

First Extraordinary Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted 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

HOUSE  
3rd Reading Unamended  
November 20, 2023

101

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

102

103

104

HOUSE  
2nd Reading Unamended  
November 19, 2023

**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>.)*

SENATE  
3rd Reading Unamended  
November 18, 2023

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

SENATE  
Amended 2nd Reading  
November 17, 2023

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.

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.

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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

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.

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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.