ASSEMBLY BILL
No. 626

Introduced by Assembly Members Skinner and Lowenthal

February 20, 2013

An act to amend Sections 8482.3, 38091, 38100, 49430, 49431, 49431.2, 49431.5, 49431.7, 49432, and 49434 of, and to repeal Sections 38102, 49433, 49433.5, 49433.7, 49433.9, 49435, and 49436 of, the Education Code, relating to school nutrition.

LEGISLATIVE COUNSEL’S DIGEST

AB 626, as introduced, Skinner. School nutrition.

(1) Existing law, the After School Education and Safety Program Act of 2002, enacted by initiative statute, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades 1 to 9, inclusive, and requires an entity that applies to operate a program to agree that snacks made available by the program conform to specified nutrition standards.

This bill would also require an entity that applies to operate a program to agree that meals made available by the program conform to the same specified nutrition standards.

(2) Existing law authorizes the governing board of any school district to establish cafeterias in the schools under its jurisdiction and authorizes the moneys received for the sale of food or for any services performed by the cafeterias to be paid into the county treasury to the credit of the cafeteria fund of the particular school district. Existing law requires the cafeteria fund to be used only for those expenditures authorized by the governing board of the school district as necessary for the operation of school cafeterias, including, but not limited to, certain expenditures related to a central food processing plant. Existing law also authorizes
the governing board of a school district to authorize the establishment of one or more cafeteria revolving accounts whenever a cafeteria fund is operated.

This bill would repeal the authority of the governing board of a school district to use moneys in the cafeteria fund for certain expenditures related to a central food processing plant and to create one or more cafeteria revolving accounts.

(3) Existing law requires the cost of housing and equipping cafeterias to be a charge against the funds of the school district except that the governing board of a school district is authorized to make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds if the governing board of the school district deems it necessary. Existing law also authorizes the governing board of a school district, if school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, to reimburse school funds from cafeteria funds within 5 years after the expenditure.

This bill would instead require the cost of providing adequate housing for cafeterias, including, but not limited to, kitchen facilities, to be a charge against the funds of the school district. The bill would require the cost of the lease or purchase of cafeteria equipment and of vending machines and their installation and housing to be a charge against cafeteria funds. However, the governing board of a school district would be authorized to make these costs a charge against the funds of the school district if the governing board of the school district deems it necessary. The bill would also authorize the governing board of the school district, if school district funds are expended for the lease or purchase of cafeteria equipment, or for the lease, purchase, installation, or housing of vending machines, as specified, to reimburse school funds from cafeteria funds during the same fiscal year.

Existing law authorizes the governing board of a school district to make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment, and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

This bill would instead authorize the governing board of a school district to make the cost of maintenance of kitchen facilities, the cost of replacement kitchen equipment, and the reasonable costs of providing
drinking water in the cafeteria and garbage disposal related to food service and delivery a charge against cafeteria funds.

(4) Existing law authorizes the governing board of any school district operating school cafeterias to establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment.

This bill would repeal that provision.

(5) Existing law, the Pupil Nutrition, Health, and Achievement Act of 2001, requires each elementary school, commencing July 1, 2007, to sell only certain foods to a pupil during the school day, except for food items sold as part of a school fundraising event, if the items are sold by pupils of the school and the sale of those items takes place off of and away from school premises or the items are sold by pupils of the school and the sale of those items takes place at least one-half hour after the end of the school day. Existing law defines “sold” as the exchange of food for money, coupon, or vouchers.

This bill would require each elementary school, from one-half hour before the start of the school day to one-half hour after the school day, to sell only certain foods to a pupil, except for food items sold as part of a school fundraising event if the sale of those items takes place off of and away from school premises, or the sale of those items takes place on school premises at least one-half hour after the end of the school day. The bill would also define “sold” as the exchange of food or beverages for money, coupon, vouchers, or order forms, when any part of the exchange occurs on a school campus.

(6) Existing law, commencing July 1, 2007, and excluding food served as part of a United States Department of Agriculture (USDA) meal program, requires snacks and entrée items sold to a pupil in middle, junior, or high school to meet specified nutritional standards, and requires entrée items to also be categorized as entrée items in the School Breakfast Program or National School Lunch Program. Existing law authorizes the sale of food items that do not comply with these provisions in specific circumstances, including, but not limited to, if the sale of those items occurs during a school-sponsored pupil activity after the end of the school day.

