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SB-348 Pupil meals. (2023-2024)

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Senate Bill No. 348

CHAPTER 600

An act to amend Sections 49492, 49501.5, 49503, 49512, 49531, 49531.1, 49547.5, 49557.5, and 49559 of, to add Section 49506 to, and to repeal Sections 41350, 47613.5, 49500, 49501, 49516, 49517, and 49550 of, the Education Code, relating to pupil meals.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 348, Skinner. Pupil meals.

(1) Existing law establishes a system of public elementary and secondary schools in this state. This system is composed of local educational agencies throughout the state that provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at schoolsites operated by these agencies. Existing law, commencing with the 2022–23 school year, requires each school district and county superintendent of schools maintaining kindergarten or any of grades 1 to 12, inclusive, and each charter school to provide 2 nutritiously adequate school meals free of charge during each schoolday, regardless of the length of the schoolday, to any pupil who requests a meal without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, as specified, with a maximum of one free meal for each meal service period. Existing law requires the department to develop and maintain nutrition guidelines for school lunches and breakfasts, and for all food and beverages sold on public school campuses. Existing law requires a school district, county superintendent of schools, or charter school to provide each needy pupil with one nutritionally adequate free or reduced-price meal during each schoolday, except as provided.

This bill would revise and recast provisions regarding school meals for needy pupils by, among other things, instead requiring each school district, county superintendent of schools, and charter school to make available a nutritionally adequate breakfast, as defined, and a nutritionally adequate lunch, as defined, free of charge during each schoolday, as defined, to any pupil who requests a meal, without consideration of the pupil's eligibility for a federally funded free or reduced-price meal, as provided. The bill would require each school district, county office of education, or charter school that offers independent study to meet the above meal requirements for any pupil on any schoolday that the pupil is scheduled for educational activities, as provided. The bill would require the State Department of Education to submit a waiver request to the United States Department of Agriculture to allow for one meal to be provided during a schoolday lasting 4 hours or less to be served in a noncongregate manner. The bill would authorize each school district, county superintendent of schools, and charter school to make available either a nutritionally adequate breakfast or a nutritionally adequate lunch, as defined, in a noncongregate manner, as provided, if the State Department of Education receives approval for the federal noncongregate waiver. The bill would require each school district, county superintendent of schools, and charter school to provide pupils with adequate time to eat, as determined by that school district, county superintendent of schools, or charter school in consideration of the recommendations provided by the department. The bill would require a chartering authority, among other things, to provide technical assistance to a charter school to meet these meal requirements, as provided. If the federal School Breakfast Program and federal National School Lunch Program allow more added sugar or sodium than is recommended by the most recent Dietary Guidelines for Americans, as described, the bill would

require the department to convene representatives from specified entities to work in partnership to provide maximum daily added sugar and sodium intake recommendations for each grade level, as provided. The bill also would make conforming changes to related provisions of law. By imposing additional duties on local educational agencies and officials, the bill would impose a state-mandated local program.

(2) Existing law authorizes the governing board of a school district to establish rules to determine which pupils are needy and authorizes a nominal cash payment for school meals to be collected from pupils that are not eligible for free meals and requires the State Department of Education to determine the amount of cash payment that may be required of those pupils. Existing law requires the Superintendent of Public Instruction to reimburse school districts for free and reduced-price meals served or sold based on the median statewide meal costs.

This bill would delete those provisions.

(3) Existing federal law provides for the permanent and nationwide Summer Electronic Benefit Transfer for Children (Summer EBT) program, under which pupils who are eligible for free and reduced-price school meals receive \$40 per month during summer months for grocery benefits.

This bill would require the State Department of Education to work in partnership with the State Department of Social Services to maximize participation in the federal Summer EBT program, as provided.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 41350 of the Education Code is repealed.

SEC. 2. Section 47613.5 of the Education Code is repealed.

SEC. 3. Section 49492 of the Education Code is amended to read:

49492. A school district or other public or private nonprofit school or agency receiving reimbursement pursuant to this article shall meet standards adopted by the Superintendent for all of the following:

(a) The definition of a “nutritionally adequate breakfast.”

(b) The definition of a “nutritionally adequate lunch.”

(c) Standards for determining the eligibility of children to receive free or reduced-price meals.

(d) Standards for the protection of the identity of children for whom reimbursement is made pursuant to this article.

SEC. 4. Section 49500 of the Education Code is repealed.

SEC. 5. Section 49501 of the Education Code is repealed.

