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H.165

An act relating to school food programs and universal school meals

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.

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

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

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

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

1 * * * School Food Programs * * *

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

3 Subchapter 2. School Food Programs

4 § 1261a. DEFINITIONS

5 As used in this subchapter:

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

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

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

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

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

1 Act, as amended, to each attending student who qualifies for those meals under
2 these acts every school day.

3 (B) In addition, each school board operating a public school shall
4 cause to operate within each school in the school district the same school
5 breakfast and school lunch program made available to students who qualify for
6 those meals under the Child Nutrition Act and the National School Lunch Act,
7 each as amended, for each attending student every school day at no charge. An
8 approved independent school operating a school lunch and school breakfast
9 program made available to students who qualify for those meals under the
10 Child Nutrition Act and the National School Lunch Act, each as amended,
11 shall offer the same to each attending student every school day at no charge in
12 order to qualify for the universal meals supplement.

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

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

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

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

1 ~~the boards of the affected school district and supervisory union in writing that~~
2 ~~the exemption will expire.~~

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

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

10 * * * Universal Meals Supplement Awards * * *

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

12 § 4017. UNIVERSAL MEALS SUPPLEMENT

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

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

1 (1) Reimbursement from State funds shall be available only to districts
2 that maximize access to federal funds for the cost of the school breakfast and
3 lunch program by participating in the Community Eligibility Provision, under
4 7 C.F.R. § 245.9(f), or Provision 2, under 7 C.F.R. § 245.9(b), of these
5 programs, or any other federal provision that in the opinion of the Agency
6 draws down the most possible federal funding for meals served in that
7 program. At the start of each school year, the Agency of Education may
8 require that a school food authority requesting the universal meals supplement
9 begin a new cycle of the relevant federal provision and group sites in a manner
10 the Agency determines will maximize the drawdown of federal funds.

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

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

18 (c) Approved independent schools.

19 (1) From State funds appropriated to the Agency from the Education
20 Fund for the universal meals supplement, the Agency shall provide a universal
21 meals supplement for the cost of each meal actually provided to each

1 qualifying student on public tuition when meals are offered to all students at no
2 charge pursuant to subdivision 1264(a)(1)(B) of this title, provided that:

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

7 (B) If the approved independent school participates in the
8 Community Eligibility Provision under 7 C.F.R. § 245.9(f), or is in a year
9 other than the base year of Provision 2 under 7 C.F.R. § 245.9(b), the school
10 shall provide the Agency with the number of students attending the school on
11 public tuition and the total number of students enrolled in the school. The
12 Agency shall calculate the percentage of students attending the school on
13 public tuition and multiply that number by the paid student percentage, the
14 results of which shall be the number of meals the school shall be reimbursed
15 for.

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

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

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

6 (5) Reimbursement from State funds shall be available only to approved
7 independent schools that maximize access to federal funds for the cost of the
8 school breakfast and lunch program by participating in the Community
9 Eligibility Provision under 7 C.F.R. § 245.9(f), or Provision 2 under 7 C.F.R.
10 § 245.9(b), of these programs, or any other federal provision that in the opinion
11 of the Agency draws down the most possible federal funding for meals served
12 in that program. At the start of each school year, the Agency of Education may
13 require that a school food authority requesting the universal meals supplement
14 begin a new cycle of the relevant federal provision and group sites in a manner
15 the Agency determines will maximize the drawdown of federal funds.

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

1 equal to the federal reimbursement rate for a free school lunch less the federal
2 reimbursement rate for a paid school lunch, using rates identified annually by
3 the Agency of Education from payment levels established annually by the U.S.
4 Department of Agriculture.

5 * * * Appropriation * * *

6 Sec. 3a. APPROPRIATION; SCHOOL MEALS

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

10 * * * Local Foods Incentive Grant * * *

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

12 § 1264a. LOCALLY PRODUCED FOODS

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

20 (b) On or before December 31, 2021 and annually thereafter, ~~a school~~
21 ~~board~~ an eligible entity operating a school lunch, breakfast, or summer meals

1 program shall report to the Agency of Education an estimate of the percentage
2 of the cost of all foods purchased by the ~~school board~~ eligible entity for those
3 programs that were locally produced foods during the one-year period ending
4 on June 30 of that year.

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

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

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

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

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

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

19 (3) ~~A supervisory union~~ An eligible entity that has satisfied the
20 conditions under subdivision (2) of this subsection may, on or before January
21 15, 2022 or on or before January 15 of any year thereafter, apply to the Agency

1 for the grant by submitting a certification, signed by the business manager for
2 the ~~supervisory union~~ eligible entity, that the ~~supervisory union~~ eligible entity
3 satisfies the conditions under subdivision (2) of this subsection.

4 (4) If a ~~supervisory union~~ an eligible entity is eligible for a grant under
5 subdivision (3) of this subsection, then the Agency shall make the grant
6 payment, subject to appropriation, on or before the following March 31 after
7 submission of the ~~supervisory union's~~ eligible entity's application, which is
8 due on or before January 15 of that year, which shall be equal to \$0.15 per
9 reimbursable school lunch served by the ~~supervisory union~~ eligible entity in
10 the prior school year through the National School Lunch Program. A
11 ~~supervisory union~~ An eligible entity may apply for this grant and receive this
12 grant funding only once.

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

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

4 (ii) fluid milk.

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

8 (C) A vendor that contracts with a ~~supervisory union~~ an eligible
9 entity to supply food products shall certify to the supervisory union which of
10 the food products supplied meet the definition of local to Vermont, taking into
11 account the exclusions under subdivision 5(A) of this ~~subsection~~ subdivision
12 (c)(5).

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

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

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

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

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

12 (8) The Agency of Education may perform sample audits for any year
13 that grant funds are paid to ~~supervisory unions~~ eligible entities under
14 subdivision (6) of this subsection to verify that information provided to the
15 Agency under subdivision (5) of this subsection is accurate. If the Agency
16 makes a grant payment under subdivision (6) of this subsection to a
17 ~~supervisory union~~ an eligible entity that was based on inaccurate information
18 reported by the ~~supervisory union~~ eligible entity, the Agency may seek
19 reimbursement from the ~~supervisory union~~ eligible entity for an overpayment
20 or reimburse the ~~supervisory union~~ eligible entity for an underpayment or may

1 adjust future grant amounts under this section to reflect the over- or
2 underpayment.

3 (d)(1) On or before January 31, 2022 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:

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

11 (B) the percentage of locally produced foods, using the grant funding
12 definition, that were reported under subdivision (c)(5) of this section and the
13 amount of grant funding paid to ~~supervisory unions~~ eligible entities under
14 subdivision (c)(6) of this section in the prior school year.

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

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

18 (1) a supervisory union or supervisory district; or

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

