

No. 64. An act relating to school food programs and universal school meals.

(H.165)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) According to the Vermont Agency of Education, an average of 38 percent of students across all supervisory unions during the 2019–2020 school year qualified for free or reduced-price lunch. As a result, some schoolchildren face more challenges than others in succeeding in school and in life. The General Assembly recognizes that students need fresh and nutritional foods to enable them to focus on their education and that many students come to school hungry. Providing universal school meals offered at no cost to students or their families creates a necessary foundation for learning readiness during the school day.

(2) A 2021 study by the National Food Access and COVID Research Team found that in the first year of the pandemic, nearly one-third of persons in Vermont faced hunger, and families with children were five times more likely to face hunger. Food insecurity rates remained above prepandemic levels a year after the start of the pandemic.

(3) In a 2019 research report, the Urban Institute found that up to 42 percent of children living in food-insecure homes may not be eligible for free or reduced-price school meals.

(4) In 2016, the Center for Rural Studies at the University of Vermont (UVM) partnered with the Vermont Farm to School Network to measure the economic contribution and impacts of Farm to School programs in Vermont. The final report found that school meal programs support a vibrant agricultural economy, with every \$1.00 spent on local food in schools contributing \$1.60 to the Vermont economy.

(5) A study analyzing trends in food sources and diet quality published in 2021 found that the most nutritious meals consumed by children in the United States are school meals, including when compared to meals cooked at home.

(6) A study conducted by UVM found that universal school meals programs in Vermont were associated with, among other benefits, improved overall school social climate as a result of financial difference being less visible and improved readiness to learn among students overall.

* * * School Food Programs * * *

Sec. 2. 16 V.S.A. chapter 27, subchapter 2 is amended to read:

Subchapter 2. School Food Programs

§ 1261a. DEFINITIONS

As used in this subchapter:

(1) “Food programs” means provision of food to persons under programs meeting standards for assistance under the National School Lunch Act, 42 U.S.C. § 1751 et seq., and ~~in~~ the Child Nutrition Act, 42 U.S.C. § 1771 et seq., each as amended.

(2) “School board” means the governing body of a school district responsible for the administration of a public school.

(3) “Independent school board” means a governing body responsible for the administration of a nonprofit independent school exempt from ~~United States~~ U.S. income taxes.

(4) “Approved independent school” means an independent school physically located in Vermont and approved by the State Board of Education under section 166 of this title.

(5) “Universal meals supplement” means the reimbursement amount paid by the State for the cost of a paid breakfast or lunch under the federal school breakfast and federal school lunch programs.

(A) For breakfast, the universal meals supplement is a sum equal to the federal reimbursement rate for a free school breakfast less the federal reimbursement rate for a paid school breakfast, using rates identified annually by the Agency of Education from payment levels established annually by the U.S. Department of Agriculture.

(B) For lunch, the universal meals supplement is a sum equal to the federal reimbursement rate for a free school lunch less the federal

reimbursement rate for a paid school lunch, using rates identified annually by the Agency of Education from payment levels established annually by the U.S. Department of Agriculture.

§ 1262a. AWARD OF GRANTS

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(e) Universal meals supplements shall be awarded in accordance with section 4017 of this title.

* * *

§ 1264. FOOD PROGRAM

(a)(1)(A) Each school board operating a public school shall cause to operate within ~~the~~ each school in the school district a food program that makes available a school lunch, as provided in the National School Lunch Act, as amended, and a school breakfast, as provided in the ~~National~~ Child Nutrition Act, as amended, to each attending student who qualifies for those meals under these acts every school day.

(B) In addition, each school board operating a public school shall cause to operate within each school in the school district the same school breakfast and school lunch program made available to students who qualify for those meals under the Child Nutrition Act and the National School Lunch Act, each as amended, for each attending student every school day at no charge. An approved independent school operating a school lunch and school breakfast program made available to students who qualify for those meals under the

Child Nutrition Act and the National School Lunch Act, each as amended, shall offer the same to each attending student every school day at no charge in order to qualify for the universal meals supplement.