This bill would apply these restrictions to the sale of snacks and entrées to a pupil in middle school or high school from one-half hour before the start of the school day to one-half hour after the school day, and would remove the requirement that entrée items be categorized as entrée items in the School Breakfast Program or National School Lunch
Program. The bill would also repeal the authority of a middle school or high school to permit the sale of food items that do not comply with the specified nutritional standards if the sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.

(7) Existing law requires that only beverages that meet specified nutritional standards may be sold to a pupil at an elementary school, regardless of the time of day. Existing law authorizes an elementary school to permit the sale of beverages that do not meet the specified nutritional standards as part of a fundraising event if the items are sold by pupils of the school and the sale of those items takes place off of and away from the premises of the school or the sale of those items takes place one-half hour or more after the end of the schoolday.

This bill would instead require, from one-half hour before the start of the schoolday to one-half hour after the schoolday, that only beverages that meet specified nutritional standards may be sold to a pupil at an elementary school. The bill would also remove the requirement that beverages that do not meet specified nutritional standards must be sold by pupils of the school.

Existing law requires that only beverages that meet specified nutritional standards may be sold to a pupil at a middle or junior high school from one-half hour before the start of the schoolday to one-half hour after the end of the schoolday. Existing law authorizes a middle or junior high school to permit the sale of beverages that do not meet the specified nutritional standards as part of a school event if the sale of those items occurs during a school-sponsored event and takes place at the location of the event at least one-half hour after the end of the schoolday and vending machines, pupil stores, and cafeterias are used later then one-half hour after the end of the schoolday.

This bill would require that only beverages that meet the same specified nutritional standards may be sold to a pupil at a high school for one-half hour before the start of the schoolday to one-half hour after the end of the schoolday. The bill would also authorize a middle school or high school to permit the sale of beverages that do not meet specified nutritional standards as part of a school event if either the sale of those items takes place off of and away from the premises of the school or the sale of those items takes place on school premises at least one-half hour after the end of the schoolday.

(8) Existing law prohibits a school or school district, during school hours and one-half hour before and after school hours, through a vending machine or school food service establishment, as defined, from making
available to pupils enrolled in kindergarten, or grades 1 to 12, inclusive, food containing artificial trans fat, as defined, or use food containing artificial trans fat in the preparation of a food item served to those pupils unless the food is provided as part of a USDA meal program.

This bill would instead prohibit a school or school district, from one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, from selling to pupils enrolled in kindergarten, or grades 1 to 12, inclusive, food containing artificial trans fat, as defined, unless the food is provided as part of a USDA meal program.

(9) Existing law requires the State Department of Education to establish a 3-year pilot program related to the Pupil Nutrition, Health, and Achievement Act of 2001, commencing in the fall of the 2002–03 school year, in which a total of not less than 10 high schools, middle schools, or any combination of high schools and middle schools that apply are selected to participate.

This bill would repeal the provisions related to the pilot program.

(10) Existing law authorizes the Superintendent of Public Instruction to monitor school districts for compliance with the Pupil Nutrition, Health, and Achievement Act of 2001, and requires each school district so monitored to report to the Superintendent in the coordinated review effort regarding the extent of the school district’s compliance.

This bill would authorize the Superintendent, in the administrative review of a school district, to report the extent of the school district’s compliance.

(11) This bill would also make nonsubstantive changes to these provisions.


The people of the State of California do enact as follows:

SECTION 1. Section 8482.3 of the Education Code is amended to read:

8482.3. (a) The After School Education and Safety Program shall be established to serve pupils in kindergarten and grades 1 to 9, inclusive, at participating public elementary, middle, junior high, and charter schools.

(b) A program may operate a before school component of a program, an after school component, or both the before and after school components of a program, on one or multiple schoolsites.
If a program operates at multiple schoolsites, only one application shall be required for its establishment.

(c) Each component of a program established pursuant to this article shall consist of the following two elements:

(1) An educational and literacy element in which tutoring or homework assistance is provided in one or more of the following areas: language arts, mathematics, history and social science, computer training, or science.

(2) An educational enrichment element, that may include, but need not be limited to, fine arts, career technical education, recreation, physical fitness, and prevention activities.

