

Enrolled House Bill 2536

Sponsored by Representatives REARDON, NERON, RUIZ; Representatives ALONSO LEON, BYNUM, CAMPOS, DEXTER, DRAZAN, GRAYBER, HAYDEN, HUDSON, LEIF, MORGAN, OWENS, POWER, PRUSAK, REYNOLDS, SCHOUTEN, SMITH DB, SOLLMAN, VALDERRAMA, WILDE, WILLIAMS, WRIGHT, ZIKA (Presession filed.)

CHAPTER

AN ACT

Relating to school meals provided at no charge to students; amending ORS 327.531, 327.535 and 327.545; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 327.531 is amended to read:

327.531. *[(1) If a student is eligible for reduced price lunches under the United States Department of Agriculture's current Income Eligibility Guidelines, the school district that provides lunches to the student shall provide the lunches at no charge to the student.]*

[(2) For each lunch that a school district provides free of charge to a student who is eligible for a reduced price lunch, the Department of Education shall provide reimbursement to the school district for the actual amount that the student would have been required to pay for the reduced price lunch.]

(1)(a) A school or school district that meets the eligibility requirements of the special provisions of the United States Department of Agriculture's National School Lunch Program or School Breakfast Program may offer reimbursable breakfasts, lunches or both at no charge and without consideration of individual eligibility by applying to the Department of Education.

(b) If the school or school district is approved under paragraph (a) of this subsection, the school or school district must offer breakfasts, lunches or both to all students of the school or school district at no charge to the student.

(c) For each breakfast or lunch that a school or school district provides at no charge as described in this subsection, the Department of Education shall provide reimbursement pursuant to ORS 327.545 (2).

(2)(a) If a school or school district does not offer reimbursable breakfasts or lunches as described in subsection (1) of this section, the school district must ensure that each school of the school district:

(A) Offers lunch at no charge to students from households with incomes that do not exceed 300 percent of the federal poverty guidelines.

(B) Offers breakfast at no charge to students from households with incomes that do not exceed 300 percent of the federal poverty guidelines, if breakfast must be offered pursuant to ORS 327.535.

(b) For each breakfast or lunch that a school or school district provides at no charge as described in this subsection, the Department of Education shall provide reimbursement pursuant to ORS 327.545 (3).

(3) Notwithstanding subsections (1) and (2) of this section, a school or school district is not required to provide breakfast or lunch at no charge to students if the Department of Education has insufficient funds to provide reimbursement pursuant to ORS 327.545 (2) or (3). The State Board of Education shall adopt rules that describe:

(a) The method for determining when the department has insufficient funds;

(b) The content and timing of the notice to be provided to school districts when the department determines that the department has insufficient funds; and

(c) The procedures the school or school district must follow upon receiving notice of insufficient funds.

SECTION 2. ORS 327.535 is amended to read:

327.535. (1) As used in this section, “eligible student” means a student who is eligible for free or reduced price [lunches] **meals** under the United States Department of Agriculture’s [current Income Eligibility Guidelines] **National School Lunch Program or School Breakfast Program**.

(2) A school district may make breakfast accessible at any school site and shall make breakfast accessible if required by this section.

(3) Subject to subsections (4) and (5) of this section, a school district that provides lunch at any school site shall make breakfast accessible as part of a breakfast program if 25 percent or more of the students at the school site are eligible students or the school site qualifies for assistance under Chapter I of Title I of the federal Elementary and Secondary Education Act of 1965.

(4) A school district that makes breakfast accessible as provided under subsection (3) of this section may apply to the Department of Education for a waiver for all or for particular grade levels if the school district is financially unable to implement a breakfast program. The department may grant a waiver to the school district for a period not to exceed two years, after which the school district must reestablish its claim of financial hardship if the waiver is to be extended.

(5) If the per meal federal reimbursement for the breakfast program falls below the 1991 reimbursement levels, a school district may elect to discontinue the program until federal funding is restored to those levels. No waiver is required for such election.

(6) A school district that makes breakfast accessible at any school site shall make breakfast accessible at that school site at no charge [to all eligible students] **as provided by ORS 327.531 (1) or (2)**. [For each breakfast that a school district provides free of charge to a student who is eligible for a reduced price lunch,] The department shall provide reimbursement to the school district for [the actual amount that a student would have been required to pay for the reduced price breakfast] **each breakfast provided at no charge as provided by ORS 327.545**.

(7)(a) Except as provided by subsection (8) of this section, a school district that makes breakfast accessible at a school site may choose to make breakfast accessible at that school site after the beginning of the school day.

(b) Time spent by students consuming breakfast is considered instructional time when students consume breakfast in the students’ classroom and instruction is being provided while students are consuming breakfast. No more than 15 minutes may be considered instructional time when students are consuming breakfast.

(8)(a) If 70 percent or more of the students at a school site are eligible students, the school district must make breakfast accessible at that school site after the beginning of the school day.

(b) A school district that is required to make breakfast accessible as prescribed by paragraph (a) of this subsection must ensure that breakfast is:

(A) Accessible to all students after the beginning of the school day, regardless of grade or arrival time; and

(B) Provided [free of] **at no charge** to all students, regardless of whether a student is an eligible student.

(c) The department shall provide technical assistance to school districts to meet the requirements of this subsection. Technical assistance may include the development of breakfast delivery models.

(d) Notwithstanding paragraph (a) of this subsection, if a school district can demonstrate that 70 percent or more of the eligible students at a school site regularly receive breakfast at the school site without the school district complying with paragraph (a) of this subsection, the school district is not required to comply with paragraph (a) of this subsection.

(9) The State Board of Education may adopt any rules necessary for the implementation of this section.

SECTION 3. ORS 327.545 is amended to read:

327.545. (1) For school districts with schools that provide United States Department of Agriculture reimbursable meals to students as described in *[subsections (2) and (3) of this section]* **ORS 327.531 and 327.535**, the Department of Education shall reimburse the school districts for costs incurred by the school districts in providing the meals. The amounts of the reimbursements may not exceed the amounts prescribed by subsections (2) and (3) of this section.

(2) For schools that offer reimbursable breakfast and lunch *[free of]* **at no** charge to all students of the school *[based on the school's or school district's categorical eligibility to provide reimbursable breakfast and lunch free of charge]* without consideration of individual eligibility for free or reduced price meals **as described in ORS 327.531 (1)**, the amount of reimbursements provided under this section may not exceed the difference between:

(a) The **free** reimbursement rate established by the United States Department of Agriculture for reimbursable meals; and

(b) Any amounts otherwise reimbursed or paid by state, federal or other sources.

(3) For schools that *[are not eligible to]* offer reimbursable breakfast and lunch *[free of]* **at no** charge *[as described in subsection (2) of this section but that provide reimbursable breakfast or lunch free of charge]* to students from households with incomes that do not exceed 300 percent of the federal poverty guidelines **as described in ORS 327.531 (2)**, the amount of reimbursements provided under this section may not exceed the difference between:

[(a) The actual amount that a student would have been required to pay for the breakfast or lunch, taking into consideration if the student qualified for a free or reduced price lunch; and]

(a) The free reimbursement rate established by the United States Department of Agriculture for reimbursable meals; and

(b) Any amounts otherwise reimbursed or paid by state, federal or other sources.

(4) The State Board of Education may adopt any rules necessary for making reimbursements under this section.

SECTION 4. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect July 1, 2021.

Passed by House April 14, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 18, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2021

Approved:

.....M,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2021

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Shemia Fagan, Secretary of State