

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 364 (Skinner) – As Amended June 6, 2022

[This bill is double referred to the Human Services Committee and will be heard as it relates to that committee's jurisdiction.]

SENATE VOTE: 37-0

SUBJECT: Pupil meals

SUMMARY: Requires the Department of Social Services to issue BOOST Nutrition Electronic Benefit Transfer (EBT) benefits to eligible students for each regularly scheduled summer break, contingent upon an appropriation in the annual Budget Act or another statute. Specifically, **this bill:**

- 1) Requires applications for free and reduced-price meals to be processed within 10 days of submission.
- 2) Clarifies that beginning with the 2022-23 school year, each pupil is entitled to two free school meals each schoolday, regardless of their free and reduced-price meal eligibility status.
- 3) States that if a governing board of a school district, a county office of education (COE), or a school food authority chooses to provide access to an online application for free or reduced-price meals the online application shall include links to the following, among other items:
 - a) The websites providing information about Summer Lunch Electronic Benefit Transfer for children, the Pandemic Electronic Benefit Transfer (P-EBT) program, or the Better Out of School Time (BOOST) Nutrition EBT Program; and
 - b) The website of the local educational agency's (LEA) alternative income collection form.
- 4) States that an online application for free or reduced-price meals made accessible online by a school district, a COE, a school food authority, or a private third-party vendor shall not allow the information provided by an applicant to be sold, shared, or used by a private entity for any purpose not related to the administration of a school food program, or require an applicant to waive any right.
- 5) States that a private third-party vendor who violates these privacy provisions will be subject to a civil penalty of \$1,000 for a first violation and \$10,000 for any subsequent violation.
- 6) Requires that these privacy provisions not prevent the use of information provided by a school meal applicant from being used by a governmental entity to increase access to a government-administered anti-hunger program, as allowable.

- 7) Authorizes a school district and county superintendent of schools to establish a secured website providing access to an online data collection form that can be used for purposes of collecting information necessary for the local control funding formula (LCFF) and the Community Eligibility Provision as part of the annual enrollment process. Requires this form to be made available in all threshold languages and prohibits the requesting of information that is not necessary for these purposes. States that the use of this form is voluntary for parents and guardians. States that the establishment and use of this form is allowable to the extent that it does not negatively impact the LCFF, as determined by the Superintendent.
- 8) Requires, on or before July 1, 2024, the California Department of Education (CDE) to host a sample online data collection form for those LEAs that cannot implement an online data collection form through their pupil and parent portals.
- 9) States that if the establishment and use of the online data collection form undermines the LCFF, the Superintendent may provide a report or study to the Legislature detailing those impacts.
- 10) Requires the Department of Social Services (DSS) to seek all available funding for, and maximize participation in, the Pandemic Electronic Benefit Transfer (P-EBT) program.
- 11) Establishes the Better Out of School Time (BOOST) Nutrition EBT Program to prevent child hunger during regularly scheduled summer breaks, contingent upon an appropriation in the annual Budget Act or another statute for this purpose.
- 12) Specifies that a pupil is eligible for benefits under the BOOST Nutrition EBT Program if they meet one of the following criteria:
 - a) They receive benefits under the Medi-Cal program;
 - b) They receive benefits under the CalFresh program;
 - c) They receive benefits under the CalWORKs program; or
 - d) They are in foster care.
- 13) Requires the DSS to issue BOOST Nutrition EBT benefits to eligible pupils, in the amount described, for each day during which a school campus is closed during a regularly scheduled summer break.
- 14) Requires the DSS to issue BOOST Nutrition EBT benefits to eligible pupils no later than seven business days before regularly scheduled breaks.
- 15) Requires the DSS to set the amount of the daily BOOST Nutrition EBT benefit at the beginning of each school year in an amount that equals the reimbursement rate of a free breakfast under the federal School Breakfast Program and a free lunch under the National School Lunch Program.

- 16) Requires the DSS to also issue BOOST Nutrition EBT benefits to any child or pupil who was eligible to receive benefits under the Pandemic Electronic Benefit Transfer (P-EBT) program for the five-month period following the end of the P-EBT program.
- 17) Requires the DSS to determine a child who is eligible under (16) above, also be eligible if they meet one of the following criteria:
 - a) They receive benefits under the Medi-Cal program;
 - b) They receive benefits under the CalFresh program;
 - c) They receive benefits under the CalWORKs program; or
 - d) They are in foster care.
- 18) Requires the DSS to annually report to the Legislature on outcomes of the BOOST Nutrition EBT Program, including, but not limited to, both of the following:
 - a) In each county, the number and percent of pupils receiving benefits, and the total benefits issued; and
 - b) Opportunities to improve program participation and program performance.
- 19) States that BOOST Nutrition EBT benefits issued pursuant to this chapter are not subject to review under Section 10950 and will not be considered as income or resources in determining other public benefits.

