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An Act

SENATE BILL 23B-002

BY SENATOR(S) Zenzinger and Bridges, Buckner, Cutter, Fields, Hansen, Hinrichsen, Kirkmeyer, Marchman, Michaelson Jenet, Priola, Rich, Roberts, Sullivan, Danielson, Exum, Ginal, Gonzales, Jaquez Lewis, Kolker, Pelton B., Rodriguez, Winter F., Fenberg;
also REPRESENTATIVE(S) Bird and García, Duran, Amabile, Brown, Dickson, English, Epps, Hamrick, Hernández, Herod, Jodeh, Kipp, Lieder, Lindsay, Lindstedt, Mabrey, Marshall, Mauro, McCluskie, McCormick, McLachlan, Rutinel, Sirota, Story, Titone, Velasco, Vigil, Weissman, Willford, Young, Bacon, Ricks, Boesenecker, Daugherty, deGruy Kennedy, Froelich, Joseph, Lukens, Martinez, Ortiz, Parenti, Sharbini, Snyder, Valdez, Woodrow.

CONCERNING CREATING A PROGRAM TO PROVIDE FOOD BENEFITS TO STUDENTS FROM LOW-INCOME HOUSEHOLDS DURING SUMMER MONTHS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 26-2-309 as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

26-2-309. Summer electronic benefits transfer for children program - creation - rules - legislative declaration - definitions - repeal.

(1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) PROGRAMS THAT PROVIDE SUMMER FOOD BENEFITS TO STUDENTS FROM LOW-INCOME HOUSEHOLDS ARE PROVEN TO REDUCE CHILDHOOD HUNGER AND IMPROVE DIET QUALITY, AND THEY HELP TO ENSURE THAT STUDENTS RETURN TO CLASSROOMS IN THE FALL READY TO LEARN;

(II) THE UNITED STATES CONGRESS RECENTLY CREATED THE FEDERAL SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM AS A PERMANENT PROGRAM TO PROVIDE NUTRITIONAL BENEFITS TO ELIGIBLE STUDENTS FOR THE MONTHS WHEN STUDENTS ARE NOT IN SCHOOL;

(III) STATES THAT ADMINISTER THE FEDERAL SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM WILL BE ABLE TO PROVIDE A FEDERALLY FUNDED BENEFIT OF FORTY DOLLARS, ADJUSTED FOR INFLATION, PER ELIGIBLE STUDENT PER SUMMER MONTH IN THE FORM OF CASH-LIKE BENEFITS ON AN ELECTRONIC BENEFITS CARD TO PURCHASE FOOD FROM RETAIL FOOD STORES THAT ARE APPROVED TO PARTICIPATE IN THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM;

(IV) BY PARTICIPATING IN THE FEDERAL SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM, COLORADO WILL RECEIVE REIMBURSEMENT FOR FIFTY PERCENT OF THE STATE'S ADMINISTRATIVE COSTS; AND

(V) UNDER THE FEDERAL SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM, OVER THREE HUNDRED THOUSAND COLORADO STUDENTS WILL GAIN ACCESS TO FOOD BENEFITS, TOTALING BETWEEN THIRTY TO THIRTY-FIVE MILLION DOLLARS IN FEDERALLY FUNDED BENEFITS.

(b) THE GENERAL ASSEMBLY, THEREFORE, DECLARES IT IS NECESSARY FOR THE STATE TO AUTHORIZE AND PROVIDE RESOURCES TO THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF EDUCATION TO DEVELOP AND ADMINISTER THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

REQUIRES:

(a) "NATIONAL SCHOOL BREAKFAST PROGRAM" MEANS THE FEDERAL SCHOOL BREAKFAST PROGRAM CREATED IN 42 U.S.C. SEC. 1773, AS AMENDED.

(b) "NATIONAL SCHOOL LUNCH PROGRAM" MEANS THE FEDERAL SCHOOL LUNCH PROGRAM CREATED IN THE "RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ, AS AMENDED.

(c) "SCHOOL FOOD AUTHORITY" MEANS THE GOVERNING BODY THAT IS RESPONSIBLE FOR THE ADMINISTRATION OF ONE OR MORE SCHOOLS AND HAS THE LEGAL AUTHORITY TO OPERATE THE NATIONAL SCHOOL LUNCH PROGRAM OR NATIONAL SCHOOL BREAKFAST PROGRAM OR WOULD OTHERWISE BE APPROVED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE TO OPERATE THE NATIONAL SCHOOL LUNCH PROGRAM OR NATIONAL SCHOOL BREAKFAST PROGRAM.

(d) "SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM" OR "PROGRAM" MEANS THE FEDERAL SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM CREATED IN THE FEDERAL "CONSOLIDATED APPROPRIATIONS ACT, 2023", PUB.L. 117-328 AND SUBSECTION (3) OF THIS SECTION.

(3)(a) THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM IS CREATED IN THE STATE DEPARTMENT. THE PURPOSE OF THE PROGRAM IS TO PROVIDE SUMMER FOOD BENEFITS TO ELIGIBLE STUDENTS IN LOW-INCOME HOUSEHOLDS DURING SUMMER MONTHS WHEN STUDENTS ARE NOT IN SCHOOL PURSUANT TO FEDERAL LAW. ELIGIBLE STUDENTS MAY RECEIVE A FEDERALLY FUNDED BENEFIT IN AN AMOUNT PRESCRIBED BY FEDERAL LAW IN THE SUMMER MONTHS THROUGH CASH-LIKE BENEFITS ON AN ELECTRONIC BENEFITS CARD TO PURCHASE FOOD FROM RETAIL FOOD STORES THAT ARE APPROVED TO PARTICIPATE IN THE FEDERAL SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.

(b) THE STATE DEPARTMENT IS DESIGNATED AS THE LEAD AGENCY TO ADMINISTER THE PROGRAM IN THE STATE, IN COOPERATION WITH THE FEDERAL GOVERNMENT PURSUANT TO THE FEDERAL "CONSOLIDATED APPROPRIATIONS ACT, 2023", PUB.L. 117-328. THE STATE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THE SECRETARY OF THE UNITED

STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE TO ACCEPT FEDERAL PROGRAM BENEFITS AND DISBURSE BENEFITS TO QUALIFIED HOUSEHOLDS PURSUANT TO FEDERAL LAW.

(c) THE DEPARTMENT OF EDUCATION IS DESIGNATED AS THE PARTNER AGENCY FOR THE PROGRAM.

(4) (a) TO ADMINISTER THE PROGRAM, THE STATE DEPARTMENT SHALL:

(I) ESTABLISH ELIGIBILITY CRITERIA AND DISTRIBUTE BENEFITS CONSISTENT WITH FEDERAL LAW;

(II) DEVELOP PROCEDURES TO PURSUE CLAIMS FOR BENEFIT RECOVERY;

(III) DEVELOP AN OUTREACH PLAN AND CONDUCT OUTREACH TO COMMUNITY-BASED ORGANIZATIONS AND HOUSEHOLDS;

(IV) DEVELOP AND PROVIDE RESOURCES, TRAINING, AND TECHNICAL ASSISTANCE TO LOCAL COMMUNITY-BASED ORGANIZATIONS, INCLUDING, BUT NOT LIMITED TO, FAMILY RESOURCE CENTERS, AS DEFINED IN SECTION 26.5-3-102, NONPROFIT ORGANIZATIONS, AND EMERGENCY FOOD PROVIDERS, AND SPECIFICALLY TO LOCAL COMMUNITY-BASED ORGANIZATIONS LOCATED IN RURAL AREAS, TO CONDUCT OUTREACH AND PROVIDE SUPPORT AND INFORMATION TO PARENTS, LEGAL GUARDIANS, AND EMANCIPATED STUDENTS SEEKING TO ACCESS PROGRAM BENEFITS;

(V) DEVELOP AND PROVIDE RESOURCES AND TECHNICAL ASSISTANCE, INCLUDING PROVIDING CONTACT INFORMATION FOR LOCAL COMMUNITY-BASED ORGANIZATIONS DESCRIBED IN SUBSECTION (4)(a)(IV) OF THIS SECTION, TO LOCAL EDUCATION PROVIDERS AND SCHOOL FOOD AUTHORITIES, SPECIFICALLY LOCAL EDUCATION PROVIDERS AND SCHOOL FOOD AUTHORITIES LOCATED IN RURAL AREAS; AND

(VI) PROMULGATE RULES TO MANAGE HOUSEHOLD AND ADMINISTRATIVE ERRORS AND ANY OTHER RULES NECESSARY TO COMPLY WITH FEDERAL LAW.

(b) TO ADMINISTER THE PROGRAM, THE DEPARTMENT OF EDUCATION

SHALL:

(I) DEVELOP AN OUTREACH PLAN AND CONDUCT OUTREACH TO LOCAL EDUCATION PROVIDERS, AS DEFINED IN SECTION 22-16-103, AND SCHOOL FOOD AUTHORITIES; AND

(II) PROVIDE TECHNICAL ASSISTANCE TO SCHOOL FOOD AUTHORITIES, SPECIFICALLY SCHOOL FOOD AUTHORITIES LOCATED IN RURAL AREAS.

(c) THE STATE DEPARTMENT AND THE DEPARTMENT OF EDUCATION SHALL JOINTLY:

(I) DEVELOP PROTOCOLS FOR THE SHARING OF RELEVANT DATA NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM AND OUTREACH TO HOUSEHOLDS WITH STUDENTS WHO ARE ELIGIBLE FOR THE PROGRAM;

(II) STREAMLINE DATA COLLECTION; AND

(III) DEVELOP AND PROVIDE AN OPT-OUT PROCESS FOR PARENTS, LEGAL GUARDIANS, AND EMANCIPATED STUDENTS, TO THE EXTENT ALLOWABLE PURSUANT TO THE FEDERAL REQUIREMENTS FOR THE PROGRAM.

(5) (a) EACH SCHOOL FOOD AUTHORITY SHALL PROVIDE TO THE DEPARTMENT OF EDUCATION THE MINIMUM STUDENT-LEVEL DATA NECESSARY TO GATHER AND MAINTAIN ELIGIBILITY INFORMATION REQUIRED FOR THE PROGRAM BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE. THE DEPARTMENT OF EDUCATION SHALL SHARE THE DATA WITH THE STATE DEPARTMENT FOR THE ADMINISTRATION OF THE PROGRAM.

(b) IN COLLECTING DATA FROM SCHOOL FOOD AUTHORITIES PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, THE DEPARTMENT OF EDUCATION IS NOT SUBJECT TO THE ADVANCED NOTICE DATA REPORTING REQUIREMENT DESCRIBED IN SECTION 22-2-306 (3)(a).

(c) THE DATA DESCRIBED IN THIS SUBSECTION (5) MUST BE AVAILABLE TO THE STATE DEPARTMENT AND THE DEPARTMENT OF EDUCATION FOR A PERIOD NOT TO EXCEED FEDERAL RETENTION REQUIREMENTS. AS REQUIRED BY FEDERAL OR STATE LAW, THE DATA MUST

BE TREATED AS PROTECTED PERSONALLY IDENTIFIABLE INFORMATION CONSISTENT WITH THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g, AS AMENDED; THE "STUDENT DATA TRANSPARENCY AND SECURITY ACT", ARTICLE 16 OF TITLE 22; AND ALL OTHER APPLICABLE STATE AND FEDERAL LAWS.

(6) THIS SECTION DOES NOT PREVENT THE STATE DEPARTMENT OR THE DEPARTMENT OF EDUCATION FROM COMPLYING WITH THE FEDERAL REQUIREMENTS FOR THE PROGRAM PURSUANT TO FEDERAL LAW AND REGULATION FOR THE STATE TO QUALIFY FOR FEDERAL FUNDS AND TO MAINTAIN THE PROGRAM WITHIN THE LIMITS OF AVAILABLE APPROPRIATIONS.

(7) (a) FOR FISCAL YEARS 2023-24 AND 2024-25, THE STATE DEPARTMENT AND THE DEPARTMENT OF EDUCATION ARE EXEMPT FROM THE REQUIREMENTS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, WHEN SELECTING VENDORS TO IMPLEMENT AND ADMINISTER THE PROGRAM.

(b) THIS SUBSECTION (7) IS REPEALED, EFFECTIVE JULY 1, 2026.

(8) (a) FOR STATE FISCAL YEAR 2023-24, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST THREE MILLION ONE HUNDRED FORTY THOUSAND FOUR HUNDRED TWELVE DOLLARS TO THE STATE DEPARTMENT FROM THE GENERAL FUND FOR PURPOSES OF THIS SECTION. ANY MONEY APPROPRIATED PURSUANT TO THIS SUBSECTION (8)(a) THAT IS NOT EXPENDED PRIOR TO JULY 1, 2024, REMAINS AVAILABLE FOR EXPENDITURE FOR THE SAME PURPOSE IN THE 2024-25 STATE FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

(b) FOR STATE FISCAL YEAR 2024-25, THE GENERAL ASSEMBLY SHALL APPROPRIATE AT LEAST ONE MILLION EIGHT HUNDRED THOUSAND THREE HUNDRED TWENTY-THREE DOLLARS FOR PURPOSES OF THIS SECTION. ANY MONEY APPROPRIATED PURSUANT TO THIS SUBSECTION (8)(b) THAT IS NOT EXPENDED PRIOR TO JULY 1, 2025, REMAINS AVAILABLE FOR EXPENDITURE FOR THE SAME PURPOSE IN THE 2025-26 STATE FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

SECTION 2. In Colorado Revised Statutes, **add** 22-2-149 as follows:

22-2-149. Summer electronic benefits transfer for children program - duties. (1) THE DEPARTMENT IS THE DESIGNATED PARTNER AGENCY FOR THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM CREATED IN THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 26-2-309.

(2) TO ADMINISTER THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM, THE DEPARTMENT SHALL:

(a) DEVELOP AN OUTREACH PLAN AND CONDUCT OUTREACH TO LOCAL EDUCATION PROVIDERS, AS DEFINED IN SECTION 22-16-103, AND SCHOOL FOOD AUTHORITIES, AS DEFINED IN SECTION 26-2-309;

(b) PROVIDE TECHNICAL ASSISTANCE TO SCHOOL FOOD AUTHORITIES, SPECIFICALLY SCHOOL FOOD AUTHORITIES LOCATED IN RURAL AREAS; AND

(c) COLLECT THE MINIMUM STUDENT-LEVEL DATA NECESSARY TO GATHER AND MAINTAIN ELIGIBILITY INFORMATION REQUIRED BY THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM AND SHARE THE DATA WITH THE DEPARTMENT OF HUMAN SERVICES FOR THE ADMINISTRATION OF THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM AS SET FORTH IN SECTION 26-2-309 (5).

(3) THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT SHALL JOINTLY:

(a) DEVELOP PROTOCOLS FOR THE SHARING OF RELEVANT DATA NECESSARY FOR THE ADMINISTRATION OF THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM AND OUTREACH TO HOUSEHOLDS WITH STUDENTS WHO ARE ELIGIBLE FOR THE PROGRAM;

(b) STREAMLINE DATA COLLECTION; AND

(c) DEVELOP AND PROVIDE AN OPT-OUT PROCESS FOR PARENTS, LEGAL GUARDIANS, AND EMANCIPATED STUDENTS, TO THE EXTENT ALLOWABLE PURSUANT TO THE FEDERAL REQUIREMENTS FOR THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM.

(4) (a) FOR STATE FISCAL YEAR 2023-24, THE GENERAL ASSEMBLY SHALL APPROPRIATE ONE HUNDRED SIXTY-NINE THOUSAND EIGHT HUNDRED

SEVENTY DOLLARS TO THE DEPARTMENT FROM THE GENERAL FUND FOR PURPOSES OF THIS SECTION. ANY MONEY APPROPRIATED PURSUANT TO THIS SUBSECTION (4)(a) THAT IS NOT EXPENDED PRIOR TO JULY 1, 2024, REMAINS AVAILABLE FOR EXPENDITURE FOR THE SAME PURPOSE IN THE 2024-25 STATE FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

(b) FOR STATE FISCAL YEAR 2024-25, THE GENERAL ASSEMBLY SHALL APPROPRIATE THREE HUNDRED NINETY-THREE THOUSAND EIGHT HUNDRED SIX DOLLARS TO THE DEPARTMENT FROM THE GENERAL FUND FOR PURPOSES OF THIS SECTION. ANY MONEY APPROPRIATED PURSUANT TO THIS SUBSECTION (4)(b) THAT IS NOT EXPENDED PRIOR TO JULY 1, 2025, REMAINS AVAILABLE FOR EXPENDITURE FOR THE SAME PURPOSE IN THE 2025-26 STATE FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

SECTION 3. Appropriation. (1) For the 2023-24 state fiscal year, \$3,140,412 is appropriated to the department of human services for use by the office of economic security. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.6 FTE. To implement this act, the office may use this appropriation for the summer electronic benefits transfer for children program related to food and energy assistance.

(2) For the 2023-24 state fiscal year, the general assembly anticipates that the department of human services will receive \$3,140,412 in federal funds for the office of economic security to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

(3) For the 2023-24 state fiscal year, \$169,870 is appropriated to the department of education for school district operations. This appropriation is from the general fund and is based on an assumption that the department will require an additional 1.8 FTE. To implement this act, the department may use this appropriation for the summer electronic benefits transfer for children program related to nutrition.

(4) For the 2023-24 state fiscal year, the general assembly anticipates that the department of education will receive \$169,870 in federal funds for the school district operations to implement this act. The

appropriation in subsection (3) of this section is based on the assumption that the department will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

SECTION 4. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO