

## SENATE AMENDMENTS TO SENATE BILL 1581

By COMMITTEE ON EDUCATION

February 11

1 On page 1 of the printed bill, delete line 26 and delete pages 2 through 4.

2 On page 5, delete lines 1 through 10 and insert:

3 **“SECTION 1.** ORS 327.531 is amended to read:

4 “327.531. (1)(a) A school or school district that meets the eligibility requirements of the special  
5 provisions of the United States Department of Agriculture’s National School Lunch Program or  
6 School Breakfast Program *[may]* **must apply to the Department of Education to** offer  
7 reimbursable breakfasts, lunches or both at no charge and without consideration of individual el-  
8 igibility *[by applying to the Department of Education]*.

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

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

15 “(2)(a) If a school or school district does not offer reimbursable breakfasts or lunches as de-  
16 scribed in subsection (1) of this section, the school district must *[ensure]* **require** that each school  
17 of the school district:

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

20 “(B) Offers breakfast at no charge to students *[from households with incomes that do not exceed*  
21 *300 percent of the federal poverty guidelines]*, if breakfast must be offered pursuant to ORS 327.535.

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

25 “(3) Notwithstanding subsections (1) and (2) of this section, a school or school district is not  
26 required to provide breakfast or lunch at no charge to students if:

27 “(a) The Department of Education has insufficient funds to provide reimbursement pursuant to  
28 ORS 327.545 (2) or (3). The State Board of Education shall adopt rules that describe:

29 “[a] (A) The method for determining when the department has insufficient funds[;].

30 “(B) **The criteria for determining when a breakfast or lunch must still be provided at no**  
31 **charge to students based on the funds that are available to provide reimbursement. When**  
32 **possible, the criteria must prioritize the offering of breakfast or lunch at no charge to stu-**  
33 **dents from households with incomes that do not exceed 300 percent of the federal poverty**  
34 **guidelines.**

35 “[b] (C) The content and timing of the notice to be provided to school districts when the de-

1      department determines that the department has insufficient funds[; and].

2      “[c] (D) The procedures the school or school district must follow upon receiving notice of in-  
3      sufficient funds.

4      **“(b) The school site operates on a schedule that does not include a traditional service**  
5      **time for breakfast or lunch, as determined by the Department of Education based on criteria**  
6      **established by the State Board of Education by rule.**

7      **“(4) The Department of Education shall provide technical assistance to schools and**  
8      **school districts to meet the requirements of this section.**

9      **“SECTION 2.** ORS 327.535 is amended to read:

10     “327.535. (1) As used in this section, ‘eligible student’ means a student who is eligible for free  
11     or reduced price meals under the United States Department of Agriculture’s National School Lunch  
12     Program or School Breakfast Program.

13     “[*(2) A school district may make breakfast accessible at any school site and shall make breakfast*  
14     *accessible if required by this section.*]”

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

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

24     “[*(5) If the per meal federal reimbursement for the breakfast program falls below the 1991 re-*  
25     *imbursement levels, a school district may elect to discontinue the program until federal funding is re-*  
26     *stored to those levels. No waiver is required for such election.*]”

27     **“(2) Except as provided by subsection (3) of this section, a school district must make**  
28     **breakfast accessible at every school site.**

29     **“(3) A school district is not required to make breakfast accessible at every school site if**  
30     **the school district qualifies for a waiver from the Department of Education under this sub-**  
31     **section. A school district may qualify for a waiver as follows:**

32     **“(a) The school district may apply for a waiver for all or for particular grade levels if the**  
33     **school district is financially unable to implement a breakfast program. The department may**  
34     **grant a waiver to the school district for a period not to exceed two years, after which the**  
35     **waiver may be extended only if the school district reestablishes a claim of financial hardship.**

36     **“(b) The school district may apply for a waiver for all or for particular grade levels if the**  
37     **school district is unable to implement a breakfast program due to reasons identified by the**  
38     **State Board of Education by rule, including operating on a schedule that does not include a**  
39     **traditional service time for breakfast. The waiver shall be for a period identified by the de-**  
40     **partment based on criteria established by the state board, and may be extended as provided**  
41     **by the criteria.**