(C) In operating its school breakfast and lunch program, a school district and an approved independent school shall seek to achieve the highest level of student participation, which may include any or all of the following:

(i) providing breakfast meals that can be picked up by students;

(ii) making breakfast available to students in classrooms after the start of the school day; and

(iii) for school districts, collaborating with the school's wellness community advisory council, as established under subsection 136(e) of this title, in planning school meals.

(D) A school district and an approved independent school shall count time spent by students consuming school meals during class as instructional time.

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§ 1265. ~~EXEMPTION; PUBLIC DISCUSSION~~

~~(a) The school board of a public school district that wishes to be exempt from the provisions of section 1264 of this title may vote at a meeting warned and held for that purpose to exempt itself from the requirement to offer either the school lunch program or the school breakfast program, or both, for a period of one year.~~

~~(b) If a public school is exempt from offering a breakfast or lunch program, its school board shall conduct a discussion annually on whether to continue the exemption. The pending discussion shall be included on the agenda at a regular or special school board meeting publicly noticed in accordance with 1 V.S.A. § 312(c), and citizens shall be provided an opportunity to participate in the discussion. The school board shall send a copy of the notice to the Secretary and to the superintendent of the supervisory union at least ten days prior to the meeting. Following the discussion, the school board shall vote on whether to continue the exemption for one additional year.~~

~~(c) On or before the first day of November prior to the date on which an exemption voted under this section is due to expire, the Secretary shall notify the boards of the affected school district and supervisory union in writing that the exemption will expire.~~

~~(d) Following a meeting held pursuant to subsection (b) of this section, the school board shall send a copy of the agenda and minutes to the Secretary and the superintendent of the supervisory union.~~

~~(e) The Secretary may grant a supervisory union or a school district a waiver from duties required of it under this subchapter upon a demonstration that the duties would be performed more efficiently and effectively in another manner. [Repealed.]~~

* * * Universal Meals Supplement Awards * * *

Sec. 3. 16 V.S.A. § 4017 is added to read:

§ 4017. UNIVERSAL MEALS SUPPLEMENT

(a) Definition. For the purpose of this section, “universal meals supplement” has the same meaning as that term has in subdivision 1261a(5) of this title.

(b) Public schools. From State funds appropriated to the Agency from the Education Fund for the universal meals supplement, the Agency shall provide a universal meals supplement for the cost of each meal actually provided to each student in the district during the previous quarter when meals are offered to all students at no charge pursuant to subdivision 1264(a)(1)(B) of this title.

(1) Reimbursement from State funds shall be available only to districts that maximize access to federal funds for the cost of the school breakfast and lunch program by participating in the Community Eligibility Provision, under 7 C.F.R. § 245.9(f), or Provision 2, under 7 C.F.R. § 245.9(b), of these programs, or any other federal provision that in the opinion of the Agency draws down the most possible federal funding for meals served in that program. At the start of each school year, the Agency of Education may require that a school food authority requesting the universal meals supplement begin a new cycle of the relevant federal provision and group sites in a manner the Agency determines will maximize the drawdown of federal funds.

(2) Second breakfasts, as allowed under 7 C.F.R. § 220.9(a), do not qualify for reimbursement under this subsection.

(3) A nonprofit prequalified private prekindergarten provider that is qualified pursuant to subsection 829(c) of this title and is not also an approved or recognized independent school is eligible for the universal meals supplement under this subsection if it operates a food program under a public school school food authority.

(c) Approved independent schools.

(1) From State funds appropriated to the Agency from the Education Fund for the universal meals supplement, the Agency shall provide a universal meals supplement for the cost of each meal actually provided to each qualifying student on public tuition when meals are offered to all students at no charge pursuant to subdivision 1264(a)(1)(B) of this title, provided that:

(A) If the approved independent school participates in the food programs as a site under a public school school food authority, the public school school food authority shall be reimbursed only for students attending the approved independent school on public tuition.

(B) If the approved independent school participates in the Community Eligibility Provision under 7 C.F.R. § 245.9(f), or is in a year other than the base year of Provision 2 under 7 C.F.R. § 245.9(b), the school shall provide the Agency with the number of students attending the school on public tuition and the total number of students enrolled in the school. The

Agency shall calculate the percentage of students attending the school on public tuition and multiply that number by the paid student percentage, the results of which shall be the number of meals the school shall be reimbursed for.

