

1 S.100

2 Introduced by Committee on Agriculture

3 Date:

4 Subject: Education; school food programs; locally produced foods

5 Statement of purpose of bill as introduced: This bill proposes to require all
6 public schools in Vermont to make available school breakfast and lunch to all
7 students at no charge. The cost of school meals that is not reimbursed through
8 federal or State funds or other sources would be borne by school districts and
9 therefore ultimately borne by the Education Fund. This bill also proposes to
10 create incentives for schools to purchase locally produced foods.

11 An act relating to universal school breakfast and lunch for all public school
12 students and to creating incentives for schools to purchase locally produced
13 foods

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

15 * * * Title * * *

16 Sec. 1. TITLE

17 This act shall be known as “Farm Fresh School Meals for All.”

18 * * * Statutory changes; universal school breakfast and lunch;

19 locally produced foods * * *

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

21 Subchapter 2. School Food Programs

1 § 1261a. DEFINITIONS

2 As used in this subchapter:

3 (1) “Food programs” means provision of food to persons under
4 programs meeting standards for assistance under the National School Lunch
5 Act, 42 U.S.C. § 1751 et seq. and ~~in~~ the Child Nutrition Act, 42 U.S.C. § 1779
6 et seq., each as amended.

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

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

12 § 1262a. AWARD OF GRANTS

13 * * *

14 (d) The Agency shall, from funds appropriated for this subsection to the
15 Agency, award grants to supervisory unions and supervisory districts in
16 accordance with section 1264a of this title (locally produced foods). If the
17 amount appropriated for this purpose is insufficient to fully fund the grants
18 under that section, then the grant amounts that are awarded shall be prorated.

19 * * *

1 § 1264. FOOD PROGRAM

2 (a)(1)(A) Each school board operating a public school shall cause to
3 operate within ~~the school district~~ each school in the school district a food
4 program that makes available a school lunch, as provided in the National
5 School Lunch Act as amended, and a school breakfast, as provided in the
6 National Child Nutrition Act as amended, to each attending student who
7 qualifies for those meals under these Acts every school day. School districts
8 shall maximize access to federal funds for the cost of the school breakfast and
9 lunch program under the Community Eligibility Provision, Provision 2, or
10 other provisions under these Acts.

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

17 (C) To the extent that costs are not reimbursed through federal or
18 State funds or other sources, the cost of making available school lunches and
19 breakfasts shall be borne by school districts.

20 * * *

1 ~~submit to the Agency of Education an estimate of the percentage of locally~~
2 ~~produced foods that were purchased by the school board for those programs.~~

3 ~~(2) On or before January 31, 2021 and annually thereafter, the Agency~~
4 ~~of Education shall submit to the Senate Committees on Agriculture and on~~
5 ~~Education and the House Committees on Agriculture and Forestry and on~~
6 ~~Education in an aggregated form the information received from school boards~~
7 ~~regarding the percentage of locally produced foods that are purchased as part~~
8 ~~of a school lunch, breakfast, or summer meals program. The provisions of~~
9 ~~2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the~~
10 ~~report required by this subdivision. [Repealed.]~~

11 § 1264a. LOCALLY PRODUCED FOODS

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

18 (b) On or before December 31, 2021 and annually thereafter, a school
19 board operating a school lunch, breakfast, or summer meals program shall
20 report to the Agency of Education an estimate of the percentage of the cost of

1 all foods purchased by the school board for those programs that were locally
2 produced foods during the one-year period ending on June 30 of that year.

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

6 (2) A supervisory union may apply for the grant if it has:

7 (A) developed a locally produced foods purchasing plan that
8 describes the supervisory union’s goals for purchasing locally produced foods
9 and its plan to achieve those goals;

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

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

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

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

1 union, that the supervisory union satisfies the conditions under subdivision (2)
2 of this subsection.

3 (4) If a supervisory union is eligible for a grant under subdivision (3) of
4 this subsection, then the Agency shall make the grant payment, subject to
5 appropriation, on or before the following March 31 after submission of the
6 supervisory union's application (that is due on or before January 15 of that
7 year), which shall be equal to 15 cents per reimbursable school lunch served by
8 the supervisory union in the prior school year through the National School
9 Lunch Program. A supervisory union may apply for this grant and receive this
10 grant funding only once.

11 (5)(A) A supervisory union that has received a grant under
12 subdivision (4) of this subsection (c) may, on or before January 15, 2023 or on
13 or before January 15 of any year thereafter, apply for a further grant by
14 submitting to the Agency of Education information that demonstrates that at
15 least 15 percent of the cost of all foods purchased or grown, raised, or
16 produced by the supervisory union during the one-year period ending on June
17 30 of the previous year were local to Vermont as defined in 9 V.S.A.
18 § 2465a(b), excluding:

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

1 (ii) fluid milk.

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

4 (C) A vendor that contracts with a supervisory union to supply food
5 products shall certify to the supervisory union which of the food products
6 supplied meet the definition of local to Vermont, taking into account the
7 exclusions under subdivision 5(A) of this subsection (c).

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

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

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

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

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

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

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

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

4 (B) the percentage of locally produced foods, using the grant funding
5 definition, that were reported under subdivision (c)(5) of this section and the
6 amount of grant funding paid to supervisory unions under subdivision (c)(6) of
7 this section in the prior school year.

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

10 § 1265. EXEMPTION; PUBLIC DISCUSSION

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

16 ~~(b) If a public school is exempt from offering a breakfast or lunch program,~~
17 ~~its school board shall conduct a discussion annually on whether to continue the~~
18 ~~exemption. The pending discussion shall be included on the agenda at a~~
19 ~~regular or special school board meeting publicly noticed in accordance with~~
20 ~~1 V.S.A. § 312(e), and citizens shall be provided an opportunity to participate~~
21 ~~in the discussion. The school board shall send a copy of the notice to the~~

1 ~~Secretary and to the superintendent of the supervisory union at least ten days~~
2 ~~prior to the meeting. Following the discussion, the school board shall vote on~~
3 ~~whether to continue the exemption for one additional year.~~

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

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

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

15 Sec. 3. 16 V.S.A. § 4001 is amended to read:

16 § 4001. DEFINITIONS

17 As used in this chapter:

18 * * *

19 (6) “Education spending” means the amount of the school district
20 budget, any assessment for a joint contract school, career technical center
21 payments made on behalf of the district under subsection 1561(b) of this title,

1 and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is
2 paid for by the school district, but excluding any portion of the school budget
3 paid for from any other sources such as endowments, parental fundraising,
4 federal funds, nongovernmental grants, or other State funds such as special
5 education funds paid under chapter 101 of this title.

6 (A) [Repealed.]

7 (B) For purposes of calculating excess spending pursuant to
8 32 V.S.A. § 5401(12), “education spending” shall not include:

9 * * *

10 (xii) Costs incurred by a school district or supervisory union to
11 provide school breakfast and lunch under chapter 27 (transportation and
12 board), subchapter 2 (school food programs) of this title.

13 * * *

14 * * * Federal funds; data collection * * *

15 Sec. 4. 16 V.S.A. § 45 is added to read:

16 § 45. FEDERAL FUNDS; DATA COLLECTION

17 (a) The Secretary of Education shall:

18 (1) define the term “student poverty” for the purpose of determining
19 qualification for federal funds by school districts;

1 (2) establish what data should be collected by school districts to qualify
2 for federal funds based on student poverty, the means by which the data should
3 be collected, and the frequency of collection; and

4 (3) determine how this data shall be reported to the Agency of
5 Education by school districts and the frequency of reporting.

6 (b) School districts shall collect data that is necessary to qualify for federal
7 funds based on student poverty and report this data to the Agency of Education
8 in accordance with subsection (a) of this section.

9 * * * Session law; universal school breakfast and lunch * * *

10 Sec. 5. SCHOOL MEALS CONSUMED DURING CLASS

11 A school district shall count time spent by students consuming school meals
12 during class as instructional time.

13 Sec. 6. TRANSITION

14 (a) On or before July 1, 2026, each school district shall comply with
15 16 V.S.A. chapter 27, subchapter 2, as amended by this act. Until the date
16 upon which a school district complies with 16 V.S.A. chapter 27, subchapter 2,
17 as amended by this act, 16 V.S.A. chapter 27, subchapter 2, as in effect on
18 June 30, 2021, shall be in effect.

19 (b)(1) Notwithstanding any provision of law to the contrary, the sum of
20 \$1,000,000.00 is appropriated from the Education Fund to the Agency of
21 Agriculture, Food and Markets for fiscal year 2022 for the Farm-to-School

1 Program established under 6 V.S.A. § 4721. This funding shall be used by the
2 Agency of Agriculture, Food and Markets to award grants during the five-year
3 transition period to school districts that are transitioning to making available
4 school breakfast and lunch to all students at no charge. The Agency shall
5 establish criteria for awarding this grant funding, which may include funding
6 for any or all of the following:

7 (A) capital expenditures, including equipment;

8 (B) staff support;

9 (C) administration; and

10 (D) training.

11 (2) Each school that receives a transition grant under subdivision (1) of
12 this subsection shall use the funds to pay for the cost of transitioning under that
13 subdivision and shall report to the Agency of Agriculture, Food and Markets
14 how the funds were used at such time or times as required by the Agency. Any
15 unused funds shall revert to the Farm-to-School Program.

16 Sec. 7. AGENCY OF EDUCATION; STAFFING

17 The following position is created in the Agency of Education: one full-
18 time, classified position specializing in the administration of school food
19 programs. The position established in this subsection shall be transferred and
20 converted from an existing vacant position in the Executive Branch of State
21 government. There is appropriated to the Agency of Education from the

1 General Fund for fiscal year 2022 the amount of \$100,000.00 for salary,
2 benefits, and operating expenses.

3 * * * Session law; locally produced foods * * *

4 Sec. 8. ADMINISTRATIVE SUPPORT

5 The Agency of Education shall collaborate with the Agency of Agriculture,
6 Food and Markets to promote the local foods program under 16 V.S.A.
7 § 1264a to supervisory unions and supervisory districts, farmers, food
8 processors, and distributors.

9 Sec. 9. APPROPRIATIONS FOR FOOD PROGRAMS

10 (a) There is appropriated to the Agency of Education from the General
11 Fund for fiscal year 2022 the amount of \$500,000.00 for local foods incentive
12 grants under 16 V.S.A. § 1264a (locally produced foods) as added by this act.
13 From this appropriation, the Agency of Education may use up to \$60,000.00 to
14 retain a contractor, or otherwise fund costs associated with the implementation
15 of the grant program, to assist with developing and establishing the local foods
16 incentive grants for fiscal year 2022.

17 (b) There is appropriated to the Vermont Agency of Agriculture, Food and
18 Markets from the General Fund for fiscal year 2022 the annual base
19 appropriation of \$500,000.00 for the Farm-to-School and Early Childhood
20 Grant Program.