(3) Notwithstanding any other provision of this article, the majority of the time spent by a pupil who is in kindergarten or any of grades 1 to 9, inclusive, and who is participating in a career technical education element of a program established pursuant to this article shall be at a site that complies with Section 8484.6.

(d) Applicants shall agree that snacks or meals made available through a program shall conform to the nutrition standards in Article 2.5 (commencing with Section 49430) of Chapter 9 of Part 27 of Division 4 of Title 2.

(e) Applicants for programs established pursuant to this article may include any of the following:

(1) A local educational agency, including, but not limited to, a charter school, the California School for the Deaf (northern California), the California School for the Deaf (southern California), and the California School for the Blind.

(2) A city, county, or nonprofit organization in partnership with, and with the approval of, a local educational agency or agencies.

(f) Applicants for grants pursuant to this article shall ensure that each of the following requirements is fulfilled, if applicable:

(1) The application documents the commitments of each partner to operate a program on that site or sites.

(2) The application has been approved by the school district, or the charter school governing board, and the principal of each participating school for each schoolsite or other site.

(3) Each partner in the application agrees to share responsibility for the quality of the program.

(4) The application designates the public agency or local educational agency partner to act as the fiscal agent. For purposes of this section, “public agency” means only a county board of
supervisors or if the city is incorporated or has a charter, a city
council.

(5) Applicants agree to follow all fiscal reporting and auditing
standards required by the department.

(6) Applicants agree to incorporate into the program both of the
elements required pursuant to subdivision (c).

(7) Applicants agree to provide information to the department
for the purpose of program evaluation pursuant to Section 8483.55.

(8) Applicants shall certify that program evaluations will be
based upon Section 8484 and upon any requirements recommended
by the Advisory Committee on Before and After School Programs
and adopted by the state board, in compliance with subdivision
(g) of Section 8482.4.

(9) The application states the targeted number of pupils to be
served by the program.

(10) Applicants agree to provide the following information on
participating pupils to the department:

(A) School day attendance rates.

(B) Pupil test scores from the Standardized Testing and
Reporting Program established under Section 60640, reflecting
achievement in the areas addressed by required program elements,
if assessments have been established in that area.

(C) Program attendance.

(g) (1) Grantees shall review their after school program plans
every three years including, but not limited to, all of the following:

(A) Program goals. A grantee may specify any new program
goals that will apply to the following three years during the grant
renewal process.

(B) Program content, including the elements identified in
subdivision (c).

(C) Outcome measures selected from those identified in
subdivision (a) of Section 8484 that the grantee will use for the
next three years.

(D) Any other information requested by the department.

(E) If the program goals or outcome measures change as a result
of this review, the grantee shall notify the department in a manner
prescribed by the department.

(F) The grantee shall maintain documentation of the after school
program plan for a minimum of five years.
The department shall monitor this review as part of its onsite monitoring process.

SEC. 2. Section 38091 of the Education Code is amended to read:

38091. The cafeteria fund shall be used only for those expenditures authorized by the governing board of a school district as necessary for the operation of school cafeterias, including, but not limited to, expenditures for the lease or purchase of additional cafeteria equipment for the central food processing plant, vending machines and their installation and housing, and computer equipment and related software.

Whenever a cafeteria fund is operated pursuant to these provisions, the governing board may authorize the establishment of one or more cafeteria revolging accounts. For accounting purposes, a cafeteria revolging account is to be treated as a revolging cash account of the cafeteria fund, providing that the receipt of income and expenditures made from a cafeteria revolging account become recorded as income and expenditures of the cafeteria fund. Appropriate transfers, replenishments, and deposits between the cafeteria fund and a cafeteria revolging account may occur as are necessary to comply with accounting requirements.

A cafeteria revolging account may receive and expend moneys in the same manner and for the same purposes as authorized for a cafeteria account.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.

SEC. 3. Section 38100 of the Education Code is amended to read:

38100. (a) The cost of providing adequate housing and equipping for cafeterias, including, but not limited to, kitchen facilities, is a charge against the funds of the school district. The cost of the lease or purchase of cafeteria equipment and of vending machines and their installation and housing shall be a charge against cafeteria funds, in accordance with Section 38091.
However, when the governing board of a school district deems it necessary, the governing board of a school district may make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds. If school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, the governing board may at any time within five years during the same fiscal year after the expenditure reimburse school district funds from cafeteria funds. The governing board of a school district shall only approve reimbursement for vending machines if at least one of the following apply:

(1) The vending machines are owned and operated by the school food services department, sell meals that qualify for federal meal program reimbursement, and are equipped with appropriate point of service meal counting software.