(2) Second breakfasts, as allowed under 7 C.F.R. § 220.9(a), do not qualify for reimbursement under this subsection.

(3) Students attending an approved independent school on public tuition shall include a prekindergarten child if the approved independent school also qualifies as a prequalified private provider and the child's school district of residence pays tuition to the school pursuant to section 829 of this title.

(4) An approved independent school is eligible for the universal meals supplement only if it operates a food program that makes available a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the Child Nutrition Act as amended, to each attending student who qualifies for those meals under these acts every school day.

(5) Reimbursement from State funds shall be available only to approved independent schools that maximize access to federal funds for the cost of the school breakfast and lunch program by participating in the Community Eligibility Provision under 7 C.F.R. § 245.9(f), or Provision 2 under 7 C.F.R. § 245.9(b), of these programs, or any other federal provision that in the opinion of the Agency draws down the most possible federal funding for meals served in that program. At the start of each school year, the Agency of Education may

require that a school food authority requesting the universal meals supplement begin a new cycle of the relevant federal provision and group sites in a manner the Agency determines will maximize the drawdown of federal funds.

(d) Universal meals supplement. The universal meals supplement amount for breakfast shall be a sum equal to the federal reimbursement rate for a free school breakfast less the federal reimbursement rate for a paid school breakfast, using rates identified annually by the Agency of Education from payment levels established annually by the U.S. Department of Agriculture. The universal meals supplement amount for lunch shall be a sum equal to the federal reimbursement rate for a free school lunch less the federal reimbursement rate for a paid school lunch, using rates identified annually by the Agency of Education from payment levels established annually by the U.S. Department of Agriculture.

* * * Appropriation * * *

Sec. 3a. APPROPRIATION; SCHOOL MEALS

The sum of \$29,000,000.00 is appropriated from the Education Fund to the Agency of Education for fiscal year 2024 to provide reimbursement for school meals under 16 V.S.A. § 4017.

* * * Local Foods Incentive Grant * * *

Sec. 4. 16 V.S.A. § 1264a is amended to read:

§ 1264a. **LOCALLY PRODUCED FOODS**

(a) It is a goal of the State that by the year 2023, at least 20 percent of all foods purchased by ~~supervisory unions and supervisory districts, together referred to in this section as “supervisory unions,”~~ eligible entities, as defined by subsection (e) of this section, be locally produced foods. ~~School boards~~ Eligible entities have the discretion to define what foods are included within the definition of “locally produced foods” for the purposes of this subsection and subsection (b) of this section.

(b) On or before December 31, 2021 and annually thereafter, ~~a school board~~ an eligible entity operating a school lunch, breakfast, or summer meals program shall report to the Agency of Education an estimate of the percentage of the cost of all foods purchased by the ~~school board~~ eligible entity for those programs that were locally produced foods during the one-year period ending on June 30 of that year.

(c)(1) Beginning with the 2021–22 school year and thereafter, ~~supervisory unions~~ eligible entities shall be eligible for a local foods incentive grant (grant) from funds appropriated to the Agency of Education for this purpose.

(2) A ~~supervisory union~~ eligible entity may apply for the grant if it has:

(A) developed a locally produced foods purchasing plan that describes the ~~supervisory union's~~ eligible entity's goals for purchasing locally produced foods and its plan to achieve those goals;

(B) designated an individual as the food coordinator for locally produced foods, who shall be responsible for implementing the locally produced foods purchasing plan;

(C) developed a process for tracking the purchase of locally produced foods; and

(D) complied with the reporting requirement under subsection (b) of this section.

(3) ~~A supervisory union~~ An eligible entity that has satisfied the conditions under subdivision (2) of this subsection may, on or before January 15, 2022 or on or before January 15 of any year thereafter, apply to the Agency for the grant by submitting a certification, signed by the business manager for the ~~supervisory union~~ eligible entity, that the ~~supervisory union~~ eligible entity satisfies the conditions under subdivision (2) of this subsection.

