

(Reprinted with amendments adopted on April 16, 2015)

FIRST REPRINT

S.B. 503

SENATE BILL NO. 503—COMMITTEE ON FINANCE

(ON BEHALF OF THE GOVERNOR)

MARCH 23, 2015

Referred to Committee on Education

SUMMARY—Provides for the creation and implementation of the Breakfast After the Bell Program. (BDR 34-1200)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Contains Appropriation included in Executive Budget.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to education; providing for the creation and implementation of the Breakfast After the Bell Program; requiring public schools with a certain percentage of pupils from low-income families to participate in the Program; providing certain exceptions; prescribing certain powers and duties of the State Department of Agriculture with respect to implementing and enforcing the Program; establishing the disbursements that may be made to a participating school; prescribing the manner in which money received under the Program may be used by a participating school; requiring the Department to prepare an annual report with respect to the implementation and effectiveness of the Program and to submit the report annually to the Governor and the Legislature; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides for the oversight of certain school programs of nutrition
2 by the Director of the State Department of Agriculture. (NRS 387.068-387.112)
3 **Sections 2-12** of this bill provide for the creation of the Breakfast After the Bell
4 Program for the purpose of requiring certain public schools with large populations
5 of pupils from low-income families to provide breakfast to their pupils after an
6 instructional day of school has officially begun. **Section 6** creates the Program and
7 requires public schools with a certain percentage of pupils from low-income



8 families enrolled in the school to participate in the Program. **Section 6** also
9 prescribes certain exceptions from participation based on insufficient funding for
10 the Program or the elimination of or a certain reduction in the amount of federal
11 meal reimbursements available to public schools for serving breakfast. **Section 6**
12 authorizes a participating school to choose a suitable model for serving breakfast
13 under the Program. **Section 7** prescribes certain duties of the State Department of
14 Agriculture with respect to the implementation and operation of the Program.
15 **Section 8** prescribes the amount of a disbursement of money from the Department
16 to a participating school based on the population of pupils and requires such
17 disbursements to be made sequentially beginning with the school with the highest
18 percentage of pupils from low-income families until the money for the Program is
19 exhausted for a school year. **Section 9** provides the manner in which certain public
20 money allocated for the operation of the Program may be used. **Section 10** requires
21 the Department to monitor participating schools and ensure that the schools remain
22 in compliance with the Program. **Section 11** requires the Department to prepare an
23 annual report with respect to the implementation and effectiveness of the Program
24 in this State and requires the Department to submit the report to the Governor and
25 the Legislature. **Section 12** authorizes the Department to adopt regulations as
26 necessary to implement and operate the Program. **Section 17** of this bill makes an
27 appropriation to the State Department of Agriculture for allocation to schools that
28 participate in the Program, but excludes from such allocations any school that
29 currently provides breakfast after the bell.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 387 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this
3 act.

4 **Sec. 2.** *“National School Lunch Act” means the Act created*
5 *by 42 U.S.C. §§ 1751 et seq.*

6 **Sec. 3.** *“Program” means the Breakfast After the Bell*
7 *Program created by section 6 of this act.*

8 **Sec. 4.** *“School Breakfast Program” means the school*
9 *breakfast program created by 42 U.S.C. § 1773.*

10 **Sec. 5.** *The Legislature hereby finds and declares that*
11 *providing breakfast to pupils in elementary schools and secondary*
12 *schools after the instructional day has officially begun:*

13 1. *Increases the number of pupils who have the opportunity*
14 *to eat a healthy breakfast and who are otherwise qualified for free*
15 *or reduced-price lunches under the National School Lunch Act.*

16 2. *Furtheres the goals and objectives of the United States*
17 *Department of Agriculture to increase the consumption of*
18 *nutritious meals by pupils.*

19 3. *Improves academic performance.*

20 4. *Improves the overall health of the children of this State by*
21 *reducing food insecurity.*



1 5. *Generates additional revenue for programs of nutrition for*
2 *children through federal grants and programs.*

