

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The School Breakfast and Lunch Program Act is amended by changing Sections 2.5 and 4 as follows:

(105 ILCS 125/2.5)

Sec. 2.5. Breakfast incentive program. The State Board of Education shall fund a breakfast incentive program comprised of the components described in paragraphs (1), (2), and (3) of this Section, provided that a separate appropriation is made for the purposes of this Section. The State Board of Education may allocate the appropriation among the program components in whatever manner the State Board of Education finds will best serve the goal of increasing participation in school breakfast programs. If the amount of the appropriation allocated under paragraph (1), (2), or (3) of this Section is insufficient to fund all claims submitted under that particular paragraph, the claims under that paragraph shall be prorated.

(1) Additional funding incentive. The State Board of Education may reimburse each sponsor of a school breakfast program at least an additional \$0.10 for each free, reduced-price, and paid breakfast served over and above the number of such breakfasts served in the same month during

~~the preceding year, provided that the number of breakfasts served in a participating school building in that month is at least 10% greater than the number of breakfasts served in the same month during the preceding year.~~

(2) Start-up incentive. The State Board of Education may make grants to school boards and welfare centers that agree to start a school breakfast program in one or more schools or other sites. First priority for these grants shall be given through August 15 to schools in which 40% or more of their students are eligible for free and reduced price meals, based on the school district's previous year's October claim, under the National School Lunch Act (42 U.S.C. 1751 et seq.). Depending on the availability of funds and the rate at which funds are being utilized, the State Board of Education is authorized to allow additional schools or other sites to receive these grants in the order in which they are received by the State Board of Education. ~~In making additional grants, the State Board of Education shall provide for priority to be given to schools with the highest percentage of students eligible for free and reduced price lunches under the National School Lunch Act.~~ The amount of the grant shall be \$3,500 for each qualifying school or site in which a school breakfast program is started. The grants shall be used to pay the start-up costs for the school breakfast program, including equipment, supplies, and program promotion, but shall not be used for

food, labor, or other recurring operational costs. Applications for the grants shall be made to the State Board of Education on forms designated by the State Board of Education. Any grantee that fails to operate a school breakfast program for at least 3 years after receipt of a grant shall refund the amount of the grant to the State Board of Education.

(3) Non-traditional breakfast incentive. Understanding that there are barriers to implementing a school breakfast program in a traditional setting such as in a cafeteria, the State Board of Education may make grants to school boards and welfare centers to offer the school breakfast program in non-traditional settings or using non-traditional methods. Priority will be given to applications through August 15 of each year from schools that are on the Early Academic Warning List. Depending on the availability of funds and the rate at which funds are being utilized, the State Board of Education is authorized to allow additional schools or other sites to receive these grants in the order in which they are received by the State Board of Education. The State Board of Education may reimburse a school board for each free, reduced price, or paid breakfast served in a school breakfast program located in a school in which 80% or more of the students are eligible to receive free or reduced price lunches under the National School Lunch Act (42 U.S.C. 1751 et seq.) in an

~~amount equal to the difference between (i) the current amount reimbursed by the federal government for a free breakfast and (ii) the amount actually reimbursed by the federal government for that free, reduced price, or paid breakfast. A school board that receives reimbursement under this paragraph (3) shall not be eligible in the same year to receive reimbursement under paragraph (1) of this Section.~~

(Source: P.A. 93-1086, eff. 2-15-05; 94-981, eff. 6-30-06.)

(105 ILCS 125/4) (from Ch. 122, par. 712.4)

Sec. 4. Accounts; copies of menus served; free lunch program required; report. School boards and welfare centers shall keep an accurate, detailed and separate account of all moneys expended for school breakfast programs, school lunch programs, free breakfast programs, free lunch programs, and summer food service programs, and of the amounts for which they are reimbursed by any governmental agency, moneys received from students and from any other contributors to the program. School boards and welfare centers shall also keep on file a copy of all menus served under the programs, which together with all records of receipts and disbursements, shall be made available to representatives of the State Board of Education at any time.

Every public school must have a free lunch program.

In 2010 ~~2001~~ and in each subsequent year, the State Board of Education shall provide to the Governor and the General

Assembly, by a date not later than April ~~March~~ 1, a report that provides all of the following:

(1) A list by school district of (i) all schools participating in the school breakfast program, (ii) all schools' the total student enrollment, (iii) all schools' and the number of children eligible for free, reduced price, and paid breakfasts and lunches, (iv) all schools' incentive moneys received, and (v) all schools' participation in Provision Two or Provision Three under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) (Blank). ~~A list of schools that have started breakfast programs during the past year along with information on which schools have utilized the \$3,500 start-up grants and the additional \$0.10 per meal increased participation incentives established under Section 2.5 of this Act.~~

(3) A list of schools that have ~~used the school breakfast program option outlined in this Act, a list of schools that have exercised Provision Two or Provision Three under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a list of schools that have dropped a either school lunch or school breakfast program programs~~ during the past year and the reason or reasons why. ~~and~~

(3.5) A a list of school districts and schools granted an exemption from a regional superintendent of schools for operating a school breakfast program in the next year and

the reason or reasons why.

