

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

**REVISED**

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 13-0578.01 Jane Ritter x4342

**HOUSE BILL 13-1006**

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**HOUSE SPONSORSHIP**

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

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**House Committees**

Education  
Appropriations

**Senate Committees**

Health & Human Services  
Appropriations

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**A BILL FOR AN ACT**

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

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**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.*

SENATE  
2nd Reading Unamended  
April 18, 2013

HOUSE  
3rd Reading Unamended  
March 14, 2013

HOUSE  
Amended 2nd Reading  
March 13, 2013

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.

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

15 (b) BEGINNING IN THE 2015-2016 SCHOOL YEAR, AND EACH YEAR  
16 THEREAFTER, EXCEPT AS PROVIDED FOR IN THIS SUBSECTION (3) AND  
17 SUBSECTION (4) OF THIS SECTION, EACH PUBLIC SCHOOL IN THE STATE  
18 THAT HAS SEVENTY PERCENT OR MORE STUDENTS WHO ARE ELIGIBLE FOR  
19 FREE OR REDUCED-COST LUNCH UNDER THE SCHOOL LUNCH PROGRAM IN  
20 THE PRIOR SCHOOL YEAR SHALL OFFER A FREE BREAKFAST TO EACH  
21 STUDENT IN THE SCHOOL. IF A PUBLIC SCHOOL FALLS BELOW THE SEVENTY  
22 PERCENT THRESHOLD FOR TWO CONSECUTIVE YEARS, IT HAS THE OPTION  
23 TO CONTINUE PARTICIPATING IN THE PROGRAM BUT IS NOT REQUIRED TO  
24 DO SO. A PUBLIC SCHOOL OR CHARTER SCHOOL THAT DOES NOT  
25 PARTICIPATE IN THE SCHOOL LUNCH PROGRAM IS NOT REQUIRED TO  
26 PARTICIPATE.

27 (c) EACH PUBLIC SCHOOL, SCHOOL DISTRICT, OR BOARD OF

1 COOPERATIVE SERVICES MAY DETERMINE THE BREAKFAST SERVING MODEL  
2 THAT BEST SUITS ITS STUDENTS. SERVING MODELS MAY INCLUDE, BUT  
3 NEED NOT BE LIMITED TO, BREAKFAST IN THE CLASSROOM, GRAB AND GO  
4 BREAKFAST, OR A BREAKFAST AFTER FIRST PERIOD. THE BREAKFAST SHALL  
5 BE SERVED AT A TIME TO BE DETERMINED BY THE PUBLIC SCHOOL OR  
6 SCHOOL DISTRICT, SO LONG AS IT OCCURS AFTER THE FIRST BELL. A  
7 SCHOOL THAT HAS SEVENTY PERCENT OR MORE STUDENTS RECEIVING FREE  
8 OR REDUCED LUNCH UNDER THE SCHOOL LUNCH PROGRAM AND THAT CAN  
9 DEMONSTRATE THAT AT LEAST NINETY PERCENT OF ITS STUDENTS TAKE  
10 BUS TRANSPORTATION TO SCHOOL MAY OPT TO OFFER ITS BREAKFAST  
11 PROGRAM ON THE BUS RATHER THAN ON SCHOOL GROUNDS. SUCH A  
12 SCHOOL IS REQUIRED TO OFFER BREAKFAST AFTER THE BELL TO ANY  
13 STUDENT WHO ARRIVES LATE OR ARRIVES BY ANOTHER MODE OF  
14 TRANSPORTATION.

15 (d) SMALL RURAL SCHOOL DISTRICTS, AS DEFINED BY THE  
16 DEPARTMENT, THAT HAVE A STUDENT POPULATION OF FEWER THAN ONE  
17 THOUSAND ARE EXEMPT FROM THE PROGRAM BUT MAY PARTICIPATE IF  
18 OTHERWISE ELIGIBLE.

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

25 (5) A SCHOOL THAT HAS SEVENTY PERCENT OR MORE STUDENTS  
26 RECEIVING FREE OR REDUCED LUNCH UNDER THE SCHOOL LUNCH  
27 PROGRAM AND THAT HAS A STATE-LICENSED BEFORE-SCHOOL CARE

1 PROGRAM MAY OPT TO OFFER ITS BREAKFAST PROGRAM DURING THE  
2 BEFORE-SCHOOL CARE PROGRAM TO THOSE STUDENTS ENROLLED IN SUCH  
3 PROGRAM RATHER THAN AFTER THE BELL. THE SCHOOL MUST OFFER  
4 BREAKFAST AFTER THE BELL TO ANY STUDENT WHO DOES NOT  
5 PARTICIPATE IN THE BEFORE-SCHOOL CARE PROGRAM.

6 (6) ALL BREAKFASTS SERVED IN A PROGRAM REQUIRED BY THIS  
7 ARTICLE MUST COMPLY WITH FEDERAL MEAL PATTERNS AND NUTRITION  
8 STANDARDS FOR SCHOOL BREAKFAST PROGRAMS THAT ARE SET FORTH IN  
9 THE FEDERAL "HEALTHY, HUNGER-FREE KIDS ACT OF 2010", PUB.L.  
10 111-296, AND ANY REGULATIONS OR RULES INTERPRETING THAT ACT.

11 **22-82.8-104. Procedures - technical assistance.** (1) (a) ON OR  
12 BEFORE MAY 1, 2014, THE DEPARTMENT SHALL DEVELOP AND DISTRIBUTE  
13 PROCEDURES FOR THE IMPLEMENTATION AND ENFORCEMENT OF THIS  
14 ARTICLE. SUCH PROCEDURES MUST BE IN COMPLIANCE WITH THE SCHOOL  
15 BREAKFAST PROGRAM AND SCHOOL LUNCH PROGRAM.

16 (b) THE DEPARTMENT SHALL OFFER TECHNICAL ASSISTANCE TO  
17 PUBLIC SCHOOLS AND SCHOOL DISTRICTS RELATED TO SUBMITTING CLAIMS  
18 FOR REIMBURSEMENT TO THE SCHOOL BREAKFAST PROGRAM.

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

24 (3) ANY FEDERAL OR STATE MONEYS RECEIVED BY ANY SCHOOL OR  
25 SCHOOL DISTRICT AS REIMBURSEMENT FOR BREAKFASTS SERVED  
26 PURSUANT TO THIS ARTICLE MUST ONLY BE USED FOR THE FOOD AND  
27 OPERATIONS ASSOCIATED WITH THE SCHOOL'S OR SCHOOL DISTRICT'S FOOD

1     **SERVICE PROGRAM.**

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