(4) If a ~~supervisory union~~ an eligible entity is eligible for a grant under subdivision (3) of this subsection, then the Agency shall make the grant payment, subject to appropriation, on or before the following March 31 after submission of the ~~supervisory union's~~ eligible entity's application, which is due on or before January 15 of that year, which shall be equal to \$0.15 per reimbursable school lunch served by the ~~supervisory union~~ eligible entity in

the prior school year through the National School Lunch Program. ~~A supervisory union~~ An eligible entity may apply for this grant and receive this grant funding only once.

(5)(A) ~~A supervisory union~~ An eligible entity that has received a grant under subdivision (4) of this subsection (c) may, on or before January 15, 2023 or on or before January 15 of any year thereafter, apply for a further grant by submitting to the Agency of Education information that demonstrates that at least 15 percent of the cost of all foods purchased or grown, raised, or produced by the ~~supervisory union~~ eligible entity during the one-year period ending on June 30 of the previous year were local to Vermont as defined in 9 V.S.A. § 2465a(b), excluding:

(i) foods purchased or grown, raised, or produced by the ~~supervisory union~~ eligible entity that were used to provide catering services for which the ~~supervisory union~~ eligible entity received compensation; and

(ii) fluid milk.

(B) If a ~~supervisory union~~ an eligible entity grows, raises, or produces food, it shall assign a fair market value to that food for the purpose of reporting its cost.

(C) A vendor that contracts with a ~~supervisory union~~ an eligible entity to supply food products shall certify to the supervisory union which of the food products supplied meet the definition of local to Vermont, taking into

account the exclusions under subdivision 5(A) of this ~~subsection~~ subdivision (c)(5).

(6) If ~~a supervisory union~~ an eligible entity is eligible for a grant under subdivision (5) of this subsection, the Agency shall, on or before the following April 30 after submission of the ~~supervisory union's~~ eligible entity's application, which is due on or before January 15 of that year, make the grant payment, subject to appropriation, which shall be determined as follows:

(A) \$0.15 per reimbursable school lunch served in the prior school year through the National School Lunch Program for supervisory unions purchasing at least 15 percent locally produced foods;

(B) \$0.20 per reimbursable school lunch served in the prior school year through the National School Lunch Program for supervisory unions purchasing at least 20 percent locally produced foods; or

(C) \$0.25 per reimbursable school lunch served in the prior school year through the National School Lunch Program for supervisory unions purchasing at least 25 percent locally produced foods.

(7) ~~A supervisory union~~ An eligible entity may apply for and receive grant funding under subdivisions (5) and (6) of this subsection for each year that it qualifies for this grant funding. For applications covering the 2020–2021 school year, meals served through the Summer Food Service Program shall also be counted for this grant payment.

(8) The Agency of Education may perform sample audits for any year that grant funds are paid to ~~supervisory unions~~ eligible entities under subdivision (6) of this subsection to verify that information provided to the Agency under subdivision (5) of this subsection is accurate. If the Agency makes a grant payment under subdivision (6) of this subsection to a ~~supervisory union~~ an eligible entity that was based on inaccurate information reported by the ~~supervisory union~~ eligible entity, the Agency may seek reimbursement from the ~~supervisory union~~ eligible entity for an overpayment or reimburse the ~~supervisory union~~ eligible entity for an underpayment or may adjust future grant amounts under this section to reflect the over- or underpayment.

(d)(1) On or before January 31, 2022 and annually thereafter, the Agency of Education shall submit to the Senate Committees on Agriculture and on Education and the House Committees on Agriculture and Forestry and on Education in an aggregated form:

(A) the information received from ~~supervisory unions~~ eligible entities regarding the percentage of locally produced foods, as the ~~supervisory unions~~ eligible entities define them, that were reported under subsection (b) of this section; and

(B) the percentage of locally produced foods, using the grant funding definition, that were reported under subdivision (c)(5) of this section and the

amount of grant funding paid to ~~supervisory unions~~ eligible entities under subdivision (c)(6) of this section in the prior school year.

(2) The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the reports required by this subsection.

(e) As used in this section, “eligible entity” means:

(1) a supervisory union or supervisory district; or

(2) an approved independent school operating a food program, as defined by subdivision 1261a(1) of this title, that also qualifies for the universal meals supplement pursuant to section 4017 of this title.

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

Date on which Governor allowed bill to become law without his signature:

June 14, 2023