~~In 2007, 2009, and 2011 the report required by this Section shall also include information that documents the results of surveys designed to identify parental interest in school breakfast programs and documents barriers to establishing school breakfast programs. To develop the surveys for school administrators and for parents, the State Board of Education shall work with local committees that involve parents, teachers, principals, superintendents, business, and anti hunger advocates, organized by the State Board of Education to foster community involvement. The State Board of Education is authorized to distribute the surveys in all schools where there are no school breakfast programs.~~

(Source: P.A. 93-1086, eff. 2-15-05; 94-981, eff. 6-30-06.)

Section 10. The Childhood Hunger Relief Act is amended by changing Section 15 as follows:

(105 ILCS 126/15)

Sec. 15. School breakfast program.

(a) ~~The~~ Within 90 days after the effective date of this amendatory Act of the 93rd General Assembly and then each school year thereafter, the board of education of each school district in this State shall implement and operate a school breakfast program in the next school year, if a breakfast program does not currently exist, in accordance with federal

guidelines in each school building within its district in which at least 40% or more of the students are eligible for free or reduced-price lunches based upon the current year's ~~count on~~ October claim ~~31 of the previous year~~ (for those schools that participate in the National School Lunch Program) or in which at least 40% or more of the students are classified as low-income according to the Fall Housing Data from the previous year (for those schools that do not participate in the National School Lunch Program).

~~Using the data from the previous school year, the board of education of each school district in the State shall determine which schools within their districts will be required to implement and operate a school breakfast program.~~

(b) School districts may charge students who do not meet federal criteria for free school meals for the breakfasts served to these students within the allowable limits set by federal regulations.

(c) School breakfast programs established under this Section shall be supported entirely by federal funds and commodities, charges to students and other participants, and other available State and local resources, including under the School Breakfast and Lunch Program Act. Allowable costs for reimbursement to school districts, in accordance with the United States Department of Agriculture, include compensation of employees for the time devoted and identified specifically to implement the school breakfast program; the cost of

materials acquired, consumed, or expended specifically to implement the school breakfast program; equipment and other approved capital expenditures necessary to implement the school breakfast program; and transportation expenses incurred specifically to implement and operate the school breakfast program.

(d) A school district shall be allowed to opt out a school or schools from ~~of~~ the school breakfast program requirement of this Section if it is determined that, due to circumstances specific to that school district, the expense reimbursement would not fully cover the costs of implementing and operating a school breakfast program. The school district shall petition its regional superintendent of schools by February ~~November~~ 15 of each year to request to be exempt from operating the school breakfast program in the school or schools in the next school year ~~requirement~~. The petition shall include all legitimate costs associated with implementing and operating a school breakfast program, the estimated reimbursement from State and federal sources, and any unique circumstances the school district can verify that exist that would cause the implementation and operation of such a program to be cost prohibitive.

The regional superintendent of schools shall review the petition. In accordance with the Open Meetings Act, he or she shall convene a public hearing to hear testimony from the school district and interested community members. The regional

superintendent shall, by ~~March~~ December 15 of each year, inform the school district of his or her decision, along with the reasons why the exemption was granted or denied, in writing. The regional superintendent must also send notification to the State Board of Education detailing which schools requested an exemption and the results. If the regional superintendent grants an exemption to the school district, then the school district is relieved from the requirement to establish and implement a school breakfast program in the school or schools granted an exemption for the next ~~that~~ school year.

If the regional superintendent of schools does not grant an exemption ~~to the school district~~, then the school district shall implement and operate a school breakfast program in accordance with this Section by the first student attendance day of the next school year ~~September 1 of the subsequent school year~~. However, the school district or a resident of the school district may by April 15 appeal the decision of the regional superintendent to the State Superintendent of Education. ~~The~~ No later than February 15 of each year, the State Superintendent shall hear appeals on the decisions of regional superintendents of schools no later than May 15 of each year. The State Superintendent shall make a final decision at the conclusion of the hearing on the school district's request for an exemption from the school breakfast program requirement. If the State Superintendent grants an exemption ~~to~~ ~~the school district~~, then the school district is relieved from

the requirement to implement and operate a school breakfast program in the school or schools granted an exemption for the next ~~that~~ school year. If the State Superintendent does not grant an exemption ~~to the school district~~, then the school district shall implement and operate a school breakfast program in accordance with this Section by the first student attendance day ~~September 1~~ of the next ~~subsequent~~ school year.

A school district may not attempt to opt out a school or schools from ~~of~~ the school breakfast program requirement of this Section by requesting a waiver under Section 2-3.25g of the School Code.

(Source: P.A. 93-1086, eff. 2-15-05; 94-981, eff. 6-30-06.)

Section 99. Effective date. This Act takes effect July 1, 2009.