EXISTING LAW:

- 1) 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, 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, and requires family daycare homes to be reimbursed for 75% of the meals served. The meals provided under this paragraph must 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. The meals provided under this paragraph must be nutritiously adequate meals that qualify for federal reimbursement;
 - c) An LEA that has a reimbursable school breakfast program to not charge any pupil, enrolled in transitional kindergarten through grade 12, 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. The meals provided free of charge pursuant to this paragraph must be nutritiously adequate, and shall count toward the total of two school meals required to be provided each schoolday. (Education Code (EC) 49501.5)

- 2) Requires each school district, or county superintendent of schools maintaining any kindergarten through grade 12, to provide for each needy pupil one nutritionally adequate free or reduced-price meal during each schoolday. (EC 49550)
- 3) 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)
- 4) States that a school district or COE may use funds made available through any federal or state program which includes the provision of meals to a pupil, including the federal School Breakfast Program (SBP), the federal National School Lunch Program (NSLP), the federal Summer Food Service Program (SFSP), the federal Seamless Summer Option, or the state meal program, or may do so at the expense of the school district or COE. (EC 49550)
- 5) Requires that the CDE, in cooperation with school districts and county superintendents of schools, provide information and limited financial assistance to encourage the SBP startup and expansion into all qualified schools. (EC 49550.3)
- 6) Designates that the CDE is the state agency responsible for managing and administering the SFSP. (42 U.S.C. Sec. 1761) (EC 49547.5)
- 7) Prohibits a public 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, while the implementation of the BOOST Nutrition Program would be contingent upon an appropriation, the DSS indicates annual General Fund costs potentially in the billions of dollars to establish it. This amount includes costs for automation for which the scope is unknown at this time, as well the cost of providing the actual benefits to students during school closures. Eligible students include those receiving benefits under the Medi-Cal program, CalFresh, homeless, and in foster care. The DSS would be required to set the amount of the daily BOOST Nutrition EBT benefit that equals the reimbursement rate of a free breakfast under the federal School Breakfast Program and a free lunch under the National School Lunch Program.

COMMENTS:

What does this bill do? This bill requires the DSS to distribute EBT cards during summer breaks to low income families in the amount that equals the reimbursement rate of a free breakfast under the federal SBP and a free lunch under the NSLP. Currently, many school districts provide meals that meet federal meal nutrition requirements to eligible students during summer breaks. Anecdotal evidence from the CDE indicates that school participation in summer meal programs

in 2022 will likely be higher than pre-pandemic levels and will be similar to the number of schools that offered summer meals during the pandemic. Under this bill, it is possible for low income children to receive both free meals at school and receive an EBT card, during summer breaks. ***The committee may wish to consider*** whether the EBT card program will provide competition with school meal programs during summer breaks and lead to lower participation in those programs, and also compare the convenience of providing an EBT card to families versus providing a free balanced meal through the schools.

Need for the bill. According to the author, “1 out of every 5 children in California experience hunger. Public education offers a unique opportunity for California to provide children with the right to food, at the same time that we provide them with the right to education. Last year, California expanded its school meals program to ensure that all public school children have the opportunity to receive meals at school, free of charge, without extra red-tape, and without having to apply to a means-tested program.

This year, California has the opportunity to build off the successes of the *School Meals for All* program and continue to provide for kids. Hunger follows children home from school. This is especially true when emergency declarations force school campuses to close and when schools are out for summer and winter breaks.

During the COVID-19 pandemic, the CDE and the DSS implemented the federal Pandemic Electronic Benefit Transfer (P-EBT) program, which allowed the state to provide food benefits to children in need even though classrooms were closed. Despite the success of the program, there is no plan to continue it post-pandemic. This is a model California could use to provide meals to children during times that school is out.

Lastly, other additions to statute on school meals, including changes to the way local school districts gather information for federal school meals reimbursement will further protect children and their families.

SB 364 would build upon the success of the state’s new universal school meals program that provides free breakfast and lunch to TK-12 students by providing meals to students when schools are closed and adjusts data collection policies associated with school meals to further reduce the stigma of “free meals” and protect family privacy.”

USDA meal programs. The CDE, Nutrition Services Division administers many of the United States Department of Agriculture (USDA) meal programs at the state level:

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

- d) *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.
- e) *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 alternate, 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 current federal school lunch reimbursement rates are \$3.37 for free lunch and \$2.97 for reduced-priced lunch. Schools that serve more than 60% low income students receive \$0.02 more for both free and reduced-priced lunches. The state school lunch reimbursement rate is \$0.236 for both free and reduced-priced lunch.