42     “[*(6) (4) A school district that makes breakfast accessible at any school site shall make break-*  
43     *fast accessible at that school site at no charge as provided by ORS 327.531 (1) or (2). The department*  
44     *shall provide reimbursement to the school district for each breakfast provided at no charge as pro-*  
45     *vided by ORS 327.545.*]”

1        “[~~(7)(a)~~] **(5)(a)** Except as provided by [*subsection (8) of this section*] **paragraph (b) of this sub-**  
2 **section**, a school district that makes breakfast accessible at a school site [*may choose to make*  
3 *breakfast accessible at that school site after the beginning of the school day.*] **must ensure that**  
4 **breakfast is accessible to all students after the beginning of the school day, regardless of**  
5 **grade or arrival time.**

6        **“(b) If a school district can demonstrate that 70 percent or more of the students at a**  
7 **school site who regularly receive lunch at the school site also regularly receive breakfast at**  
8 **the school site without the school district complying with paragraph (a) of this subsection,**  
9 **the school district is not required to comply with paragraph (a) of this subsection.**

10       “[*(b)*] **(6)** Time spent by students consuming breakfast is considered instructional time when  
11 students consume breakfast in the students’ classroom and instruction is being provided while stu-  
12 dents are consuming breakfast. No more than 15 minutes may be considered instructional time when  
13 students are consuming breakfast.

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

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

18       “[*(A)* *Accessible to all students after the beginning of the school day, regardless of grade or arrival*  
19 *time; and*”

20       “[*(B)* *Provided at no charge to all students, regardless of whether a student is an eligible*  
21 *student.*”

22       “[*(c)*] **(7)** The department shall provide technical assistance to school districts to meet the re-  
23 quirements of this [*subsection*] **section**. Technical assistance:

24       **“(a) Must include assisting school districts in maximizing to the greatest extent practi-**  
25 **cable the amounts received for reimbursement under federal law.**

26       **“(b) May include the development of breakfast delivery models.**

27       “[*(d) Notwithstanding paragraph (a) of this subsection, If a school district can demonstrate that*  
28 *70 percent or more of the eligible students at a school site regularly receive breakfast at the school site*  
29 *without the school district complying with paragraph (a) of this subsection, the school district is not*  
30 *required to comply with paragraph (a) of this subsection.*”

31       “[*(9)(a)*] **(8)(a)** The department may award grants or enter into contracts to enable school dis-  
32 tricts to make breakfast accessible as required under [*subsection (8) of*] this section. Each grant or  
33 contract may not exceed \$5,000 per school site and must be used to purchase or upgrade necessary  
34 equipment required to provide breakfast after the beginning of the school day.

35       **“(b) The department may enter into a contract with a public or private entity for the purposes**  
36 **of the entity providing:**

37       **“(A) Technical assistance to applicants for and recipients of grants; and**

38       **“(B) Administration of the grant program.**

39       “[*(10)*] **(9)** The State Board of Education may adopt any rules necessary for the implementation  
40 of this section.

41       **“SECTION 3. ORS 327.545 is amended to read:**

42       **“327.545. (1) For school districts with schools that provide [*United States Department of Agri-***  
43 ***culture reimbursable*]** meals to students as described in ORS 327.531 and 327.535, the Department of  
44 Education shall reimburse the school districts for costs incurred by the school districts [*in providing*  
45 *the meals. The amounts of the reimbursements may not exceed the amounts prescribed by subsections*

1     (2) and (3) of this section] as provided by this section.

2         “(2) For schools that offer reimbursable breakfast and lunch at no charge to all students of the  
3         school without consideration of individual eligibility for free or reduced price meals as described in  
4         ORS 327.531 (1), the amount of reimbursements provided under this section [may not exceed] shall  
5         equal the difference between:

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

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

9         “(3) For schools that offer [reimbursable] breakfast and lunch at no charge to students [from  
10         households with incomes that do not exceed 300 percent of the federal poverty guidelines] as described  
11         in ORS 327.531 (2), the amount of reimbursements provided under this section [may not exceed] shall  
12         equal the difference between:

13             “(a) Any amounts available as the free reimbursement rate established by the United States  
14             Department of Agriculture for reimbursable meals; and

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

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

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