(2) The vending machines sell food and beverages that comply with state and federal competitive food laws and regulations.

The governing board of a school district may by resolution make the cost of maintenance of the physical plant used in connection with cafeterias, kitchen facilities, the cost of replacement of kitchen equipment, and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, reasonable costs of providing drinking water in the cafeteria, and garbage disposal related to food service and delivery a charge against the funds of the school district. Cafeteria funds provided that the school district complies with all applicable state and federal laws and regulations.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make the cost of the construction, alteration, or improvement of a central food processing plant and the installation of additional cafeteria equipment a charge against cafeteria funds. If district funds are expended for these purposes, the governing board also may at any time within five years after the expenditure reimburse district funds from cafeteria funds.

SEC. 4. Section 38102 of the Education Code is repealed.
38102. The governing board of any school district operating school cafeterias may establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment, to be known as the cafeteria equipment reserve. The funds for this reserve are to be derived from the sales of food in the school cafeterias in an amount to be determined by the governing board and may be accumulated from year to year until expended for this purpose. Funds in the cafeteria equipment reserve shall only be used for the purchase, lease, maintenance, or replacement of cafeteria equipment.

Nothing in this section shall prohibit any school district from replacing cafeteria equipment from district funds as provided in Section 38100.

SEC. 5. Section 49430 of the Education Code is amended to read:

49430. As used in this article, the following terms have the following meanings:

(a) “Elementary school” means a public school operated and maintained by a school district, charter school, or county office of education that maintains any grade from kindergarten to grade 6, inclusive, but no grade higher than grade 6.

(b) “Middle school” means a public school operated and maintained by a school district, charter school, or county office of education that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

(c) “High school” means a public school operated and maintained by a school district, charter school, or county office of education maintaining any of grades 9 to 12, inclusive.

(d) “Full meal” means a combination of food items that meet USDA-approved School Breakfast Program or National School Lunch Program meal pattern requirements or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(e) “Added sweetener” means an additive other than 100 percent fruit juice that enhances the sweetness of a beverage.

(f) “Sold” means the exchange of food or beverages for money, coupons, or vouchers, or order forms, when any part of the exchange occurs on a school campus.
(g) “Entrée” means a food that is generally regarded as being the primary food in a meal, and shall include, but not be limited to, sandwiches, burritos, pasta, and pizza.

(h) “Snack” means a food that is generally regarded as supplementing a meal, including, but not limited to, chips, crackers, onion rings, nachos, french fries, donuts, cookies, pastries, cinnamon rolls, and candy.

(i) “Deep fried” means a food item is cooked by total submersion in oil or fat.

(j) “Par fried” means a food item is fried to reach an internal temperature of 160 degrees Fahrenheit then is cooled to room temperature so that it may be refrigerated or frozen for future frying.

(k) “Flash fried” means a food item is quickly fried on both sides in oil with a temperature of 400 degrees Fahrenheit or higher.

SEC. 6. Section 49431 of the Education Code is amended to read:

49431. (a) (1) Commencing July 1, 2007, from one-half hour before the start of the schoolday to one-half hour after the schoolday, at each elementary school, the only food that may be sold to a pupil during the school day are full meals, individually sold dairy or whole grain foods, and individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes.

(2) An individually sold dairy or whole grain food item, and individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, and legumes may be sold to pupils at an elementary school, except food sold as part of a USDA meal program, if they meet all of the following standards:

(A) Not more than 35 percent of its total calories shall be from fat. This subparagraph shall not apply to individually sold portions of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruit, vegetables that have not been deep fried, or legumes.

(B) Not more than 10 percent of its total calories shall be from saturated fat. This subparagraph shall not apply to eggs or cheese packaged for individual sale.

(C) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugar.
This subparagraph shall not apply to fruit or vegetables that have not been deep fried.

(D) Not more than 175 calories per individual food item.

