

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0578.01 Jane Ritter x4342

HOUSE BILL 13-1006

HOUSE SPONSORSHIP

Moreno and Exum, Peniston, Court, McCann, Primavera, Salazar, Schafer, Tyler, Williams

SENATE SPONSORSHIP

Giron, Hodge, Ulibarri

House Committees

Education
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIRING CERTAIN SCHOOLS TO OFFER BREAKFAST TO**
102 **ALL STUDENTS FOLLOWING THE FIRST BELL.**

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://www.leg.state.co.us/billsummaries>.)

The bill creates the "Breakfast After the Bell Nutrition Program" (program). The program requires every school with 70% or more students eligible for free or reduced-cost lunch to offer a free breakfast to each student in the school. Individual schools may select a method and time to offer the breakfast, so long as it occurs after the first bell of the school

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

day. Exemptions are made for small schools and school districts and for public and charter schools that do not currently participate in the federal school lunch program.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 82.8 to
3 title 22 as follows:

4 **ARTICLE 82.8**

5 **Breakfast After the Bell Nutrition Program**

6 **22-82.8-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
7 MAY BE CITED AS THE "BREAKFAST AFTER THE BELL NUTRITION
8 PROGRAM".

9 **22-82.8-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
12 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

13 (2) "PROGRAM" MEANS THE BREAKFAST AFTER THE BELL
14 NUTRITION PROGRAM CREATED IN SECTION 22-82.8-103.

15 (3) "PUBLIC SCHOOL" MEANS A PUBLIC SCHOOL OR CHARTER
16 SCHOOL AS DEFINED IN SECTION 22-1-101 OR AN APPROVED FACILITY
17 SCHOOL AS DEFINED IN SECTION 22-2-402 (1).

18 (4) "SCHOOL BREAKFAST PROGRAM" MEANS THE FEDERAL
19 "SCHOOL BREAKFAST PROGRAM" CREATED IN 42 U.S.C. SEC. 1773.

20 (5) "SCHOOL FOOD AUTHORITY" MEANS:

21 (a) A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL
22 INSTITUTE;

23 (b) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO
24 SECTION 22-30.5-603;

1 (c) A BOARD OF COOPERATIVE SERVICES CREATED PURSUANT TO
2 ARTICLE 5 OF THIS TITLE THAT ELECTS TO OPERATE AS A SCHOOL FOOD
3 AUTHORITY PURSUANT TO SECTION 22-5-120; OR

4 (d) A DISTRICT CHARTER SCHOOL OR AN INSTITUTE CHARTER
5 SCHOOL THAT:

6 (I) THE COMMISSIONER OF EDUCATION OR HIS OR HER DESIGNEE
7 PROVISIONALLY AUTHORIZES AS A SCHOOL FOOD AUTHORITY PURSUANT
8 TO SECTION 22-32-120 (6); OR

9 (II) THE DEPARTMENT AUTHORIZES AS A SCHOOL FOOD AUTHORITY
10 PURSUANT TO SECTION 22-32-120 (5).

11 (6) "SCHOOL LUNCH PROGRAM" MEANS THE FEDERAL "NATIONAL
12 SCHOOL LUNCH ACT" CREATED IN 42 U.S.C. SEC. 1751.

13 **22-82.8-103. Breakfast after the bell nutrition program -**
14 **creation - objectives - requirements - administration.** (1) THERE IS
15 HEREBY CREATED THE BREAKFAST AFTER THE BELL NUTRITION PROGRAM.
16 THE PURPOSE OF THE PROGRAM IS TO OFFER A FREE BREAKFAST TO EACH
17 STUDENT ENROLLED IN A PUBLIC SCHOOL THAT HAS SEVENTY PERCENT OR
18 MORE STUDENTS WHO ARE ELIGIBLE FOR FREE OR REDUCED-COST LUNCH
19 UNDER THE SCHOOL LUNCH PROGRAM.

20 (2) THE OBJECTIVES OF THE PROGRAM ARE TO:

21 (a) INCREASE THE TOTAL NUMBER OF CHILDREN EATING
22 BREAKFAST ON SCHOOL DAYS;

23 (b) INCREASE THE CONSUMPTION OF HIGH-NUTRITION FOODS,
24 MAKING BREAKFAST PROGRAMS MORE EFFECTIVE;

25 (c) IMPROVE ACADEMIC PERFORMANCE BY PREPARING CHILDREN
26 TO LEARN;

27 (d) IMPROVE THE OVERALL HEALTH OF THE CHILDREN OF

1 COLORADO; AND

2 (e) GENERATE ADDITIONAL REVENUE FOR SCHOOL NUTRITION
3 PROGRAMS THROUGH FEDERAL AND STATE REIMBURSEMENTS.

4 (3) (a) BEGINNING IN THE 2014-2015 SCHOOL YEAR, AND EACH
5 YEAR THEREAFTER, EXCEPT AS PROVIDED FOR IN PARAGRAPH (c) OF THIS
6 SUBSECTION (3) AND SUBSECTION (4) OF THIS SECTION, EACH PUBLIC
7 SCHOOL IN THE STATE THAT HAS SEVENTY PERCENT OR MORE STUDENTS
8 WHO ARE ELIGIBLE FOR FREE OR REDUCED-COST LUNCH UNDER THE
9 SCHOOL LUNCH PROGRAM IN THE PRIOR SCHOOL YEAR SHALL OFFER A FREE
10 BREAKFAST TO EACH STUDENT IN THE SCHOOL. IF A PUBLIC SCHOOL FALLS
11 BELOW THE SEVENTY PERCENT THRESHOLD FOR TWO CONSECUTIVE YEARS,
12 IT HAS THE OPTION TO CONTINUE PARTICIPATING IN THE PROGRAM BUT IS
13 NOT REQUIRED TO DO SO. A PUBLIC OR CHARTER SCHOOL THAT DOES NOT
14 PARTICIPATE IN THE SCHOOL LUNCH PROGRAM IS NOT REQUIRED TO
15 PARTICIPATE.

16 (b) EACH PUBLIC SCHOOL, SCHOOL DISTRICT, OR BOARD OF
17 COOPERATIVE SERVICES MAY DETERMINE THE BREAKFAST SERVING MODEL
18 THAT BEST SUITS ITS STUDENTS. SERVING MODELS MAY INCLUDE, BUT
19 NEED NOT BE LIMITED TO, BREAKFAST IN THE CLASSROOM, GRAB AND GO
20 BREAKFAST, OR A BREAKFAST AFTER FIRST PERIOD. THE BREAKFAST SHALL
21 BE SERVED AT A TIME TO BE DETERMINED BY THE PUBLIC SCHOOL OR
22 SCHOOL DISTRICT, SO LONG AS IT OCCURS AFTER THE FIRST BELL. A
23 SCHOOL THAT HAS SEVENTY PERCENT OR MORE STUDENTS RECEIVING FREE
24 OR REDUCED LUNCH UNDER THE SCHOOL LUNCH PROGRAM AND THAT CAN
25 DEMONSTRATE THAT AT LEAST NINETY PERCENT OF ITS STUDENTS TAKE
26 BUS TRANSPORTATION TO SCHOOL MAY OPT TO OFFER ITS BREAKFAST
27 PROGRAM ON THE BUS RATHER THAN ON SCHOOL GROUNDS. SUCH A

1 SCHOOL IS REQUIRED TO OFFER BREAKFAST AFTER THE BELL TO ANY
2 STUDENT WHO ARRIVES LATE OR ARRIVES BY ANOTHER MODE OF
3 TRANSPORTATION.

4 (c) A PUBLIC SCHOOL WITH FEWER THAN ONE HUNDRED STUDENTS
5 OR A SCHOOL WITHIN A SCHOOL DISTRICT THAT HAS FEWER THAN THREE
6 HUNDRED STUDENTS IS EXEMPT FROM THE PROGRAM BUT MAY
7 PARTICIPATE IF OTHERWISE ELIGIBLE.

8 (4) IN THE EVENT THAT FEDERAL PER-MEAL REIMBURSEMENTS FOR
9 FREE OR REDUCED SCHOOL BREAKFASTS ARE DECREASED BELOW THE 2013
10 LEVELS OR ELIMINATED BY CONGRESS UNDER THE "CHILD NUTRITION
11 ACT", 42 U.S.C. 1773(b) OR THE SCHOOL LUNCH PROGRAM, SCHOOLS
12 THAT ARE OTHERWISE REQUIRED TO OFFER BREAKFAST PURSUANT TO THIS
13 SECTION ARE EXEMPT FROM THE PROGRAM.

14 **22-82.8-104. Procedures - technical assistance.** (1) (a) ON OR
15 BEFORE MAY 1, 2014, THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE
16 PROCEDURES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS
17 ARTICLE. SUCH PROCEDURES MUST BE IN COMPLIANCE WITH THE SCHOOL
18 BREAKFAST PROGRAM AND SCHOOL LUNCH PROGRAM.

19 (b) THE DEPARTMENT SHALL OFFER TECHNICAL ASSISTANCE TO
20 PUBLIC SCHOOLS AND SCHOOL DISTRICTS RELATED TO SUBMITTING CLAIMS
21 FOR REIMBURSEMENT TO THE SCHOOL BREAKFAST PROGRAM.

22 (2) THE DEPARTMENT SHALL DEVELOP PROCEDURES TO ALLOCATE
23 AND DISBURSE FEDERAL MONEYS TO PARTICIPATING SCHOOL FOOD
24 AUTHORITIES AND PUBLIC SCHOOLS IN COMPLIANCE WITH THE
25 REQUIREMENTS OF THE SCHOOL BREAKFAST PROGRAM AND SCHOOL LUNCH
26 PROGRAM.

27 **SECTION 2. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2014 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor.