

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

BILLPAPER

LLS NO. 23B-0006.01 Alana Rosen x2606

SENATE BILL

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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.**

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

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.

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
3 follows:

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

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

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

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

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

25 (V) UNDER THE FEDERAL SUMMER ELECTRONIC BENEFITS
26 TRANSFER FOR CHILDREN PROGRAM, OVER THREE HUNDRED THOUSAND
27 COLORADO STUDENTS WILL GAIN ACCESS TO FOOD BENEFITS, TOTALING

1 BETWEEN THIRTY TO THIRTY-FIVE MILLION DOLLARS IN FEDERALLY
2 FUNDED BENEFITS.

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

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

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

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

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

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

1 "CONSOLIDATED APPROPRIATIONS ACT, 2023", PUB.L. 117-328 AND
2 SUBSECTION (3) OF THIS SECTION.

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

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

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

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

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

27 (II) DEVELOP PROCEDURES TO PURSUE CLAIMS FOR BENEFIT

1 RECOVERY;

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

4 (IV) PROMULGATE RULES TO MANAGE HOUSEHOLD AND
5 ADMINISTRATIVE ERRORS AND ANY OTHER RULES NECESSARY TO COMPLY
6 WITH FEDERAL LAW.

7 (b) TO ADMINISTER THE PROGRAM, THE DEPARTMENT OF
8 EDUCATION SHALL:

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

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

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

17 (I) DEVELOP PROTOCOLS FOR THE SHARING OF RELEVANT DATA
18 NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM;

19 (II) STREAMLINE RULE-MAKING AND DATA COLLECTION; AND

20 (III) DEVELOP AND PROVIDE A PARENT OPT-OUT PROCESS, TO THE
21 EXTENT ALLOWABLE PURSUANT TO THE FEDERAL REQUIREMENTS FOR THE
22 PROGRAM.

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

1 EDUCATION SHALL SHARE THE DATA WITH THE STATE DEPARTMENT FOR
2 THE ADMINISTRATION OF THE PROGRAM.

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

7 (c) THE DATA DESCRIBED IN THIS SUBSECTION (5) MUST BE
8 AVAILABLE TO THE STATE DEPARTMENT AND THE DEPARTMENT OF
9 EDUCATION FOR A PERIOD NOT TO EXCEED FEDERAL RETENTION
10 REQUIREMENTS. THE DATA MUST BE TREATED AS PROTECTED PERSONALLY
11 IDENTIFIABLE INFORMATION CONSISTENT WITH THE FEDERAL "FAMILY
12 EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC.
13 1232g, AS AMENDED; THE "STUDENT DATA TRANSPARENCY AND
14 SECURITY ACT", ARTICLE 16 OF TITLE 22; AND ALL OTHER APPLICABLE
15 STATE AND FEDERAL LAWS.

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

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

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

1 (8) (a) (I) FOR STATE FISCAL YEAR 2023-24, THE GENERAL
2 ASSEMBLY SHALL APPROPRIATE AT LEAST THREE MILLION ONE HUNDRED
3 THIRTEEN THOUSAND EIGHT HUNDRED SEVENTY-NINE DOLLARS TO THE
4 STATE DEPARTMENT FROM THE GENERAL FUND FOR PURPOSES OF THIS
5 SECTION.

6 (II) THE STATE DEPARTMENT SHALL RETAIN ANY UNSPENT MONEY
7 APPROPRIATED IN FISCAL YEAR 2023-24 FROM THE GENERAL FUND
8 PURSUANT TO SUBSECTION (8)(a)(I) OF THIS SECTION FOR THE
9 ADMINISTRATION OF THE PROGRAM.

10 (b) (I) FOR STATE FISCAL YEAR 2024-25, THE GENERAL ASSEMBLY
11 SHALL APPROPRIATE AT LEAST ONE MILLION EIGHT HUNDRED THOUSAND
12 THREE HUNDRED TWENTY-THREE DOLLARS FOR PURPOSES OF THIS
13 SECTION.

14 (II) THE STATE DEPARTMENT SHALL RETAIN ANY UNSPENT MONEY
15 APPROPRIATED IN FISCAL YEAR 2024-25 FROM THE GENERAL FUND
16 PURSUANT TO SUBSECTION (8)(b)(I) OF THIS SECTION FOR THE
17 ADMINISTRATION OF THE PROGRAM.

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

20 **22-2-149. Summer electronic benefits transfer for children**
21 **program - duties.** (1) THE DEPARTMENT IS THE DESIGNATED PARTNER
22 AGENCY FOR THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR
23 CHILDREN PROGRAM CREATED IN THE DEPARTMENT OF HUMAN SERVICES
24 PURSUANT TO SECTION 26-2-309.

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

27 (a) DEVELOP AN OUTREACH PLAN AND CONDUCT OUTREACH TO

1 LOCAL EDUCATION PROVIDERS, AS DEFINED IN SECTION 22-16-103, AND
2 SCHOOL FOOD AUTHORITIES, AS DEFINED IN SECTION 26-2-309;

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

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

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

14 (a) DEVELOP PROTOCOLS FOR THE SHARING OF RELEVANT DATA
15 NECESSARY FOR THE ADMINISTRATION OF THE SUMMER ELECTRONIC
16 BENEFITS TRANSFER FOR CHILDREN PROGRAM;

17 (b) STREAMLINE RULE-MAKING AND DATA COLLECTION; AND

18 (c) DEVELOP AND PROVIDE A PARENT OPT-OUT PROCESS, TO THE
19 EXTENT ALLOWABLE PURSUANT TO THE FEDERAL REQUIREMENTS FOR THE
20 SUMMER ELECTRONIC BENEFITS TRANSFER FOR CHILDREN PROGRAM.

21 (4) (a) (I) FOR STATE FISCAL YEAR 2023-24, THE GENERAL
22 ASSEMBLY SHALL APPROPRIATE ONE HUNDRED NINETY-SIX THOUSAND
23 FORTY-THREE DOLLARS TO THE DEPARTMENT FROM THE GENERAL FUND
24 FOR PURPOSES OF THIS SECTION.

25 (II) THE DEPARTMENT SHALL RETAIN ANY UNSPENT MONEY
26 APPROPRIATED IN FISCAL YEAR 2023-24 FROM THE GENERAL FUND
27 PURSUANT TO SUBSECTION (4)(a)(I) OF THIS SECTION FOR THE

1 ADMINISTRATION OF THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR
2 CHILDREN PROGRAM.

3 (b) (I) FOR STATE FISCAL YEAR 2024-25, THE GENERAL ASSEMBLY
4 SHALL APPROPRIATE THREE HUNDRED NINETY-THREE THOUSAND EIGHT
5 HUNDRED SIX DOLLARS TO THE DEPARTMENT FROM THE GENERAL FUND
6 FOR PURPOSES OF THIS SECTION.

7 (II) THE DEPARTMENT SHALL RETAIN ANY UNSPENT MONEY
8 APPROPRIATED IN FISCAL YEAR 2024-25 FROM THE GENERAL FUND
9 PURSUANT TO SUBSECTION (4)(b)(I) OF THIS SECTION FOR THE
10 ADMINISTRATION OF THE SUMMER ELECTRONIC BENEFITS TRANSFER FOR
11 CHILDREN PROGRAM.

12 **SECTION 3. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.