SEC. 6. Section 49501.5 of the Education Code is amended to read:

49501.5. (a) Notwithstanding any other provision of this chapter, commencing with the 2022–23 school year all of the following shall apply:

(1) (A) A school district, county superintendent of schools, or charter school maintaining kindergarten or any of grades 1 to 12, inclusive, shall make available a nutritionally adequate breakfast and a nutritionally adequate lunch free of charge and with adequate time to eat, as determined by that school district, county superintendent of schools, or charter school in consideration of the recommendations provided by the department pursuant to subdivision (e), 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, except as described in clauses (i) and (ii) of subparagraph (B), with a maximum of one free breakfast meal and one free lunch meal, except for family daycare homes that shall be reimbursed for 75 percent of the meals served. The meals made available under this paragraph shall be nutritionally adequate meals that qualify for federal reimbursement. Participating school districts, county

superintendents of schools, and charter schools shall comply with federal regulations for the National School Lunch Program and School Breakfast Program, which includes established mealtimes.

(B) (i) The department shall submit a waiver request to the United States Department of Agriculture to allow for one meal provided during a schoolday lasting four hours or less to be served in a noncongregate manner.

(ii) If the department receives approval for the federal noncongregate waiver required by clause (i), school districts, county superintendents of schools, and charter schools may make available either a nutritionally adequate breakfast or a nutritionally adequate lunch in a noncongregate manner for meal service combinations resulting in either (I) a congregate nutritionally adequate breakfast and a noncongregate nutritionally adequate lunch or (II) a noncongregate nutritionally adequate breakfast and a congregate nutritionally adequate lunch. These meals shall be reimbursed under the provisions of paragraph (2) if both state and federal requirements are met.

(2) The department shall provide state meal reimbursement to school districts, county offices of education, and charter schools that participate in, and meet the requirements of, the federal School Breakfast Program and National School Lunch Program, and any applicable state laws and regulations. State meal reimbursement shall be provided for reduced-price and paid meals served to pupils, as described in subdivision (b).

(b) The amount of per-meal reimbursements provided under this section shall not exceed the difference between the sum of the amounts calculated from meals claimed based on the free combined breakfast and lunch reimbursement rates established by the United States Department of Agriculture and state meal contribution established in Section 49559, and the combined federal and state amounts reimbursed for reduced-price and paid meals claimed.

(c) The reimbursement required pursuant to this section shall be provided upon appropriation by the Legislature. This section shall not be operative until the Legislature has appropriated funds for purposes of this section.

(d) (1) The department may adopt, and as necessary revise, guidelines in accordance with this section at a publicly noticed meeting if the department complies with all of the following:

(A) Provides an opportunity for public comment at the meeting.

(B) Provides written public notice of a meeting at least 30 days before the meeting at which the guideline to be adopted will be considered or approved.

(C) For a substantive revision of the guidelines, the department provides written notice of a meeting at least 15 days before the meeting at which the revision will be considered or approved.

(2) The adoption or revision of guidelines pursuant to this subdivision is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code until July 1, 2023.

(e) The department shall review available evidence-based research, studies, and survey findings 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 adequate time to eat school meals that are served pursuant to this section and examining the role that breakfast in the classroom and other innovative breakfast models can play in supporting adequate time to eat. These recommendations shall be made public on the department's internet website on or before June 30, 2025.

(f) Notwithstanding subdivision (a), a school district, county office of education, or charter school that offers independent study, pursuant to Article 5.5 (commencing with Section 51744) of Chapter 5 of Part 28, shall meet the requirements of this section for any pupil on any schoolday that the pupil is scheduled for educational activities, as defined in Section 49010, lasting two or more hours, at a schoolsite, resource center, meeting space, or other satellite facility. Pupils who are present during established meal times shall have a nutritionally adequate breakfast and nutritionally adequate lunch made available.

(g) The chartering authority shall, upon request by a charter school and to the extent feasible within existing resources, provide technical assistance to the charter school in implementing this section.

(h) A charter school may enter into a partnership with an existing school food authority for the purposes of implementing this section.

(i) The chartering authority shall, upon request by a new charter school, contract with a charter school to make available a nutritionally adequate school breakfast and a nutritionally adequate school lunch until the charter school is an approved school food authority or until July 1 of the school year after the charter school becomes operational, whichever occurs first. The contract shall not exceed the actual costs to provide meals to the charter school, including, but not limited to, additional staffing costs and delivery of meals to the schoolsite, that are not covered by federal or state meal reimbursement.

(j) To comply with subdivision (a), a school district, county office of education, or charter school may use funds made available through any federal or state program the purpose of which includes the provision of meals to a pupil, including the federal School Breakfast Program, the federal National School Lunch Program, the federal Summer Food Service Program, the federal Seamless Summer Option, or the state meal program, or may do so at the expense of the school district, county office of education, or charter school.

(k) For purposes of this section, the following definitions apply:

(1) "Nutritionally adequate breakfast" is one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program, as defined in Section 220.8 of Title 7 of the Code of Federal Regulations.

(2) "Nutritionally adequate lunch" is one that qualifies for reimbursement under the most current meal pattern for the federal National School Lunch Program, as defined in Section 210.10 of Title 7 of the Code of Federal Regulations.

(3) "Schoolday" means any day that pupils in kindergarten or any of grades 1 to 12, inclusive, are present at a schoolsite or school facility for purposes of instruction or educational activities, as defined in Section 49010, including, but not limited to, pupil attendance at minimum days, state-funded preschool, transitional kindergarten, summer school including incoming kindergarten pupils, extended school year days, school-sponsored field trips, independent study when a pupil is onsite during the schoolday, and Saturday school sessions.

SEC. 7. Section 49503 of the Education Code is amended to read:

49503. School district funds may also be used for the purchase of school meals for pupils, as provided in Sections 49500 and 49501.5.

SEC. 8. Section 49506 is added to the Education Code, immediately following Section 49505, to read:

49506. (a) (1) The department shall work with the State Department of Social Services to maximize participation in the federal Summer Electronic Benefit Transfer for Children (Summer EBT) program established pursuant to the federal Consolidated Appropriations Act, 2023.

(2) The department shall share all data determined by the departments to be necessary to adhere to the requirements of paragraph (1) and Section 18901.57 of the Welfare and Institutions Code.

(b) The department shall follow the federal guidelines and regulations established pursuant to Section 502 of Title IV of Division HH of the Consolidated Appropriations Act, 2023 to maximize flexibility for local educational agencies to distribute summer meals through noncongregate distributions.

SEC. 9. Section 49512 of the Education Code is amended to read:

49512. (a) The State Department of Education shall establish a statewide program to provide nutritious meals at school for pupils and shall enter into an agreement with the United States Department of Health and Human Services, the United States Department of Education, or the United States Department of Agriculture in order to implement the provisions of this article.

(b) Funds shall be allocated to school districts in accordance with subdivision (b) of Section 49501.5. Determination with respect to the annual income of any household shall be made solely on the basis of an affidavit executed in such form as the United States Secretary of Agriculture may prescribe by an adult member of such household. The income poverty guidelines to be used for any fiscal year shall be those prescribed by the United States Secretary of Agriculture as of July 1 of each year.

SEC. 10. Section 49516 of the Education Code is repealed.

SEC. 11. Section 49517 of the Education Code is repealed.

SEC. 12. Section 49531 of the Education Code is amended to read:

49531. (a) A school district, county superintendent of schools, or charter school may apply to the department for all available federal and state funds that they are eligible for so that a nutritionally adequate breakfast and lunch may be made available to pupils each schoolday at each schoolsite or school facility where pupils are present during the schoolday and to children receiving child development services. A school district, county superintendent of schools, or charter school that receives state funds pursuant to this article shall make available breakfasts and lunches in accordance with state and federal guidelines. If an entity's school meal service is not in compliance with state and federal guidelines or regulations, or both, the entity shall be ineligible for state meal reimbursement.

(b) (1) A nutritionally adequate breakfast, for the purposes of this article, is one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program, as defined in Section 220.8 of Title 7 of the Code of Federal Regulations and paragraph (2). A nutritionally adequate lunch for purposes of this article is one that qualifies for reimbursement under the most current meal pattern for the federal National School Lunch Program, as defined in Section 210.10 of Title 7 of the Code of Federal Regulations and paragraph (2).

(2) A nutritionally adequate breakfast or lunch shall not consist of more added sugar than the amount allowed by the federal School Breakfast program and the federal National School Lunch Program, respectively.

(c) (1) If the federal School Breakfast Program and federal National School Lunch Program allow more added sugar or sodium than is recommended by the most recent Dietary Guidelines for Americans, established by the United States Department of Agriculture and the United States Department of Health and Human Services, the State Department of Education shall convene representatives from the California School Nutrition Association and cafeteria workers, or their representatives, to work in partnership to provide the following:

(A) Maximum daily added sugar intake recommendations for each grade level commensurate with the American Academy of Pediatrics' standards for children two years of age and older.

(B) Maximum daily added sodium intake recommendations for each grade level commensurate with recommendations for children and adolescents in the Dietary Guidelines for Americans.