3 **Sec. 6. 1.** *There is hereby created the Breakfast After the*
4 *Bell Program for public schools in which the majority of enrolled*
5 *pupils are eligible for free or reduced-price lunches under the*
6 *National School Lunch Act.*

7 2. *Except as otherwise provided in subsections 3 and 4:*

8 (a) *If a public school in this State in which 70 percent or more*
9 *of the enrolled pupils during the previous school year were eligible*
10 *for free or reduced-price lunches under the National School*
11 *Lunch Act, the public school shall participate in the Program and*
12 *offer a breakfast to each pupil in the school after the instructional*
13 *day has officially begun.*

14 (b) *A public school that participates in universal meal service*
15 *in high poverty areas pursuant to Section 104 of the Healthy,*
16 *Hunger-Free Kids Act of 2010, Public Law 111-296, must*
17 *participate in the Program if the school is included on the list of*
18 *public schools published by the State Department of Agriculture*
19 *pursuant to section 7 of this act.*

20 3. *A public school is not required to continue to participate in*
21 *the Program in any school year after the 2016-2017 school year if*
22 *the school can demonstrate to the satisfaction of the State*
23 *Department of Agriculture that:*

24 (a) *The number of enrolled pupils in the school who were*
25 *eligible for free or reduced-price lunches under the National*
26 *School Lunch Act comprised less than 70 percent of the total*
27 *number of enrolled pupils at the school for each of the two*
28 *immediately preceding school years; or*

29 (b) *A financial hardship exists.*

30 4. *A public school that would otherwise be required to*
31 *participate in the Program pursuant to subsection 2 is not required*
32 *to participate in the Program:*

33 (a) *Until sufficient money, as determined by the State*
34 *Department of Agriculture, is available to fund the public school's*
35 *participation in the Program.*

36 (b) *In the event that the amount of the federal per meal*
37 *reimbursement available to a public school for free or reduced-*
38 *price breakfasts pursuant to the School Breakfast Program is*
39 *eliminated or reduced to an amount that is less than that amount*
40 *which was in effect on December 31, 2013.*

41 5. *Each public school participating in the Program, in*
42 *cooperation with the board of trustees of the school district or*
43 *governing body, as applicable, may determine the model for*
44 *serving breakfast that is best suited for the school. Models for*
45 *serving breakfast may include, without limitation:*



- 1 (a) *Breakfast served in the classroom;*
- 2 (b) *Grab-and-go breakfasts; and*
- 3 (c) *Breakfast served in the cafeteria during or after the first*
- 4 *period of school or during a morning recess.*

5 6. *Each breakfast served by a public school under the*
6 *Program must comply with federal meal patterns and nutritional*
7 *standards for school breakfast programs as required by the*
8 *Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, and*
9 *any regulations or rules interpreting that Act.*

10 7. *As used in this section, “grab-and-go breakfast” means a*
11 *breakfast in which all of the components of the breakfast are*
12 *packaged in a bag that is made available at sites throughout*
13 *school, during the first period of school or during a break after the*
14 *first period of school.*

15 **Sec. 7. 1.** *The State Department of Agriculture shall:*

16 (a) *On or before July 10, 2015, and on or before December 31*
17 *of the year preceding each school year thereafter, publish a list of*
18 *the public schools that meet the requirements for participation in*
19 *the Program pursuant to section 6 of this act.*

20 (b) *On or before July 15, 2015, implement the Program in*
21 *accordance with the National School Lunch Act and the School*
22 *Breakfast Program.*

23 (c) *Offer technical assistance to public schools and school*
24 *districts relating to:*

25 (1) *The implementation of the Program.*

26 (2) *The submission of claims for reimbursement under the*
27 *School Breakfast Program.*

28 (d) *Distribute the money to implement a breakfast-serving*
29 *model under the Program.*

30 2. *The Director may apply for and accept any gift, donation,*
31 *bequest, grant or other source of money for the purpose of*
32 *funding the Program.*

33 **Sec. 8. 1.** *For each school year, disbursements from the*
34 *State Department of Agriculture to public schools which are*
35 *participating in the Program must:*

36 (a) *Be paid in sequential order starting with the public school*
37 *with the highest percentage of enrolled pupils eligible for free or*
38 *reduced-price lunches under the National School Lunch Act.*

