

Model State School Foods Bill (2022)

Note: Highlighted fields are intended to be customized

The Healthy Food for [STATE] Kids Act

Section I: Findings.

Whereas: Globally, diet-related chronic diseases are the leading cause of death;

Whereas: In the wake of the COVID-19 pandemic, more than one in five parents living with children under 19 reported that their households experienced food insecurity;

Whereas: Student hunger is associated with poor learning outcomes, absenteeism, and behavioral issues;

Whereas: Healthy school meals are associated with improved test scores;

Whereas: Many children consume one-third to one-half of their daily calories during the school day;

Whereas: The 2012 nutrition standards for school meals (Nutrition Standards in the National School Lunch and School Breakfast Programs, 77 Fed. Reg. 4088 [Jan. 26, 2012]) and 2016 nutrition standards for competitive foods (National School Lunch Program and School Breakfast Program - Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, 81 Feb. Reg. 50131 [July 29, 2016]) promulgated by the U.S. Department of Agriculture were estimated to save up to \$792 million in health-care related costs over ten years, prevent more than two million cases of childhood obesity, and reduce the risk of obesity by half among low-income students over five years;

Whereas: Studies conducted by USDA and other researchers have shown that since the implementation of the 2012 school meal standards the nutritional quality of school meals has significantly increased; students are eating more healthy food; food waste has either remained the same or decreased; and student participation rates are higher in schools where the meals are healthiest;

Whereas: Weaker nutrition standards make it more difficult for individual schools that want to provide healthier options to their students by stymying industry innovation and limiting product availability;

[SODIUM OPTIONS]

Whereas: Nine out of ten children consume too much sodium, increasing their risk of elevated blood pressure by approximately 40 percent;

Whereas: Approximately one in six children aged 8-17 have elevated blood pressure;

Whereas: In 2019, the National Academy of Sciences, Engineering and Medicine recommended that children age 4-8 years not exceed 1,200 mg sodium daily, and children 9-13 not exceed 1,500 mg sodium daily.

[WHOLE GRAIN OPTIONS]

Whereas: Children, on average, consume too few whole grains and too many refined grains, and reducing by half the amount of whole grain-rich foods in school meals will harm children's health;

Whereas: The 2020-2025 Dietary Guidelines for Americans recommend that half of grains consumed be whole grains.

Whereas: Eating more whole grains is associated with reduced risk of heart disease, and whole grains provide more nutrients than refined grains and are a healthful source of fiber;

Whereas: In 2018, nearly 80 percent of school districts did not have a waiver to provide fewer whole grain-rich foods;

[ADDED SUGAR OPTIONS]

Whereas: The 2020-2025 Dietary Guidelines for Americans recommends limiting consumption of added sugars to no more than ten percent of daily calories;

Whereas: School age children consume nearly twice the recommended limit of added sugars (about 17 percent of calories are from added sugars for children age 9 to 18);

Whereas: There is no standard limiting added sugars in school meals and the standard for competitive foods is outdated;

Whereas: Eliminating foods with artificial dyes has been shown to reduce adverse behavior in some children.

[EXPANDING ACCESS TO FREE MEALS OPTIONS]

Whereas: Free meals for all students decreases shame and stigma associated with receiving a free meal.

Whereas: Healthy school meals and free meals for all students are associated with improved test scores;

...; now, therefore,

Section II. Be it enacted by the [GOVERNING BODY] of [STATE/LOCALITY NAME] as follows:

Nutrition Standards

a. Nutrition Standards for School Meals

- (1) School food authorities must meet, at minimum, the nutrition standards and meal patterns, including food components and quantities, established in the school meals final rule, Nutrition Standards in the National School Lunch and School Breakfast Programs (77 Fed. Reg. 4088, Jan. 26, 2012).
 - (A) Sodium—School food authorities must meet sodium Target 2 levels by school year 2024-2025 and sodium Target 3 levels by school year 2029-2030.
 - i. The [STATE AGENCY] shall develop a sodium reduction “Target 4” in alignment with the National Academies of Sciences Engineering, and Medicine’s Dietary Reference Intakes for Sodium (March 5, 2019) and a compliance deadline by no later than school year 2033-2034.
 - (B) Whole Grains—School food authorities must meet the whole grain-rich requirements by no later than school year 2023-2024.
- (2) Added Sugars—School food authorities must meet, on average over the school week, the quantitative recommendations for limiting added sugars established by the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) by no later than school year 2026-2027.
- (3) Artificial Food Dyes—School food authorities must eliminate the use, sale, and distribution of all products containing artificial food dyes by school year 2029-2030. The requirements pursuant to this subsection remain in effect until stronger state or federal requirements are established.
- (4) Artificial Sweeteners—School food authorities must eliminate the use, sale, and distribution of all products containing artificial sweeteners by school year 2027-2028. The requirements pursuant to this subsection remain in effect until stronger state or federal requirements are established.

