

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 3956**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 27, 2023

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3956, with committee amendments.

This bill, as amended by the committee, would require school districts and nonpublic schools participating in the National School Lunch Program to provide free lunch to gradually increasing numbers of income-eligible students over a five-year phase-in period and, at the end of that five-year phase-in period, to provide free lunch to all students enrolled in the district or at the nonpublic school, regardless of each student's household income or federal eligibility for free or reduced price school meals. The bill would additionally clarify that both school districts and nonpublic schools that offer school breakfasts under the federal School Breakfast Program will be required, pursuant to existing law at section 12 of P.L.2022, c.104 (C.18A:33-14a), to provide such breakfasts, free of charge, to students who are federally eligible for free or reduced price school meals, as well as to students who are federally ineligible for free or reduced price school meals, but who have an annual household income amounting to not less than 186 percent, and not more than 199 percent, of the federal poverty level. However, the bill would not expand the categories of students who are eligible for free breakfast under that existing law.

Under existing federal law, a student is federally eligible to receive free or reduced price school lunch under the National School Lunch Program, or free or reduced price school breakfast under the federal School Breakfast Program, only if the student is determined to be categorically eligible for such benefits (i.e., is determined to be a homeless child, a migrant child, a runaway child, a foster child, or a Head Start Child, or is a participant in certain public benefits programs) or can demonstrate that the student lives in a low-income household (i.e., a household with an annual income that is not more than 185 percent of the federal poverty level). Through the recent enactment of the "Working Class Families' Anti-Hunger Act," P.L.2022, c.104 (C.18A:33-3.2 et al.), the State of New Jersey has also provided for the expanded provision of free school lunches and breakfasts to students in the State who reside in certain middle-income families (i.e., those families having an annual household income of up to 199 percent of the federal poverty level).

This bill would further expand the existing State law on this issue by providing for the continued, but gradual, expansion of subsidized school lunch eligibility (but not subsidized school breakfast eligibility) to students in higher income brackets, over the course of a five-year phase-in period, until all students are eligible for free school lunch, regardless of the students' income and federal eligibility therefor. Specifically, under the bill's provisions, school lunches are to be made available, free of charge, to enrolled students who are federally ineligible for free or reduced price meals, in accordance with the following schedule:

(1) during the 2023-2024 school year, and consistent with the provisions of the "Working Class Families Anti-Hunger Act," to each enrolled student who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 199 percent, of the federal poverty level (FPL);

(2) during the 2024-2025 school year, to each enrolled student who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 249 percent, of the FPL;

(3) during the 2025-2026 school year, to each enrolled student who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 299 percent, of the FPL;

(4) during the 2026-2027 school year, to each enrolled student who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 349 percent, of the FPL;

(5) during the 2027-2028 school year, to each enrolled student who is federally ineligible for free or reduced price meals, but who has an annual household income that is not less than 186 percent, and not more than 399 percent, of the FPL; and

(6) during the 2028-2029 school year, and during each school year thereafter, to each enrolled student who is federally ineligible for free or reduced price meals, regardless of the student's annual household income.

All students who become newly eligible for free school lunch, under the bill's provisions, would also be eligible to continue receiving such free lunches through a summer meals program. Eligible public school students would additionally be able to continue receiving free lunches through an emergency meals distribution program that is activated during a period of school closure resulting from COVID-19.

The bill would require the State to provide funding to each participating school district and nonpublic school, as may be necessary to reimburse the costs associated with the provision of free lunches thereby to expanding groups of State-eligible students who are federally ineligible for such meals under the National School Lunch

Program. It would further require the Department of Agriculture, in consultation with the Department of Education, to establish a standardized means by which to review the State reimbursement amounts being allocated under the bill in order to determine whether, and the extent to which, participating school districts and nonpublic schools have received adequate reimbursement, from the State, sufficient to account for each participating school's actual costs of meal delivery, including, but not limited to, food, labor, and other related costs.