(2) Recommendations pursuant to this subdivision shall encourage the prioritization of foods with higher nutritional density when there is added sugar or sodium in the food.

(d) State reimbursement for meals provided pursuant to this article shall be limited to meals made available to pupils pursuant to Section 49501.5.

SEC. 13. Section 49531.1 of the Education Code is amended to read:

49531.1. (a) The department shall develop and maintain nutrition guidelines for school lunches and breakfasts that are provided pursuant to Section 49501.5 and for all food and beverages sold on public school campuses.

(b) The nutrition guidelines for school lunches and breakfasts, pursuant to subdivision (a), shall be consistent with the requirements for a nutritionally adequate breakfast and a nutritionally adequate lunch, as defined in subdivision (b) of Section 49531.

SEC. 14. Section 49547.5 of the Education Code is amended to read:

49547.5. (a) The Legislature finds and declares the following:

(1) Needy children rely upon school meals for supplemental nutrition that benefits their health, growth, and academic and social development.

(2) Existing federal law, Section 1761 of Title 42 of the United States Code, establishes the Summer Food Service Program. This program provides assistance to states to support the operation of nonprofit food service programs for needy children during those times of the year when free and reduced-price school meals are not available.

(b) The State Department of Education is designated the state agency for purposes of the Summer Food Service Program (42 U.S.C. Sec. 1761) and shall submit to the Western Regional Office of the Food and Nutrition Service of the United States Department of Agriculture a program management and administration plan. If the plan is approved, the department shall manage and administer the program.

(c) The provisions of Sections 49501.5, 49536, 49550, and 49559 do not apply to the Summer Food Service Program, as set forth in this section.

SEC. 15. Section 49550 of the Education Code is repealed.

SEC. 16. Section 49557.5 of the Education Code is amended to read:

49557.5. (a) For purposes of this section, "local educational agency" means a school, school district, county office of education, or charter school.

(b) (1) A local educational agency shall ensure that a pupil is not denied an available reimbursable meal of the pupil's choice and is not shamed or treated differently from other pupils due to the pupil's eligibility for free or reduced-price meals. This paragraph

does not prohibit a school from serving an alternative reimbursable meal to a pupil who may need one for dietary or religious reasons, or as a regular menu item.

(2) If a local educational agency is required to provide to the department or to the United States Department of Agriculture a copy of the meal charge policy required pursuant to memorandum SP 46-2016 issued by the United States Department of Agriculture, the local educational agency or governing board or body of the local educational agency, as applicable, shall make that policy public.

(c) School personnel and volunteers at a local educational agency that serves nutritionally adequate meals to pupils during the instructional day shall not allow any disciplinary action that is taken against a pupil to result in the denial or delay of a nutritionally adequate breakfast or a nutritionally adequate lunch, as defined in Section 49553, to that pupil.

(d) A local educational agency shall not take any action directed at a pupil to collect school meal fees.

(e) This section shall only apply to a local educational agency that provides school meals through the federal National School Lunch Program or the federal School Breakfast Program.

SEC. 17. Section 49559 of the Education Code is amended to read:

49559. (a) Any school food authority that participates in a federal child nutrition program and is reimbursed pursuant to subdivision (b) of Section 49501.5 for meals served pursuant to this article may be reimbursed at the current rate as determined by the State Department of Education, pursuant to subdivision (d). If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, the allowances shall be reduced proportionately. This rate shall be in addition to the reimbursement currently provided under Section 49536. The additional funds shall be used exclusively to supplement the meals served pursuant to Section 49501.5.

(b) The State Department of Education shall make allowances to school food authorities from the General Fund on at least a quarterly basis. Program providers shall submit claims to the department within 60 days after the close of each claim month. Within 45 calendar days of submission of a timely and valid claim, the State Department of Education shall tender reimbursement.

(c) (1) The State Department of Education shall, upon enactment of the annual Budget Act, prescribe an adjustment in the state meal contribution rates for the next fiscal year. The adjustments shall reflect the changes in the cost of operating a school breakfast, snack, and lunch program and shall be effective July 1 of each year. The adjustment shall be based on the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco, as prepared by the United States Bureau of Labor Statistics.

(2) In giving effect to the cost-of-living provisions of this subdivision, the State Department of Education shall prescribe a calendar month for the computation of the percentage change in the cost of living after July 1, 1985. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to this subdivision. For the purposes of this subdivision, state reimbursement shall be made for the breakfast or lunch that qualifies for reimbursement pursuant to the nutritional requirements of Section 49553.

SEC. 18. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.