- (5) The requirements pursuant to this subsection remain in effect until stronger state or federal requirements aligned with the Dietary Guidelines for Americans are established.

b. Nutrition Standards for All Foods Sold Outside of School Meals (Competitive Foods)

- (1) Competitive Foods Standards—School food authorities must meet the 2016 competitive foods standards (National School Lunch Program and School Breakfast Program - Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010, 81 Fed. Reg. 50131 [July 29, 2016]).
- (2) Added Sugars—School food authorities must meet, per item, the quantitative recommendations for limiting added sugars established by the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) by no later than school year 2025-2026.
- (3) Artificial Food Dyes—School food authorities must eliminate the use, sale, and distribution of all products containing artificial food dyes by school year 2029-2030. The requirements pursuant to this subsection remain in effect until stronger state or federal requirements are established.
- (4) Artificial Sweeteners—School food authorities must eliminate the use, sale, and distribution of all products containing artificial sweeteners by school year 2027-2028. The requirements pursuant to this subsection remain in effect until stronger state or federal requirements are established.
- (5) Exemptions—Every à la carte item that is also an entrée or side dish offered as part of the lunch or breakfast program must meet the nutrition standards for competitive foods (81 Feb. Reg. 50131 [July 29, 2016]) with the exception of entrée items on the day they are served as part of the reimbursable meal.
- (6) The requirements pursuant to this subsection remain in effect until stronger state or federal requirements aligned with the Dietary Guidelines for Americans are established.

c. Nutrition Standards for Summer Meals

- (1) All meals offered through summer feeding programs shall meet the standards pursuant to this section for breakfasts and lunches served during the school year by school year 2027-2028.

d. Monitoring Compliance

- (1) Baseline report—Not later than one year after enactment, each school food authority shall submit a baseline report to the [STATE AGENCY] on the content of sodium, whole grains, and added sugar in school breakfast, lunch, and competitive foods offered.

- (2) Report to the [STATE AGENCY].—Not later than two years after enactment and annually thereafter, school food authorities shall submit to the [STATE AGENCY], and make publicly available, a report on compliance with the school meal and competitive food requirements under this Act, including for meal components, whole grain-rich, sodium, and added sugars.

e. Expanding Access to Free Meals

Choose one of the following three options:

OPTION ONE [Covers difference in reimbursement for all meals, while encouraging schools to use Community Eligibility]

- (1) Schools that participate in the School Breakfast Program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and National School Lunch Program authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) shall provide breakfast and lunch without charge to all enrolled students.
- (2) Schools that are eligible to participate in the Community Eligibility Provision authorized under section 11(a)(1)(F) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759(a)(1)(F)) and that offer school breakfast and school lunch to all students without charge shall receive additional state funding to support their school meals operations.
- (3) Notwithstanding any other provision of law, schools may use the percentage of identified students under section 11(a)(1)(F) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)(F)) for eligibility of other federal programs.

Note: the purpose of this is to ensure that schools still collect the data they need to ensure Title 1 funding. This language may need to be tailored per state.

- (4) The [STATE AGENCY] shall reimburse the schools described in subsection (1) the difference between:
 - a) The federal free reimbursement rate established annually by the United States Department of Agriculture for school breakfast and for school lunch; and
 - b) The federal reimbursement rate received for each school breakfast and school lunch served.
- (5) The [STATE AGENCY] may adopt rules necessary for making reimbursements under this section.
- (6) School food authorities shall seek to achieve the highest level of student participation in free meals and maximize federal reimbursement, which may include the following:

- a) participating in Community Eligibility Provision or other federal special provisions authorized in section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759(a)(1));
- b) providing breakfast at locations within the school outside of the cafeteria;
- c) making breakfast available to students in classrooms after the start of the school day; and
- d) collaborating with the school's wellness community advisory council on planning school meals.

OPTION TWO [Provides financial support to make CEP financially viable for all eligible schools and districts and provides free meals up to 300% of FPL for non-CEP schools]

- (1) Schools that are eligible to participate in the Community Eligibility Provision authorized under section 11(a)(1)(F) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759(a)(1)(F)) and that offer school breakfast and school lunch to all students without charge shall receive additional state funding to support their school meals operations.
- (2) The [STATE AGENCY] shall reimburse the schools described in subsection (1) the difference between:
 - a) The federal free reimbursement rate established annually by the United States Department of Agriculture for school breakfast and for school lunch; and
 - b) The federal reimbursement rate received for each school breakfast and school lunch served to students qualifying for reduced price or paid meals.
- (3) The [STATE AGENCY] may adopt rules necessary for making reimbursements under this section.
- (4) School food authorities shall seek to achieve the highest level of student participation and maximize federal reimbursement, which may include the following:
 - a) participating in Community Eligibility Provision or other federal special provisions authorized in section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759(a)(1));
 - b) providing breakfast at locations within the school outside of the cafeteria;
 - c) making breakfast available to students in classrooms after the start of the school day; and
 - d) collaborating with the school's wellness community advisory council planning school meals
- (5) Students enrolled in a school that participates in the School Breakfast Program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the National School Lunch Program authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), or both, but not described in subsection (1) shall be eligible for school breakfasts and school lunches without charge if their household income is 300 percent of the applicable family size income levels contained in

the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with 42 U.S.C. 1758(b)(1)(B).

- (6) The [STATE AGENCY] shall reimburse the schools not described in subsection (1) the difference between:
- a) The federal free reimbursement rate established annually by the United States Department of Agriculture for school breakfast and for school lunch; and
 - b) The federal reimbursement rate received for the school breakfast and school lunch served to students described in subsection (4).

OPTION THREE [Provides financial support to make CEP financially viable for all eligible schools and districts]

- (1) Schools that are eligible to participate in the Community Eligibility Provision authorized under section 11(a)(1)(F) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759(a)(1)(F)) and that offer school breakfast and school lunch to all students without charge shall receive additional state funding to support their school meals operations.
- (2) The [STATE AGENCY] shall reimburse the schools described in subsection (1) the difference between:
 - a) The federal free reimbursement rate established annually by the United States Department of Agriculture for school breakfast and for school lunch; and
 - b) The federal reimbursement rate received for each school breakfast and lunch served.
- (3) The [STATE AGENCY] may adopt rules necessary for making reimbursements under this section.
- (4). School food authorities shall seek to achieve the highest level of student participation and maximize federal reimbursement, which may include the following:
 - c) participating in Community Eligibility Provision or other federal special provisions authorized in section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759(a)(1));
 - d) providing breakfast at locations within the school outside of the cafeteria;
 - e) making breakfast available to students in classrooms after the start of the school day; and
 - f) collaborating with the school's wellness community advisory council on planning school meals

f. Additional Performance-Based Reimbursement

- 1) Beginning the school year these standards are implemented, school food authorities determined to be compliant by the [STATE AGENCY] shall receive an additional **X** cents

per reimbursable meal based on the total number of reimbursable meals (paid, free and reduced-price) served by the school food authority in the prior school year.

For reference, the following reimbursement amounts may be considered. The appropriate amount will need to be determined on a case-by-case basis, considering need, cost of implementing changes, and available state resources.

- *10-cent increase, which is based off what advocates have asked for increasing breakfast reimbursement;*
- *7-cent increase, which is based off the federal increase for meeting the updated nutrition standards;*
- *2-cent increase, which is based off the increase that high-poverty schools receive;*
- *Note that meal reimbursements should be significantly higher. The USDA School Nutrition and Meal Cost Study found that school meal costs exceeded reimbursements by, on average, \$0.49/lunch and \$0.84/breakfast (SY2014-2015).*

g. Technical Assistance

Choose one of the following two options:

OPTION ONE [Does not specify type of technical assistance]

- (1) The [STATE AGENCY] must provide technical assistance and training to assist school food authorities in meal planning that meets the evidenced-based nutrition standards as updated by the Act. Compliance assistance may be offered during trainings, onsite visits, online training modules, sessions at state conferences for food service professionals, and/or administrative reviews.

OPTION TWO [Specifies type of technical assistance]

- (1) To assist school food authorities in meeting the nutrition requirements of the Act, the [STATE AGENCY]—
- (A) shall—
- (i) develop and provide to school food authorities standardized recipes, menu cycles, food product specifications, and model preparation techniques;
 - (ii) provide school food authorities information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems;
 - (iii) develop and provide school food authorities best practices, trainings, including peer-to-peer trainings, online training modules, sessions at conferences for food service professionals, and other resources; and

- (iv) work with food industry to support development and increased availability and affordability of products that meet the updated state standards; and
- (B) may provide school food authorities information regarding other approaches, as determined by the [STATE AGENCY].

h. Sufficient Time to Eat for All Students

- (1) Each school shall provide lunch periods that are at least 30 minutes in duration, and no less than 20 minutes of that time should be dedicated for students to be seated and consume their lunch. The 20 minutes of seated time shall be separate from the time required for students to navigate from the classroom to the lunchroom, stand in line to receive the lunch meal, get potable water if wanted, clean up after themselves, and to return to the classroom after lunch has been consumed.
- (2) Each school shall provide lunch periods for all students that are scheduled between 11:00 a.m. and 2:00 p.m. Exemptions may apply for shortened school days.

i. Funding for Kitchen Equipment

- (1) Beginning the school year these standards are implemented, the [STATE AGENCY] shall provide funding for kitchen equipment improvements.
- (2) The [STATE AGENCY] may, from funds available to the Agency for this subsection, award grants to school districts. The amount of the grants shall be limited to [75 percent] of the cost deemed necessary by the [STATE AGENCY] to construct, renovate, or acquire additional kitchen facilities and equipment to provide meals to students, and shall be reduced by the amount of funds available from federal or other sources.
- (3) Notwithstanding any other provision of law, the sum of [\$1,000,000.00] is appropriated for fiscal year [2021] and each subsequent fiscal year for kitchen equipment improvements under this subsection.

Note: this language is a model for the state to provide funding for school kitchen equipment grants. This example limits the amount of the grant to 75 percent of total cost, leaving the school district with 25 percent of total cost as an example for reducing the cost to the state if needed. This example also provides \$1 million in funding for the fiscal year and subsequent years. This language would be tailored per state.

For more information, please contact the Center for Science in the Public Interest at policy@cspinet.org.

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