

**First Extraordinary Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 23B-0006.01 Alana Rosen x2606

SENATE BILL 23B-002

SENATE SPONSORSHIP

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Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the summer electronic benefits transfer for children program (summer EBT) in the department of human services (state department). The purpose of summer EBT is to provide food

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

HOUSE
2nd Reading Unamended
November 19, 2023

SENATE
3rd Reading Unamended
November 18, 2023

SENATE
Amended 2nd Reading
November 17, 2023

benefits to students in low-income households for the summer months when students are not in school pursuant to federal law.

The state department is designated as the lead agency to administer summer EBT in Colorado, in cooperation with the federal government. 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 for summer EBT and disburse those benefits to qualified households. To administer summer EBT, the state department shall:

- Establish eligibility criteria and distribute benefits consistent with federal law;
- Develop procedures to pursue claims for benefit recovery;
- Develop an outreach plan and conduct outreach to community-based organizations and households; and
- Promulgate rules to manage household and administrative errors and any other rules necessary to comply with federal law.

The bill designates the department of education as the partner agency for the administration of summer EBT. To administer summer EBT, the department of education shall:

- Develop an outreach plan and conduct outreach to local education providers and school food authorities participating in the national school lunch program (lunch program) or national school breakfast program (breakfast program); and
- Provide technical assistance to school food authorities, specifically school food authorities located in rural areas.

The state department and the department of education shall jointly:

- Develop protocols for the sharing of relevant data necessary for the administration of summer EBT;
- Streamline rule-making and data collection; and
- Develop and provide a parent opt-out process to the extent allowable by federal law.

The bill requires school food authorities that participate in the lunch program or breakfast program to provide the department of education with the minimum student-level data necessary to gather and maintain the eligibility information required by federal law. The department of education shall share the data with the state department to administer summer EBT. All data must be treated as protected personally identifiable information, consistent with state and federal laws.

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

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

1 follows:

2 **26-2-309. Summer electronic benefits transfer for children**
3 **program - creation - rules - legislative declaration - definitions -**
4 **repeal.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

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

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

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

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

26 (V) UNDER THE FEDERAL SUMMER ELECTRONIC BENEFITS
27 TRANSFER FOR CHILDREN PROGRAM, OVER THREE HUNDRED THOUSAND

1 COLORADO STUDENTS WILL GAIN ACCESS TO FOOD BENEFITS, TOTALING
2 BETWEEN THIRTY TO THIRTY-FIVE MILLION DOLLARS IN FEDERALLY
3 FUNDED BENEFITS.

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

9 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

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

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

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

26 (d) "SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN
27 PROGRAM" OR "PROGRAM" MEANS THE FEDERAL SUMMER ELECTRONIC

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

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

15 (b) THE STATE DEPARTMENT IS DESIGNATED AS THE LEAD AGENCY
16 TO ADMINISTER THE PROGRAM IN THE STATE, IN COOPERATION WITH THE
17 FEDERAL GOVERNMENT PURSUANT TO THE FEDERAL "CONSOLIDATED
18 APPROPRIATIONS ACT, 2023", PUB.L. 117-328. THE STATE DEPARTMENT
19 MAY ENTER INTO AN AGREEMENT WITH THE SECRETARY OF THE UNITED
20 STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE TO
21 ACCEPT FEDERAL PROGRAM BENEFITS AND DISBURSE BENEFITS TO
22 QUALIFIED HOUSEHOLDS PURSUANT TO FEDERAL LAW.

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

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

27 (I) ESTABLISH ELIGIBILITY CRITERIA AND DISTRIBUTE BENEFITS

1 CONSISTENT WITH FEDERAL LAW;

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

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

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

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

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

23 (b) TO ADMINISTER THE PROGRAM, THE DEPARTMENT OF
24 EDUCATION SHALL:

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

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

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

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

9 (II) STREAMLINE DATA COLLECTION; AND

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

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

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

25 (c) THE DATA DESCRIBED IN THIS SUBSECTION (5) MUST BE
26 AVAILABLE TO THE STATE DEPARTMENT AND THE DEPARTMENT OF
27 EDUCATION FOR A PERIOD NOT TO EXCEED FEDERAL RETENTION

1 REQUIREMENTS. AS REQUIRED BY FEDERAL OR STATE LAW, THE DATA
2 MUST BE TREATED AS PROTECTED PERSONALLY IDENTIFIABLE
3 INFORMATION CONSISTENT WITH THE FEDERAL "FAMILY EDUCATIONAL
4 RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g, AS AMENDED;
5 THE "STUDENT DATA TRANSPARENCY AND SECURITY ACT", ARTICLE 16
6 OF TITLE 22; AND ALL OTHER APPLICABLE STATE AND FEDERAL LAWS.

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

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

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

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

27 _____

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

8 ==
9 **SECTION 2.** In Colorado Revised Statutes, **add** 22-2-149 as
10 follows:

11 **22-2-149. Summer electronic benefits transfer for children**
12 **program - duties.** (1) THE DEPARTMENT IS THE DESIGNATED PARTNER
13 AGENCY FOR THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR
14 CHILDREN PROGRAM CREATED IN THE DEPARTMENT OF HUMAN SERVICES
15 PURSUANT TO SECTION 26-2-309.

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

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

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

24 (c) COLLECT THE MINIMUM STUDENT-LEVEL DATA NECESSARY TO
25 GATHER AND MAINTAIN ELIGIBILITY INFORMATION REQUIRED BY THE
26 SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM AND
27 SHARE THE DATA WITH THE DEPARTMENT OF HUMAN SERVICES FOR THE

1 ADMINISTRATION OF THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR
2 CHILDREN PROGRAM AS SET FORTH IN SECTION 26-2-309 (5).

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

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

9 (b) STREAMLINE DATA COLLECTION; AND

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

14 (4) (a) FOR STATE FISCAL YEAR 2023-24, THE GENERAL
15 ASSEMBLY SHALL APPROPRIATE ONE HUNDRED SIXTY-NINE THOUSAND
16 EIGHT HUNDRED SEVENTY DOLLARS TO THE DEPARTMENT FROM THE
17 GENERAL FUND FOR PURPOSES OF THIS SECTION. ANY MONEY
18 APPROPRIATED PURSUANT TO THIS SUBSECTION (4)(a) THAT IS NOT
19 EXPENDED PRIOR TO JULY 1, 2024, REMAINS AVAILABLE FOR EXPENDITURE
20 FOR THE SAME PURPOSE IN THE 2024-25 STATE FISCAL YEAR WITHOUT
21 FURTHER APPROPRIATION.

22 == ==
23 (b) FOR STATE FISCAL YEAR 2024-25, THE GENERAL ASSEMBLY
24 SHALL APPROPRIATE THREE HUNDRED NINETY-THREE THOUSAND EIGHT
25 HUNDRED SIX DOLLARS TO THE DEPARTMENT FROM THE GENERAL FUND
26 FOR PURPOSES OF THIS SECTION. ANY MONEY APPROPRIATED PURSUANT
27 TO THIS SUBSECTION (4)(b) THAT IS NOT EXPENDED PRIOR TO JULY 1, 2025,

1 REMAINS AVAILABLE FOR EXPENDITURE FOR THE SAME PURPOSE IN THE
2 2025-26 STATE FISCAL YEAR WITHOUT FURTHER APPROPRIATION.

3

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

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

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

24 (4) For the 2023-24 state fiscal year, the general assembly
25 anticipates that the department of education will receive \$169,870 in
26 federal funds for the school district operations to implement this act. The
27 appropriation in subsection (3) of this section is based on the assumption

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

4 **SECTION 4. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.