During the 2021-22 school year, due to the COVID-19 pandemic, the federal government provided meal reimbursements to school districts and charter schools to provide free lunch to all students, regardless of free meal eligibility.

Beginning with the 2022-23 school year, the state will require school districts and charter schools to provide two free meals per day to all students, regardless of free meal eligibility. The state will reimburse 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.

Research related to participation in school meal programs. According to the American Public Health Association, “Participation in food assistance programs declined in 2018 because of fear that using government assistance could lead to immigration repercussions, yet household food insecurity has been on the rise from 9.9% in 2007 to 17.8% in 2018 among immigrant families in the U.S.”

According to the USDA, the NSLP and other USDA child nutrition programs provide nutritious foods that help reduce the harmful impact of food insecurity and improve outcomes for children. In 2014 and 2015, 84% of low-income food-insecure households with school-age children accessed free or reduced-price lunches through the NSLP, either in combination with USDA’s Supplemental Nutrition Assistance Program (SNAP) benefits (46%), which provide food and nutrition assistance to low-income Americans, or alone (38%). An estimated 6% of low-income

food-insecure households with school-age children received SNAP benefits, but not free or reduced-price school lunches, and 10% did not participate in either program.”

Food insecurity during the COVID-19 pandemic. According to a 2020 article the American Journal of Public Health, *Food Insecurity During COVID-19: An Acute Crisis With Long-Term Health Implications*, as of March and April 2020, national estimates of food insecurity more than tripled to 38%. Among adults with incomes less than 250% of the 2020 federal poverty level (based on thresholds from the US Census), 44% of all households were food insecure including 48% of Black households, 52% of Hispanic households, and 54% of households with children.

According to a 2021 Centers for Disease Control research brief in Preventing Chronic Disease: Public Health Research, Practice, and Policy, *Very Low Food Security Among Low-Income Households With Children in California Before and Shortly After the Economic Downturn From COVID-19*, low-income households with children in California were surveyed before and during the pandemic for levels of very low food security (VLFS). From April 27 to July 21, 2020, 14% of mothers reported VLFS versus 19.3% from November 21, 2019, to March 14, 2020, suggesting that existing systems to quickly obtain food assistance benefits in California and new federal benefits available in response to COVID-19 may have reduced very low food security.

Arguments in support. California Association of Food Banks, and other organizations sponsoring the bill note, “Existing federal programs that families are reliant upon for food assistance over summer breaks and during the COVID-19 pandemic are set to expire after the summer of 2022, and currently fail to address other school breaks or disasters. The Census Household Pulse Survey reported that in October, food insecurity among white households with children was 15.5%, but a shocking 34.7% for Latinx and 33.1% for African-American households with children.

P-EBT is a proven program that reduces child hunger. When families received approximately \$365 per child when schools were closed in the spring of 2020, the rate of child food-insecurity declined by 11%. In addition to the undeniable success of this model fighting child hunger, we know that EBT food benefits provide a significant economic stimulus, especially during economic downturns. A decade of research demonstrates that each \$1 in EBT benefits has an economic multiplier effect of as much as \$1.79 during recessionary periods.

The tremendous success of P-EBT in California serves as a model for how to prevent hunger while children are out of school. California must boost children’s nutrition and fight hunger throughout the year, including during school breaks and prolonged school closures, and SB 364 will achieve that. Although we are still in the middle of an unprecedented public health emergency, we cannot wait for the COVID-19 crisis to be over in order to make a plan for how to ensure children have access to nutritious food every day. Now is the time to plan and build towards a hunger-free California.”

Related legislation. SB 265 (Hertzberg) Chapter 785, Statutes of 2019, amends the Child Hunger Prevention and Fair Treatment Act of 2017 to require applicable LEAs to ensure that a pupil whose parent or guardian has unpaid meal fees is not denied a reimbursable meal of the pupil’s choice because of the fact that the pupil’s parent or guardian has unpaid meal fees and that the pupil is not shamed or treated differently from other pupils, thus ensuring that all students receive a reimbursable meal.

SB 499 (McGuire) of the 2019-20 Session would have established the California-Grown for Healthy Kids Program to increase the provision of universally free school meals with California-grown fruits and vegetables, which would have included supplemental funds of \$0.10 per breakfast served to eligible school food authorities. SB 499 was held in the Assembly Education Committee.

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, authorized a school district, COE, or charter school to opt-out due to fiscal hardship.

SB 250 (Hertzberg) Chapter 726, Statutes of 2017, requires an LEA to ensure that a pupil whose parent or guardian has unpaid school meal fees is not shamed, treated differently or served a meal that differs from what a pupil whose parent or guardian does not have unpaid school meal fees would receive under the LEA's policy; requires an LEA to attempt to directly certify a family for the free and reduced-price lunch program when a student has unpaid school meal fees and before the LEA notifies the parent or guardian within 10 days of reaching a negative balance; and, prohibits school personnel from allowing any disciplinary action that is taken against the student to result in the denial or delay of a nutritionally adequate meal, to that pupil.

