

# STATE OF NEW YORK

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5880--B

2023-2024 Regular Sessions

## IN ASSEMBLY

March 23, 2023

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Introduced by M. of A. DAVILA -- read once and referred to the Committee on Social Services -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Social Services in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to establishing the New York healthy incentive program (Part A); to amend the social services law, in relation to automating SNAP and the New York healthy incentive program (Part B); and to amend the social services law, in relation to establishing the New York healthy incentive program outreach program (Part C)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the New York healthy incentive program.  
3 Each component is wholly contained within a Part identified as Parts A  
4 through C. The effective date for each particular provision contained  
5 within such Part is set forth in the last section of such Part. Any  
6 provision in any section contained within a Part, including the effec-  
7 tive date of the Part, which makes a reference to a section "of this  
8 act", when used in connection with that particular component, shall be  
9 deemed to mean and refer to the corresponding section of the Part in  
10 which it is found. Section three of this act sets forth the general  
11 effective date of this act.

### 12 PART A

13 Section 1. The social services law is amended by adding a new section  
14 95-b to read as follows:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1     § 95-b. New York healthy incentive program (NYHIP). 1. Legislative  
2 findings. The legislature hereby finds and declares that healthy food  
3 incentive programs provide significant health, educational, social, and  
4 economic benefits to the general public, especially for those individ-  
5 uals who have historically been excluded from access to fresh produce;  
6 in food deserts where access to healthy and affordable food is limited  
7 or where there are no grocery stores; and local farmers who struggle to  
8 compete with imported goods and produce. Furthermore, it is the artic-  
9 ulated public policy of this state to promote and foster growth in the  
10 number of farm to consumer entities accepting supplemental nutrition  
11 assistance benefits and participate in the healthy food incentive  
12 program. The healthy food incentive program provides earned dollars for  
13 supplemental nutrition assistance program recipients to spend on local  
14 healthy food that is fresh and nutritious for those who may be unable to  
15 readily afford or have easy access to fresh fruits and vegetables for  
16 themselves or their families; promotes healthier individual lifestyles  
17 by incentivizing better eating habits; fosters the retention and expan-  
18 sion of farm to consumer entities, particularly in food insecure envi-  
19 ronments; engenders a closer relationship between communities and local  
20 farmers; increases capacity for local farms; and stimulates local econo-  
21 mies. It is therefore the intent of the legislature and the purpose of  
22 this section to create a state operated healthy food incentive program,  
23 known as the New York healthy incentive program (NYHIP), for all SNAP  
24 recipients and local economies across the state.

25     2. Definitions. For the purposes of this section and section ninety-  
26 five-c of this title:

27     a. "Office" shall mean the office of temporary and disability assist-  
28 ance.

29     b. "Commissioner" shall mean the commissioner of the office of tempo-  
30 rary and disability assistance.

31     c. "Farm to consumer entities" shall mean any sort of enterprise that  
32 allows local farmers to sell their produce and other products directly  
33 to the consumer, such as farmers markets, co-ops, locally sourced commu-  
34 nity owned grocery stores, and community supported agriculture, as  
35 determined by the commissioner with input from the commissioner of agri-  
36 culture and markets.

37     d. "Local" or "locally" shall mean located within the state of New  
38 York, however, if neighboring states create their own healthy incentive  
39 programs the office may make agreements of reciprocity to allow SNAP  
40 beneficiaries to earn dollar rewards for the purchase of healthy foods  
41 from such neighboring state and may place a boundary limitation based on  
42 distance from state lines.

43     e. "Local healthy food" shall mean any agricultural product that  
44 provides nutritional support to humans such as produce, dairy, meat and  
45 processed foods that must consist of ingredients that are grown and  
46 cultivated in the state of New York, but may be processed elsewhere. For  
47 the purposes of this paragraph, "processed foods" shall mean any raw  
48 agricultural commodities that have been milled, cut, chopped, heated,  
49 pasteurized, blanched, cooked, canned, frozen, dried, dehydrated, or  
50 mixed, and shall consist of at least seventy-five percent of local  
51 ingredients.

52     f. "Similarly situated entities" shall mean stores of any size that  
53 have agreed to and signed a memorandum of understanding detailing how  
54 they will prioritize sourcing produce and other healthy foods locally,  
55 agree to goal metrics to increase their ability to locally source, and  
56 meet those metrics to maintain their healthy food incentive program

1 participation. For the purposes of this paragraph, "stores" shall mean  
2 any not farm to consumer produce retailer that is currently authorized  
3 as an electronic benefit transfer retailer, such as grocery stores,  
4 corner stores, bodegas, food marts, food stores, convenience stores, or  
5 markets.

6 g. "SNAP card" or "SNAP benefit card" shall mean any electronic method  
7 in which the supplemental nutrition assistance program is administered  
8 to beneficiaries on a credit or debit card, including through the elec-  
9 tronic benefit transfer system described in section twenty-one-a of this  
10 chapter.

11 3. Office powers and duties to promulgate program. a. The office is  
12 directed to apply for any necessary grant or waiver to participate in  
13 the Gus Schumacher Nutrition Incentive Program or similar grant adminis-  
14 tered by the United States Department of Agriculture and the National  
15 Institute of Food and Agriculture for approval, and to act for the state  
16 in any negotiations relative to the submission and approval of such  
17 plan, waiver, or grant, and shall make such arrangements and take such  
18 action, not inconsistent with law, as may be required to obtain and  
19 retain such approval, to implement such plan, waiver, or grant and to  
20 secure for the state the benefits available.

21 b. The office shall actively search for, find and apply for grants and  
22 other streams of funding to promulgate this section and fund this  
23 program.

24 c. The office shall promulgate rules and regulations and take all  
25 other actions necessary for the effective creation and implementation of  
26 NYHIP, providing earned dollars for SNAP beneficiaries to spend on local  
27 healthy food that is fresh and nutritious, in accordance with this  
28 section. Nothing in this section shall prohibit or limit the commis-  
29 sioner's ability to expand access to NYHIP to all New Yorkers, so long  
30 as it continues to prioritize the earned dollars used to buy locally  
31 grown healthy foods. Nothing in this section shall prohibit or limit the  
32 office from including New York grown and certified foods, as created by  
33 section one hundred fifty-six-h of the agriculture and markets law, from  
34 being included in NYHIP. NYHIP shall include the following:

35 i. A fixed earned dollar amount for the purchase of fresh locally  
36 grown healthy foods using SNAP;

37 ii. Automation of earned dollar amounts on SNAP cards;

38 iii. Automation of SNAP benefit cards so SNAP beneficiaries are able  
39 to participate in local community supported agriculture subscriptions  
40 and earn NYHIP dollars;

41 iv. Ensuring NYHIP is available at all farm to consumer entities and  
42 similarly situated entities by encouraging them to participate;

43 v. Connecting farm to consumer entities and similarly situated enti-  
44 ties with the necessary resources and technology to participate in  
45 NYHIP;

46 vi. Regular updates and maintenance of the mobile application and  
47 website; and

48 vii. Creation and maintenance of a NYHIP outreach program to ensure  
49 all SNAP beneficiaries are aware of the opportunity to participate in  
50 such program.

51 d. The office may contract with outside entities to effect the imple-  
52 mentation and promulgation of NYHIP and shall give greater weight to  
53 entities that manage healthy incentive programs in the state when deter-  
54 mining contract award.

55 e. The office shall establish a grant program, for farmers, farmers  
56 markets, and community-supported agriculture partnerships, in attaining

any technology needed to take payment from SNAP beneficiaries and participate in NYHIP. The office, in consultation with the department of agriculture and markets, shall establish an outreach program for farmers, farmers markets, and community-supported agriculture partnerships to be informed of NYHIP and the availability of the technological grant described above.

4. NYHIP mobile application, website and interactive map. a. i. The office shall establish a mobile application and website to promote NYHIP and locations available to SNAP recipients across the state and promote farm to consumer entities that take SNAP. The mobile application and website shall include, but is not limited to:

A. Name, location, hours of operation, contact information, and hyperlinks, as available, to all farm to consumer entities that sell locally grown healthy food and accept SNAP benefits; and

B. Name, location, hours of operation, contact information, and hyperlinks, as available, to all farmers markets, mobile markets, community supported agriculture, or similarly situated entities that sell locally grown healthy food that are participants of NYHIP.

ii. The mobile application and website should have an interactive map where a user may find farm to consumer entities that take SNAP and are NYHIP participants. This information should also be searchable by town/city, county, region or any other criteria the commissioner deems relevant.

iii. The mobile application and website should make clear distinctions between farm to consumer entities that just take SNAP and those that are participants of NYHIP.

b. Each commissioner of social services shall provide information regarding NYHIP on their website and hyperlinks to this interactive website and where to download the mobile application on the SNAP pages of all social services websites.

c. The office shall establish procedures for farm to consumer entities that accept SNAP benefits and NYHIP to provide the updated information detailed above for the mobile application and website. In developing such procedures, the office shall provide a system in which the information required in the mobile application and website is updated monthly and continuous maintenance is provided.

d. The office shall promulgate rules and regulations and take all other actions necessary for the effective implementation of this section. Nothing in this section shall prohibit or limit the department's ability to expand access to the NYHIP incentive program map to all New Yorkers.

§ 2. This act shall take effect immediately.

## PART B

Section 1. Section 95 of the social services law is amended by adding a new subdivision 12 to read as follows:

12. (a) The office shall promptly seek any necessary approvals from the United States department of agriculture food and nutrition service (USDA) to automate the use of SNAP benefit cards to streamline the process for potential and current recipients to participate in locally grown fresh food subscription services, such as community supported agriculture partnerships, by conducting an automatic deduction on a weekly basis. The office shall also create an automation process for the New York healthy incentive program (NYHIP) as prescribed in section ninety-five-b of this title, by allowing the state to add the accrued incen-

1 tives directly to a SNAP card. Once the office receives the waiver, the  
2 office shall work with the USDA and NYHIP to ensure that any incentives  
3 accrued are used by SNAP beneficiaries to purchase local food that is  
4 fresh and nutritious for those who may be unable to readily afford or  
5 have easy access to fresh fruits and vegetables for themselves or their  
6 families. The office shall promptly seek any necessary approvals from  
7 the USDA in order to maximize availability of NYHIP purchasing options  
8 throughout the state.

9 (b) The office shall ensure SNAP beneficiaries and locally grown fresh  
10 food subscription services, such as community supported agriculture  
11 partnerships, are held harmless under situations in which SNAP benefi-  
12 ciaries lose benefits during their subscription contract. The office shall  
13 honor the entirety of the subscription service contract at the expense  
14 of the state.

15 (c) Within one hundred eighty days after the effective date of this  
16 subdivision, the office shall apply for a waiver or any other necessary  
17 measure to the USDA to automate the use of SNAP in the state to stream-  
18 line NYHIP and increase access to locally grown CSA subscriptions.

19 (d) For the purposes of this subdivision, "community supported agri-  
20 culture partnerships" or "CSA" shall mean a system that connects farmers  
21 and consumers by allowing the consumer to invest in farmers by subscrib-  
22 ing to a harvest of a certain farm or group of farms, usually done by  
23 crop season but may be year round.

24 § 2. This act shall take effect immediately.

25 PART C

26 Section 1. The social services law is amended by adding a new section  
27 95-c to read as follows:

28 § 95-c. New York healthy incentive program (NYHIP) outreach program.

29 1. In accordance with federal requirements and to the extent that  
30 federal matching funds are available, the office shall develop and  
31 implement an outreach plan to inform low-income households potentially  
32 eligible to receive food stamps and participate in NYHIP to encourage  
33 the participation of eligible households that wish to participate.

34 2. In developing and implementing such a plan the office is authorized  
35 and empowered, subject to the approval of the director of the budget and  
36 provided that federal aid is available therefor, to enter into contrac-  
37 tual agreements with public and/or private organizations to develop and  
38 implement local, regional, and statewide outreach programs.

39 3. Each commissioner of social services shall develop and submit to  
40 the office on an annual basis for its approval, a local outreach plan  
41 governing the use of local social services personnel and services  
42 provided by federally funded and other agencies and organizations to  
43 inform potentially eligible households of the availability and benefits  
44 of NYHIP and to encourage and facilitate the participation of eligible  
45 households. The office shall provide commissioners of social services  
46 with technical assistance as needed to carry out the provisions of this  
47 subdivision.

48 4. As part of each local outreach plan, social services officials  
49 shall take all steps necessary to maintain a supply of information leaf-  
50 lets in public buildings, including but not limited to local unemploy-  
51 ment insurance and employment services offices of the department of  
52 labor, institutions and facilities under the supervision or control of  
53 the department of health, food stores, union halls, community centers,  
54 entities participating in NYHIP, and local agencies providing services

1 to the elderly to help ensure that eligible persons are informed of the  
2 supplemental nutrition assistance program and NYHIP. Additionally, as  
3 part of the local outreach plan, social services officials shall ensure  
4 that every new supplemental nutrition assistance program applicant  
5 receives information on NYHIP upon submission of an application and  
6 shall provide such information in the home language of the applicant  
7 pursuant to any federal and state laws, rules and regulations.

8 5. The office shall periodically distribute to all newspapers, and to  
9 television and radio stations throughout the state, public service  
10 announcements describing NYHIP, including the NYHIP interactive map and  
11 website, and shall promptly inform such media of significant changes in  
12 the program affecting eligibility requirements and/or the amount of  
13 NYHIP earnings.

14 6. The office shall establish procedures in cooperation with the  
15 industrial commissioner of the department of labor to ensure that infor-  
16 mational leaflets about NYHIP are sent to each local employment services  
17 office for distribution pursuant to section five hundred forty of the  
18 labor law. Each leaflet shall include, but not be limited to: the phone  
19 number for the New York state food stamp hotline; how to access the  
20 NYHIP website and interactive map; how SNAP beneficiaries earn NYHIP  
21 benefits buying local healthy foods; estimated maximum income eligibil-  
22 ity levels by household size for participation in SNAP; and the avail-  
23 ability of local social services departments to provide additional  
24 information about NYHIP.

25 7. In accordance with applicable federal and state laws, rules and  
26 regulations, the office shall make available appropriate translated  
27 materials so that potentially eligible non-English speaking individuals  
28 may be informed about NYHIP.

29 8. The office shall promulgate rules and regulations and take all  
30 other actions necessary for the effective implementation of this  
31 section.

32 § 2. This act shall take effect immediately.

33 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
34 sion, section or part of this act shall be adjudged by any court of  
35 competent jurisdiction to be invalid, such judgment shall not affect,  
36 impair, or invalidate the remainder thereof, but shall be confined in  
37 its operation to the clause, sentence, paragraph, subdivision, section  
38 or part thereof directly involved in the controversy in which such judg-  
39 ment shall have been rendered. It is hereby declared to be the intent of  
40 the legislature that this act would have been enacted even if such  
41 invalid provisions had not been included herein.

42 § 3. This act shall take effect immediately; provided, however, that  
43 the applicable effective date of Parts A through C of this act shall be  
44 as specifically set forth in the last section of such Parts.