need more calories during the schoolday.
- 7) Correct references to LEA and instead refer to school districts, COEs and charter schools in Section 49501.5 and consolidate all school meal requirements for school districts, COEs and charter schools into 49501.5.
- 8) Correct references in Section 49531 to include charter schools.
- 9) Make other technical and conforming changes.

Related legislation. AB 130 (Committee on Budget), Chapter 44, Statutes of 2021, establishes the California Universal Meals Program with changes to the state meal mandate and new requirements for high poverty schools to apply for a federal provision.

AB 1871 (Bonta) Chapter 480, Statutes of 2018, requires charter schools, commencing with the 2019-20 school year, to provide each low-income pupil with one nutritionally adequate free or reduced-price meal during each schoolday.

SB 138 (McGuire) Chapter 724, Statutes of 2017, requires the CDE, in consultation with the State Department of Health Care Services, to develop and implement a process to use Medi-Cal data to directly certify children whose families meet the income criteria into the school meal program; requires school districts and COEs with high poverty schools and high poverty charter schools currently participating in the breakfast or lunch program to provide breakfast and lunch free of charge to all students at those schools; and, authorizes a school district, COE, or charter school to opt-out due to fiscal hardship.

AB 1169 (McGuire), Chapter 280, Statutes of 2016, makes numerous changes to school nutrition standards for competitive food and beverages to better align to the federal Smart Snacks in Schools regulations.

AB 292 (Santiago) of the 2015-16 Session, would have required school districts to ensure that each of their schools provide students adequate time to eat after being served a meal, and requires schools that do not provide students with adequate time to eat to develop a plan to increase students' time to eat lunch. This bill was held in the Senate Appropriations Committee.

AB 2449 (Bocanegra) of the 2013-14 Session, would have required school districts and COEs to ensure that each of their schools provide students adequate time to eat after being served a meal. This bill was held in the Senate Appropriations Committee.

AB 626 (Skinner), Chapter 706, Statutes of 2013, makes numerous changes to school nutrition standards to conform with the federal Healthy and Hunger Free Kids Act (HHFKA), makes changes relative to the use of cafeteria funds, and deletes obsolete provisions.

SB 12 (Escutia), Chapter 235, Statutes of 2005, eliminates the pilot program on nutrition standards for competitive foods and instead implements nutrition standards for competitive foods in elementary schools, and extends the standards to secondary schools.

SB 19 (Escutia) Chapter 913, Statutes of 2001, establishes a pilot program for nutrition standards for competitive foods for elementary schools and limits the sale of certain beverages at secondary schools.

REGISTERED SUPPORT / OPPOSITION:

Support

Agricultural Institute of Marin
Alameda County Community Food Bank
Alchemist CDC
Allensworth Progressive Association
Alliance San Diego
American Academy of Pediatrics, California
American Diabetes Association
American Heart Association
Asian Pacific Islander Forward Movement
Buen Vecino
California Academy of Nutrition and Dietetics
California Alternative Payment Program Association
California Association for Bilingual Education (CABE)
California Association of Food Banks
California Calls
California Catholic Conference
California Chapter American College of Cardiology
California Dental Association
California Federation of Teachers Afl-cio
California Food and Farming Network
California Immigrant Policy Center
California Medical Association
California Rural Legal Assistance Foundation
Californians for Pesticide Reform
Center for Food Safety; the
Center for Science in The Public Interest
Ceres Community Project
Changelab Solutions
Chef Ann Foundation
Children Now
Coastside Farmers' Markets
Common Sense Media
Community Action Partnership of Orange County
Community Action Partnership of San Bernardino County
Community Health Councils
County of San Mateo
Cultiva LA Salud
Dolores Huerta Foundation
Eat Real
Eat. Learn. Play. Foundation
Ecology Center

Etta
Faith Action for All
Farm2people
Food Bank of Contra Costa & Solano
Food Bank of Santa Barbara
Food for People, the Food Bank for Humboldt County
Food in Need of Distribution Food Bank
Food Research & Action Center
Food Share
Foodbank of Santa Barbara County
Foodcorps
Friends Committee on Legislation of California
Gasol Foundation
Glide
Golden State Opportunity
Good Samaritan Family Resource Center
Grace Institute/end Child Poverty in Ca
Hadassah
Hunger Action Los Angeles
Innercity Struggle
Jacob and Cushman San Diego Food Bank
Jakara Movement
Jcrc Bay Area
Jewish Center for Justice
Jewish Community Relations Council of Sacramento
Jewish Community Relations Council of Silicon Valley
Jewish Democratic Club of Silicon Valley
Jewish Democratic Club of Solano County
Jewish Family & Children's Service of Long Beach and Orange County
Jewish Family & Community Services East Bay
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family Service of Los Angeles
Jewish Family Service of The Desert
Jewish Family Service San Diego
Jewish Family Services of Silicon Valley
Jewish Federation of The Greater San Gabriel and Pomona Valleys
Jewish Federation of The Sacramento Region
Jewish Long Beach
Jewish Public Affairs Committee
John Burton Advocates for Youth
Jvs Social
Kaiser Permanente
Kitchen Table Advisors
Kitchens for Good
LA Care Health Plan
Los Angeles Community Action Network
Los Angeles Food Policy Council
Los Angeles Regional Food Bank

Marin Food Policy Council
Multi-faith Action Coalition
National Association of Social Workers, California Chapter
National Council of Jewish Women CA
Nextgen California
No Kid Hungry California
Open Heart Kitchen
Para Los Ninos
Parent Voices California
Pesticide Action Network North America
Polo's Pantry
Progressive Zionists of California
Public Health Advocates
Public Health Institute's Center for Wellness and Nutrition
Redwood Empire Food Bank
Richards Grassfed Beef
Roots of Change
Sacramento Food Bank & Family Services
Sacramento Food Policy Council
San Diego Food System Alliance
San Diego Hunger Coalition
San Francisco-marin Food Bank
San Luis Obispo Food Bank
San Mateo County Board of Supervisors
San Mateo Food System Alliance
Santa Clara County School Boards Association
Second Harvest Food Bank of Orange County
Second Harvest Food Bank of Santa Cruz County
Second Harvest Food Bank Santa Cruz County
Second Harvest of Silicon Valley
Second Harvest of The Greater Valley
Semillas Sociedad Civil
Sierra Harvest
Southern California Center for Latino Health
Spur
State Superintendent of Public Instruction Tony Thurmond
Stemple Creek Ranch
Tcc Family Health
The Edible Schoolyard Project
The Gubbio Project
The Praxis Project
Tomkat Ranch
Union of Concerned Scientists
United Food and Commercial Workers, Western States Council
Vecinos Unidos Arvin Chapter
Vecinos Unidos Bakersfield Chapter
Vecinos Unidos California City Chapter
Vecinos Unidos Lamont Chapter
Vecinos Unidos Lindsay Chapter

Vecinos Unidos Parlier Chapter
Vecinos Unidos Sanger Chapter
Vecinos Unidos Woodlake Chapter
Western Center on Law & Poverty
Women's Foundation of California, Dr. Beatriz Maria Solis Policy Institute
Yolo Food Bank

Opposition

Charter Schools Development Center
California Charter Schools Association

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