

HB 1561-FN - AS INTRODUCED

2022 SESSION

22-2052

10/05

HOUSE BILL ***1561-FN***

AN ACT relative to school nutrition standards.

SPONSORS: Rep. Deshaies, Carr. 6; Rep. Suzanne Smith, Graf. 8; Rep. Ham, Graf. 5; Rep. Allard, Merr. 21; Rep. Simpson, Rock. 36

COMMITTEE: Education

ANALYSIS

This bill establishes requirements and procedures for school nutrition and food service programs on fruits, vegetables, whole grains, sodium, and added sugars. The bill requires reports by school nutrition/food service directors and provides for rulemaking by the state board of education and the department of education on requirements and technical assistance.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to school nutrition standards.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; School Boards; Food and Nutrition Programs. Amend RSA 189:11-a by
2 inserting after paragraph I the following new paragraph:

3 I-a. School nutrition/food service programs shall meet, at a minimum, the nutrition
4 standards and meal patterns, including food components and quantities, established in the federal
5 Nutrition Standards in the National School Lunch and School Breakfast Programs, 7 C.F.R. Parts
6 210 and 220, with specific requirements as follows:

7 (a)(1) Sodium. School nutrition/food service programs shall meet sodium Target 2 levels
8 by school year 2023-2024, or when United States Department of Agriculture (USDA) enforces Target
9 2 levels, whichever is earlier, and sodium Target 3 levels by school year 2028-2029.

10 (2) The department shall develop and adopt by rule a sodium reduction “Target 4” in
11 alignment with the National Academies of Science Engineering, and Medicine’s Dietary Reference
12 Intakes for Sodium (March 5, 2019) and a compliance deadline by no later than school year 2032-
13 2033.

14 (b) Whole Grains. School nutrition/food service programs shall offer 100 percent whole
15 grains no later than school year 2023-2024, or when USDA enforces 100 percent whole grains,
16 whichever is earlier.

17 (c) Added Sugars. School nutrition/food service programs shall meet, on average over
18 the school week, the quantitative recommendations for limiting added sugars established in the
19 Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring
20 and Related Research Act of 1990, 7 U.S.C. section 5341, no later than school year 2026-2027.

21 (d) Nutrition Standards for All Foods Sold Outside of School Meals (Competitive Foods).

22 (1) Competitive Food Standards. School nutrition/food service programs shall meet
23 the 2016 competitive food standards under the National School Lunch Program and School
24 Breakfast Program and the nutrition standards for all foods sold in a school as required by the
25 Healthy, Hunger Free Kids Act of 2010.

26 (2) Added Sugars. School nutrition/food service directors shall meet, per item, the
27 quantitative recommendations for limiting added sugars established by the Dietary Guidelines for
28 Americans published under section 301 of the National Nutrition Monitoring and Related Research
29 Act of 1990, 7 U.S.C. section 5341, by no later than school year 2025-2026.

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1 (3) Exemptions. Every ala carte item that is also an entrée or side dish offered as
2 part of the lunch or breakfast program shall meet the nutrition standards for competitive foods with
3 the exception of entrée items on the day they are served as part of the reimbursable meal.

4 (e) The requirements in this paragraph shall remain in effect unless stronger state or
5 federal requirements are established.

6 2 New Subparagraph; School Boards; Food and Nutrition Programs; Waivers. Amend RSA
7 189:11-a, II by inserting after subparagraph (f) the following new subparagraph:

8 (g)(1) Meal pattern waivers. No school shall be granted a waiver from the food
9 standards, for the school year, required under this section unless the New Hampshire department of
10 education determines such waiver is necessary to provide meals and there is a supply chain
11 disruption due to COVID-19. When reviewing requests from schools, the department of education
12 shall only consider waiver requests that are related to specific standards, demonstrate supply chain
13 hardship such as the loss of a prior vendor providing a food item that met the standards and the
14 school needs time to locate and contract with a new vendor, and provides plans to resolve issues by
15 the next school year.

16 (2) Reports. All submitted and approved waivers shall be posted on the department
17 of education's website and shall include the following:

18 (A) The specific standards waived;

19 (B) The supply chain hardship; and

20 (C) A description of how the school plans to resolve issues to meet the meal
21 pattern.

22 3 Nutrition; Technical Assistance; Department of Education. Amend RSA 189:11-a, III to read
23 as follows:

24 III.(a) The state board shall prepare and distribute a curriculum for nutrition education and
25 such curriculum shall be integrated into the regular courses of instruction for kindergarten and
26 grades one through 12 during the school year.

27 **(b) The department of education shall provide technical assistance and**
28 **training to assist school nutrition/food service directors in meal planning that meets the**
29 **evidence-based nutrition standards as provided in this section, as well as provide technical**
30 **assistance, such as efforts to resolve supply chain hardships, to help schools meet the meal**
31 **pattern under any approved meal pattern waivers. Technical assistance may be offered**
32 **during trainings, onsite visits, online training modules, sessions at state conferences for**
33 **food service professionals, and/or administrative reviews or other approaches as**
34 **determined by the department.**

35 4 Rulemaking; Food and Nutrition Programs. Amend RSA 189:11-a, VI to read as follows:

36 VI. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to:

1 **(a)** A model physical activity policy and distribute such policy to each public school in
2 the state.

3 **(b)** *Technical assistance by the department and compliance reporting*
4 *requirements for school nutrition/food service directors.*

5 5 New Paragraph; Compliance; Reports. Amend RSA 189:11-a by inserting after paragraph VIII
6 the following new paragraph:

7 IX.(a) Not later than one year after the effective date of this section, each school
8 nutrition/food service director shall submit a baseline report to the department of education on the
9 content of sodium, whole grains, and added sugars in school breakfast, lunch and competitive foods
10 offered.

11 (b) Not later than 2 years after the effective date of this section, and annually thereafter,
12 school nutrition/food service directors shall submit to the department of education, and make
13 publicly available, a report on compliance with the school meal and competitive food requirements
14 under this section, including fruits, vegetables, whole grains, sodium, and added sugars.

15 6 Effective Date. This act shall take effect 60 days after its passage.

**HB 1561-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to school nutrition standards.

FISCAL IMPACT: ☒ State ☐ County ☒ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	\$444,000	\$462,000	\$486,000
Funding Source:	☒ General ☐ Education ☐ Highway ☐ Other			

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

The Department of Education states this bill requires all school nutrition and food service programs, regardless of participation in the National School Lunch and School Breakfast Programs, to do the following:

- Meet the nutrition standards and meal patterns, including food components and quantities, as established in the federal nutrition standards in the National School Lunch and School Breakfast Programs;
- Meet sodium “target 2” levels by school year 2023-2024 and “target 3” levels by school year 2028-2029, as defined by US Department of Agriculture (USDA) and also require the Department to develop an additional “target 4” level, which is not required by USDA;
- Meet a new 100 percent whole grain requirement no later than school year 2023-2024 or when USDA enforces such a requirement; and
- Meet a new added sugar restriction no later than school year 2025-2026.

These requirements are expected to have an indeterminable impact on local school district expenditures.

In addition to developing a sodium “target 4” level mentioned above, this bill would require the Department to evaluate, and if appropriate based upon supply chain disruptions, provide waivers to new state food standard requirements. The Department would also be required to post this information (i.e., the standard that was waived, the supply chain hardship, and the proposed resolution) on the Department’s website. Further, the Department would be required to provide technical assistance in this area as well as expand the current monitoring efforts to all school nutrition and food service programs, regardless of participation in the National School Lunch and School Breakfast Program.

Currently, there are no state statutory or regulatory requirements which pertain to school nutrition standards. The programs which are administered by the Department’s Office of Nutrition Programs and Services (ONPS) are federally funded and, as such, are governed by USDA’s regulatory school nutrition requirements. Presently ONPS supports 466 schools which participate in the National School Lunch and School Breakfast Programs. Under this proposed legislation, ONPS would be required to now support up to 520 public schools to include chartered public schools, as well as 137 non-public schools.

The Department states, under this bill, as it pertains to the proposed requirements for sodium, whole grains, and added sugars, ONPS would have to develop new training materials, which would require significant staff capacity. While ONPS currently provides waivers for federal requirements for the National School Lunch and School Breakfast Programs, the office would have to expand its work to evaluate compliance with new state requirements and grant corresponding waivers pursuant to this proposed legislation. The Department anticipates this additional work would require the hiring of six (6) additional program specialist II positions (labor grade 21). With an assumed start date of July 1, 2022, these six positions are estimated to cost \$444,000 in FY 2023, \$462,000 in FY 2024, and \$486,000 in FY 2025. It should be noted this bill does not establish any new positions nor provide an appropriation therefor.

AGENCIES CONTACTED:

Department of Education