The bill would require each report that is annually submitted, to the Governor and Legislature, on the State's school lunch and breakfast programs to identify, as appropriate, for each participating school district and nonpublic school in the State: (1) the number and percentage of students receiving subsidized school meals who have been determined to be, respectively, federally eligible for free school lunch or breakfast, federally eligible for reduced price school lunch or breakfast, income-eligible for free school lunch or breakfast on the basis of State-level income eligibility requirements, or statutorily eligible for free school lunch, as provided by the bill, without regard to income; and (2) the number and percentage of such students who reside in low-income families with household incomes up to 185 percent of the federal poverty level, middle-income families with household incomes between 186 and 399 percent of the federal poverty level, and upper-income families with household incomes at or above 400 percent of the federal poverty level.

In addition to expanding eligibility for subsidized school lunches, the bill would also require school districts and nonpublic schools participating in the National School Lunch Program or the federal School Breakfast Program to take steps to minimize or offset program costs, to the extent that such costs can be minimized or offset without compromising the nonpublic school's or district's ability to comply with minimum nutritional standards and other program requirements. To facilitate such legally compliant cost minimization activities, the bill would require the Department of Agriculture, in consultation with the Department of Education, to: (1) monitor, inspect, and oversee school meals programs operating in the State to ensure that school meals served thereunder continue to satisfy minimum nutritional standards; (2) develop and publicize best practices, protocols, and model plans to help participating school districts and nonpublic schools effectively minimize and offset program costs without compromising the nutritional value of meals being served; and (3) work cooperatively with each participating school district and nonpublic school to review the program costs being expended thereby, identify various means and methods by which those program costs can be reduced, curtailed, or eliminated without sacrificing nutritional value or legal compliance, provide relevant financial recommendations, and undertake or recommend other appropriate

actions to prevent the State's school meals programs from becoming overly bloated with unnecessary expenses and from otherwise becoming financially burdensome.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) expand the bill's main provisions, and apply its free lunch requirements, to all nonpublic schools that participate in the National School Lunch Program;

(2) expand the bill's other provisions, including its provisions regarding the maximization of federal resources, the efficient use of financial resources and minimization of program costs, the non-discriminatory treatment of students receiving subsidized meals, the proper and non-discriminatory response to student meal arrearages, and the provision of educational materials to parents and guardians, to apply to nonpublic schools that participate in the federal school meals programs;

(3) add a new section amending the existing law at section 1 of P.L.2019, c.445 (C.18A:33-21.1) in order to clarify that both public school districts and nonpublic schools that provide free meals to students who are federally eligible for reduced price meals will be eligible for State reimbursement as authorized by that section of law;

(4) require the Department of Agriculture, in consultation with the Department of Education, to adopt rules and regulations establishing a standardized means by which the department will annually review the State reimbursement amounts being allocated under the bill in order to determine whether, and the extent to which, participating school districts and nonpublic schools have received adequate reimbursement, from the State, sufficient to account for each participating school's actual costs of meal delivery, including, but not limited to, food, labor, and other related costs; and

(5) revise the bill's synopsis to reflect the changes being made to the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that annually raising, and eventually eliminating, the income threshold for free school lunches, at public and nonpublic schools that participate in the National School Lunch Program, will increase annual State expenditures for school meal reimbursements by the following amounts:

- FY 2025 – \$55.6 million
- FY 2026 – \$105.0 million
- FY 2027 – \$150.9 million
- FY 2028 – \$190.1 million
- FY 2029 and thereafter – \$529.4 million

Because the State would reimburse schools for their expenditures, under the bill, the bill would also result in annual local expenditure increases and annual local revenue increases for these amounts minus the cost of reimbursements to nonpublic schools, which the OLS estimates to be approximately \$10 million per year for FY 2029 and thereafter.

The OLS notes that the United States Department of Agriculture (USDA) estimates that the actual costs to schools of providing school lunches is greater than the federal reimbursement rate. This difference is usually compensated for by the revenue generated by paid lunches, so that school lunch programs are revenue neutral. However, this would not be practicable under the provisions of the bill, and once the income threshold for free lunch is eliminated, the State reimbursement rate may need to be higher than the federal reimbursement rate (\$4.87 per lunch) in order to ensure that schools break even, resulting in a larger State expenditure increase.