(b) An elementary school may permit the sale of food items that do not comply with subdivision (a) as part of a school fundraising event in any either of the following circumstances:

(1) The items are sold by pupils of the school and the sale of those items takes place off of and away from school premises.

(2) The items are sold by pupils of the school and the sale of those items takes place on school premises at least one-half hour after the end of the schoolday.

(c) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section and Section 49431.5.

SEC. 7. Section 49431.2 of the Education Code is amended to read:

49431.2. (a) Commencing July 1, 2007, From one-half hour before the start of the schoolday to one-half hour after the schoolday, snacks sold to a pupil in middle, junior, school or high school, except food served as part of a USDA meal program, shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. This paragraph does not apply to the sale of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, vegetables that have not been deep fried, or legumes.

(2) Not more than 10 percent of its total calories shall be from saturated fat. This subparagraph does not apply to eggs or cheese packaged for individual sale.

(3) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugars. This paragraph does not apply to the sale of fruits or vegetables that have not been deep fried.

(4) No more than 250 calories per individual food item.

(b) Commencing July 1, 2007, From one-half hour before the start of the schoolday to one-half hour after the schoolday, entrée items sold to a pupil in middle, junior, school or high school, except food served as part of a USDA meal program, shall contain no more than 400 calories per entrée, and shall contain no more than 4 grams of fat per 100 calories contained in each entrée, and shall
be categorized as entrée items in the School Breakfast Program or National School Lunch Program.

c) A middle, junior, school or high school may permit the sale of food items that do not comply with subdivision (a) or (b) in any of the following circumstances:
   (1) The sale of those items takes place off of and away from school premises.
   (2) The sale of those items takes place on school premises at least one-half hour after the end of the schoolday.
   (3) The sale of those items occurs during a school-sponsored pupil activity after the end of the schoolday.
   (d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section.

SEC. 8. Section 49431.5 of the Education Code is amended to read:

49431.5. (a) (1) Regardless of the time of day, From one-half hour before the start of the schoolday to one-half hour after the schoolday, only the following beverages may be sold to a pupil at an elementary school:
   (A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.
   (B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
   (C) Drinking water with no added sweetener.
   (D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
   (2) An elementary school may permit the sale of beverages that do not comply with paragraph (1) as part of a school fundraising event in any either of the following circumstances:
      (A) The items are sold by pupils of the school and the sale of those items takes place off and away from the premises of the school.
      (B) The items are sold by pupils of the school and the sale of those items takes place on school premises at least one-half hour or more after the end of the schoolday.
      (3) From one-half hour before the start of the schoolday to one-half hour after the end of the schoolday, only the following beverages may be sold to a pupil at a middle or junior school or high school:
(A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.

(B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.

(C) Drinking water with no added sweetener.

(D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.

(E) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20-ounce serving.

(4) A middle- or junior school or high school may permit the sale of beverages that do not comply with paragraph (3) as part of a school event if the sale of those items meets all either of the following criteria:

(A) The sale occurs during a school-sponsored event and takes place at the location of that event at least one-half hour after the end of the schoolday of those items takes place off and away from the premises of the school.

(B) Vending machines, pupil stores, and cafeterias are used later than the sale of those items takes place on school premises at least one-half hour after the end of the schoolday.

(5) This subdivision does not prohibit an elementary, or middle or junior high school from making available through a vending machine any beverage allowed under paragraph (1) or (3) at any time of day, or, in middle and junior high schools, any beverage that does not comply with paragraph (3) if the beverage only is available not later than one-half hour before the start of the schoolday and not sooner than one-half hour after the end of the schoolday.

(b) (1) Commencing July 1, 2007, no less than 50 percent of all beverages sold to a pupil from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday shall be those enumerated by paragraph (3).

(2) Commencing July 1, 2009, all beverages sold to a pupil from one-half hour before the start of the schoolday until one-half hour after the end of the schoolday shall be those enumerated by paragraph (3).

(3) Beverages allowed under this subdivision are all of the following:

(A) Fruit-based drinks that are composed of no less than 50 percent fruit juice and have no added sweetener.
(B) Vegetable-based drinks that are composed of no less than 50 percent vegetable juice and have no added sweetener.
(C) Drinking water with no added sweetener.
(D) Two-percent-fat milk, one-percent-fat milk, nonfat milk, soy milk, rice milk, and other similar nondairy milk.
(E) An electrolyte replacement beverage that contains no more than 42 grams of added sweetener per 20 ounce serving.

