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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.

18                           \* \* \* School Food Programs \* \* \*

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

20                           Subchapter 2. School Food Programs

21           § 1261a. DEFINITIONS

1 As used in this subchapter:

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

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

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

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

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

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



1 each as amended, for each attending student every school day at no charge. An  
2 approved independent school operating a school lunch and school breakfast  
3 program made available to students who qualify for those meals under the  
4 Child Nutrition Act and the National School Lunch Act, each as amended,  
5 shall offer the same to each attending student every school day at no charge in  
6 order to qualify for the universal meals supplement.

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

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

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

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

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

19 \* \* \*

1     § 1265. ~~EXEMPTION; PUBLIC DISCUSSION~~

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

7           ~~(b) If a public school is exempt from offering a breakfast or lunch program,~~  
8     ~~its school board shall conduct a discussion annually on whether to continue the~~  
9     ~~exemption. The pending discussion shall be included on the agenda at a~~  
10    ~~regular or special school board meeting publicly noticed in accordance with~~  
11    ~~1 V.S.A. § 312(c), and citizens shall be provided an opportunity to participate~~  
12    ~~in the discussion. The school board shall send a copy of the notice to the~~  
13    ~~Secretary and to the superintendent of the supervisory union at least ten days~~  
14    ~~prior to the meeting. Following the discussion, the school board shall vote on~~  
15    ~~whether to continue the exemption for one additional year.~~

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

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

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

8                   \* \* \* Universal Meals Supplement Awards \* \* \*

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

10       § 4017. UNIVERSAL MEALS SUPPLEMENT

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

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

19           (1) Reimbursement from State funds shall be available only to districts  
20       that maximize access to federal funds for the cost of the school breakfast and  
21       lunch program by participating in the Community Eligibility Provision, under

1 7 C.F.R. § 245.9(f), or Provision 2, under 7 C.F.R. § 245.9(b), of these  
2 programs, or any other federal provision that in the opinion of the Agency  
3 draws down the most possible federal funding for meals served in that  
4 program. At the start of each school year, the Agency of Education may  
5 require that a school food authority requesting the universal meals supplement  
6 begin a new cycle of the relevant federal provision and group sites in a manner  
7 the Agency determines will maximize the drawdown of federal funds.

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

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

15 (c) Approved independent schools.

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



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

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

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

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

20          (4) An approved independent school is eligible for the universal meals  
21          supplement only if it operates a food program that makes available a school

1 lunch, as provided in the National School Lunch Act as amended, and a school  
2 breakfast, as provided in the Child Nutrition Act as amended, to each attending  
3 student who qualifies for those meals under these acts every school day.

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

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

1 the Agency of Education from payment levels established annually by the U.S.  
2 Department of Agriculture.

3 \* \* \* Local Foods Incentive Grant \* \* \*

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

5 § 1264a. LOCALLY PRODUCED FOODS

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

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

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

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

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

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

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

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

12 (3) ~~A supervisory union~~ An eligible entity that has satisfied the  
13 conditions under subdivision (2) of this subsection may, on or before January  
14 15, 2022 or on or before January 15 of any year thereafter, apply to the Agency  
15 for the grant by submitting a certification, signed by the business manager for  
16 the ~~supervisory union~~ eligible entity, that the ~~supervisory union~~ eligible entity  
17 satisfies the conditions under subdivision (2) of this subsection.

18 (4) If ~~a supervisory union~~ an eligible entity is eligible for a grant under  
19 subdivision (3) of this subsection, then the Agency shall make the grant  
20 payment, subject to appropriation, on or before the following March 31 after  
21 submission of the ~~supervisory union's~~ eligible entity's application, which is

1 due on or before January 15 of that year, which shall be equal to \$0.15 per  
2 reimbursable school lunch served by the ~~supervisory union~~ eligible entity in  
3 the prior school year through the National School Lunch Program. A  
4 ~~supervisory union~~ An eligible entity may apply for this grant and receive this  
5 grant funding only once.

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

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

17 (ii) fluid milk.

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

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

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

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

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

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

20           (7) ~~A supervisory union~~ An eligible entity may apply for and receive  
21 grant funding under subdivisions (5) and (6) of this subsection for each year

1 that it qualifies for this grant funding. For applications covering the 2020-2021  
2 school year, meals served through the Summer Food Service Program shall  
3 also be counted for this grant payment.

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

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

19 (A) the information received from ~~supervisory unions~~ eligible entities  
20 regarding the percentage of locally produced foods, as the ~~supervisory unions~~

1 eligible entities define them, that were reported under subsection (b) of this  
2 section; and

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

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

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

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

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

14 \* \* \* Effective Date \* \* \*

15 Sec. 5. EFFECTIVE DATE

16 This act shall take effect on July 1, 2023.