REGISTERED SUPPORT / OPPOSITION:

Support

Acterra: Action for a Healthy Planet
 Agricultural Institute of Marin
 Alameda County Community Food Bank
 Alameda County Office of Education
 Albany Unified School District
 Alpine Union School District
 American Academy of Pediatrics, California
 American Diabetes Association
 American Heart Association
 API Forward Movement
 Asian Americans for Housing and Environmental Justice
 Bay Area Community Services
 Bay Area Ranchers' Cooperative, Inc.
 Berkeley Food Network
 Blue Beautifly
 Bluma Flower Farm
 California Alternative Payment Program Association
 California Association for Health, Physical Education, Recreation & Dance
 California Association of Food Banks

California Association of Student Councils
California Certified Organic Farmers
California Department of Education
California Food and Farming Network
California Immigrant Policy Center
California School Employees Association
California School Nurses Organization
California School-based Health Alliance
California State Council of Service Employees International Union (SEIU California)
California State PTA
California Teachers Association
California Women's Law Center
CaliforniaHealth+ Advocates
Californians for Pesticide Reform
Center for EcoLiteracy
Center for Food Safety; the
Ceres Community Project
Children's Advocacy Institute
City of San Jose
Clergy and Laity United for Economic Justice
Common Sense
Communities in Schools of Los Angeles (CISLA)
Community Action Partnership of Orange County
Community Action Partnership of San Bernardino County
Community Alliance With Family Farmers
County of Santa Clara
Del Norte and Tribal Lands Community Food Council
Dolores Huerta Foundation
Eat. Learn. Play. Foundation
Ecology Center, Berkeley
Environmental Working Group
Equal Rights Advocates
Farm2people
Feeding San Diego
Fibershed
Food Bank Coalition of San Luis Obispo County
Food Bank of Contra Costa and Solano
Food for People, the Food Bank for Humboldt County
Food in Need of Distribution Food Bank
Food Research & Action Center
Food Share
Foodcorps
Fresh Approach
Fresno Barrios Unidos
Friends Committee on Legislation of California
Friends of The Earth
Friends of The Earth U.S.
Frog Hollow Farm
Generation Up

Glide
Healthy Schools Campaign
Hidden Harvest
Hunger Action Los Angeles Inc.
Hunger Advocacy Network
Hunger Free Kids
Imperial Valley Food Bank
Jewish Family Service of Los Angeles
Junior Leagues of California State Public Affairs Committee (CALSPAC)
LA Mesa-Spring Valley Schools
Latino Coalition for A Healthy California
Life Time Foundation
Livermore Valley Joint Unified School District
Los Angeles County
Los Angeles County Office of Education
Los Angeles Food Policy Council
Los Angeles Regional Food Bank
LunchAssist
Marin Food Policy Council
Martha's Kitchen
Mazon: a Jewish Response to Hunger
Mt. Diablo Unified School District
Multi-faith Action Coalition
National Association of Social Workers, California Chapter
National Women's Political Caucus of California
Natural Resources Defense Council (NRDC)
NextGen California
No Kid Hungry California
Nosh
Oakland Unified School District
Office of Kat Taylor
Open Heart Kitchen
Pesticide Action Network North America
Pleasanton Unified School District
Policylink
Public Health Advocates
Richards Grassfed Beef
River City Food Bank
Roots of Change
Sacramento Food Bank & Family Services
San Diego Food Bank
San Diego Hunger Coalition
San Diego Unified School District School and Nutrition Food Services
San Francisco Senior and Disability Action
San Francisco-Marin Food Bank
San Jose Bridge Communities
San Luis Coastal Unified School District
Second Harvest Food Bank of Orange County
Second Harvest Food Bank Santa Cruz County

Second Harvest of Silicon Valley
Second Harvest of The Greater Valley
Shields for Families
Sierra Harvest
Southern Humboldt Unified School District
Spur
Stemple Creek Ranch
Street Level Health Project
Stronger California Advocates Network
The Edible Schoolyard Project
The Gubbio Project
The Office of Kat Taylor
The Praxis Project
The Public Interest Law Project
The Resource Connection Food Bank
Tomkat Ranch
Turning Green
Unbox
Union of Concerned Scientists
United States Healthful Food Council Inc., Dba Eat Real
Urban & Environmental Policy Institute Occidental College
Washington Unified School District
West Contra Costa Unified School District
Western Center on Law & Poverty
Westside Food Bank
Women Organizing Resources, Knowledge and Services
Women's Foundation California
Work Equity Action Fund
Yolo Food Bank
1 Individual

Opposition

None on file

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