(e) For the purposes of this section, the following terms have the following meanings:

(1) "Added sweetener" means any additive that enhances the sweetness of the beverage, including added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.

(2) "Sale of beverages" means the exchange of a beverage for money, coupons, or vouchers.

(d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with this section.

(e) Notwithstanding Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 of Division 2, compliance with this section may not be waived.

SEC. 9. Section 49431.7 of the Education Code is amended to read:

49431.7. (a) Commencing on July 1, 2009—From one-half hour before the start of the school day to one-half hour after the end of the school day, a school or school district, through a vending machine or school food service establishment during school hours and one-half of an hour before and after school hours, shall not make available sell to pupils enrolled in kindergarten, or any of grades 1 to 12, inclusive, food containing artificial trans fat, as defined in subdivision (b), or use food containing artificial trans fat in the preparation of a food item served to those pupils.

(b) For purposes of this section, a food contains artificial trans fat if a food contains vegetable shortening, margarine, or any kind of partially hydrogenated vegetable oil, unless the manufacturer’s documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams of trans fat per serving.
(c) For purposes of this section, “school food service establishment” means a place that regularly sells or serves a food item or meal on a school campus.

(d) This section does not apply to food provided as part of a USDA meal program.

SEC. 10. Section 49432 of the Education Code is amended to read:

49432. By January 1, 2004, every public school may post a summary of nutrition and physical activity laws and regulations, and shall post the school district’s nutrition and physical activity policies, in public view within all school cafeterias or other central eating areas. The State Department of Education shall develop the summary of state law and regulations.

SEC. 11. Section 49433 of the Education Code is repealed.

49433. (a) A school district maintaining at least one elementary or middle school or high school that is participating in the pilot program pursuant to Section 49433.7 may convene a Child Nutrition and Physical Activity Advisory Committee that shall develop and recommend to the governing board of the school district for its adoption, school district policies on nutrition and physical activity. The committee shall include, but need not be limited to, school district governing board members, school administrators, food service directors, food service staff, parents, pupils, physical and health education teachers, dietitians, health care professionals, and interested community members. In developing the policy, the committee shall hold at least one public hearing.

(b) The policies shall address issues and goals, including, but not limited to, all of the following:

(1) Implementing the nutritional standards set forth in Section 49431.

(2) Encouraging fundraisers that promote good health habits and discouraging fundraisers that promote unhealthy foods.

(3) Ensuring that no pupil is hungry.

(4) Improving nutritional standards.

(5) Increasing the availability of fresh fruits and vegetables, including provisions that encourage schools to make fruits and vegetables available at all locations where food is sold.

(6) Ensuring, to the extent possible, that the food served is fresh.
(7) Encouraging eligible pupils to participate in the school lunch program.

(8) Integrating nutrition and physical activity into the overall curriculum.

(9) Ensuring regular professional development for food services staff.

(10) Ensuring pupils a minimum of 30 minutes to eat lunch and 20 minutes to eat breakfast, when provided.

(11) Ensuring pupils engage in healthful levels of vigorous physical activity.

(12) Ensuring pupils receive nutrition education.

(13) Improving the quality of physical education curricula and increasing training of physical education teachers.

(14) Enforcing existing physical education requirements.

(15) Altering the economic structures in place to encourage healthy eating by pupils and reduce dependency on generating profits for the school from the sale of unhealthy foods.

(16) Developing a financing plan to implement the policies.

(17) Increasing the availability of organic fruits and vegetables and school gardens.

(c) A school district maintaining at least one elementary or middle school may apply to the State Department of Education for a grant to offset the costs of developing and adopting policies pursuant to this section. The grants shall be one-time grants and shall be available to applicant school districts by March 1, 2002.

(d) A participating school district shall receive a grant of no less than four thousand dollars ($4,000) and no more than twenty-five thousand dollars ($25,000), depending upon the size of the school district, for the purpose of offsetting the costs of developing the school district nutrition and physical activity policies.

SEC. 12. Section 49433.5 of the Education Code is repealed.

49433.5. The State Department of Education shall provide technical support and assistance to school districts in implementing Section 49433. The technical support and assistance shall include, but need not be limited to, highlighting model nutrition programs, disseminating information to assist in the financial management of the food service programs, identifying fundraising mechanisms for school food service programs and for pupil activities that
encourage healthy eating habits among pupils, and providing
information regarding the current best practices in school child
nutrition programs.

SEC. 13. Section 49433.7 of the Education Code is repealed.

49433.7. The State Department of Education shall establish a
three-year pilot program in which a total of not less than 10 high
schools, middle schools, or any combination thereof, that apply
are selected to participate. Although the selection process shall be
essentially random, the selection process shall be weighted so that
the pilot program contains participants that, as a group, are
representative of the geographic diversity of the state. The pilot
program shall commence in the fall of the 2002–03 school year.
Participating districts will be eligible to receive a grant pursuant
to subdivision (c) of Section 49433. Districts will be eligible for
an increased reimbursement rate for free and reduced price meals
served at participating high schools as set forth in Section 49430.5.

SEC. 14. Section 49433.9 of the Education Code is repealed.

49433.9. A school district participating in the pilot program
shall adopt the provisions of Section 49433 and shall comply with
all of the following requirements:

(a) (1) No beverage other than any of the following shall be
sold to pupils from one-half hour before the start of the school day
until one-half hour after the end of the school day:

(A) Fruit-based drinks that are composed of no less than 50
percent fruit juice and that have no added sweeteners:

(B) Drinking water:

(C) Milk, including, but not limited to, chocolate milk, soy milk,
rice milk, and other similar dairy or nondairy milk:

(D) Electrolyte replacement beverages that do not contain more
than 42 grams of added sweetener per 20 ounce serving:

(2) No carbonated beverage shall be sold to pupils from one-half
hour before the start of the school day until one-half hour after the
end of the school day.

(3) (A) Except as set forth in subparagraph (B), no beverage
that exceeds 12 ounces per serving shall be sold to pupils from
one-half hour before the start of the school day until one-half hour
after the end of the school day:

(B) The 12-ounce maximum serving requirement does not apply
to any of the following:

(i) Drinking water.
(ii) Milk, including, but not limited to, chocolate milk, soy milk, rice milk, and other similar dairy or nondairy milk.

(iii) An electrolyte replacement beverage that does not exceed 20 ounces per serving.

(4) For the purposes of this subdivision, “‘added sweetener’ means any additive that enhances the sweetness of the beverage, including, but not limited to, added sugar, but does not include the natural sugar or sugars that are contained within the fruit juice which is a component of the beverage.

(b) No food item shall be sold to pupils from one-half hour before the start of the school day until one-half hour after the end of the school day unless it meets all of the standards set forth in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (a) of Section 49431.

(c) Entree items and side dish serving sizes shall be no larger than the portions of those foods served as part of the federal school meal program.

(d) Fruit and nonfried vegetables shall be offered for sale at any location where food is sold.

SEC. 15. Section 49434 of the Education Code is amended to read:

49434. (a) The Superintendent may monitor school districts for compliance with this article as set forth in subdivision (b).

(b) Each school district monitored pursuant to subdivision (a) shall report to the Superintendent in the coordinated review effort regarding the extent to which it has complied with this article.

(b) The Superintendent, in the administrative review of a school district, may report the extent to which the school district has complied with this article.

(c) A school district that the Superintendent finds to be noncompliant with the mandatory provisions of this article shall adopt, and provide to the Superintendent, a corrective action plan that sets forth the actions to be taken by the school district to ensure that the school district will be in full compliance, within a time agreed upon between the Superintendent and the school district that does not exceed one year.

SEC. 16. Section 49435 of the Education Code is repealed.

49435. The State Department of Education, with advice from the Child Nutrition Advisory Council, shall design and implement a financial incentive grant program to help and encourage schools
to implement the school district policies and meet the goals described in subdivision (b) of Section 49433.

SEC. 17. Section 49436 of the Education Code is repealed.

49436. The department shall monitor the implementation of Sections 49431, 49433, 49433.5, 49433.7, and 49433.9 and shall report to the Legislature by May 1, 2005, its evaluation of all of the following:

(1) The fiscal impact of the policies and standards developed by school districts.

(2) The effect of this article upon school districts and pupils, including an assessment of pupil responses and related findings.

(3) Recommendations for improvements or additions.

(4) The resulting changes in food and beverage sales at schools.