39 (b) *Be paid until all money available for the Program for a*
40 *school year is exhausted.*

41 2. *To the extent that money is available and for each school*
42 *year, the State Department of Agriculture shall allocate to each*
43 *public school that is participating in the Program an amount of*
44 *money necessary to carry out the Program, as determined by the*
45 *Department in accordance with subsection 1.*



1 3. *The State Department of Agriculture shall adopt*
2 *regulations prescribing the manner in which a public school that*
3 *is not otherwise required to participate in the Program may apply*
4 *for and receive a waiver of the requirements of section 6 of this act*
5 *for the purpose of participating in the Program, including, without*
6 *limitation, any requirements to qualify for a waiver.*

7 **Sec. 9.** *1. Except as otherwise provided in subsection 2, any*
8 *federal or state money received by a public school or school*
9 *district as reimbursement for breakfast served under the Program*
10 *must be used only for the food served and operations directly*
11 *incidental to the provision of breakfast.*

12 2. *A public school that receives money pursuant to section 8*
13 *of this act may use the money for the following purposes with*
14 *respect to the implementation and operation of the Program:*

15 (a) *Training school employees.*

16 (b) *Any additional costs of labor.*

17 (c) *Equipment related to the provision of breakfast.*

18 (d) *To conduct surveys designed to market the Program to*
19 *pupils and the families of pupils and to receive feedback on*
20 *proposed breakfast menu items.*

21 **Sec. 10.** *1. The State Department of Agriculture shall*
22 *monitor public schools participating in the Program and ensure*
23 *that participating schools comply with sections 2 to 12, inclusive,*
24 *of this act and any regulations adopted pursuant thereto.*

25 2. *If the State Department of Agriculture determines at the*
26 *end of a school year that a public school participating in the*
27 *Program has not increased the provision of breakfast to enrolled*
28 *pupils who are eligible for free or reduced-price lunches under the*
29 *National School Lunch Act by at least 10 percent, the State*
30 *Department of Agriculture shall provide written notice of its*
31 *findings to the school.*

32 3. *A public school that receives notice pursuant to subsection*
33 *2 shall, not later than 30 days after receiving such notice, submit*
34 *to the State Department of Agriculture a plan for increasing*
35 *participation in the Program by enrolled pupils in the school who*
36 *are eligible for free or reduced-price lunches under the National*
37 *School Lunch Act.*

38 **Sec. 11.** *The State Department of Agriculture shall, on or*
39 *before December 31 of each year:*

40 1. *Prepare a report on the implementation and effectiveness*
41 *of the Program in this State; and*

42 2. *Submit the report prepared pursuant to subsection 1 to:*

43 (a) *The Governor; and*

44 (b) *The Director of the Legislative Counsel Bureau for*
45 *transmittal to:*



1 (1) *If the report is prepared in an even-numbered year, the*
2 *next regular session of the Legislature; or*

3 (2) *If the report is prepared in an odd-numbered year, the*
4 *Legislative Commission.*

5 **Sec. 12.** *The State Department of Agriculture may adopt*
6 *regulations to carry out the provisions of sections 2 to 12,*
7 *inclusive, of this act.*

8 **Sec. 13.** NRS 387.068 is hereby amended to read as follows:

9 387.068 As used in NRS 387.068 to 387.112, inclusive, *and*
10 *sections 2 to 12, inclusive, of this act*, unless the context otherwise
11 requires, the words and terms defined in NRS 387.069 and 387.070
12 *and sections 2, 3 and 4 of this act* have the meanings ascribed to
13 them in those sections.

14 **Sec. 14.** NRS 387.070 is hereby amended to read as follows:

15 387.070 “Program of nutrition” means a program under which
16 food is served to or nutritional education and assistance are provided
17 for children and adults by any public school, private school or
18 public or private institution on a nonprofit basis, including any such
19 program for which assistance may be made available out of money
20 appropriated by the Congress of the United States. The term
21 includes, but is not limited to, a school lunch program ~~[-]~~ *or the*
22 *Program.*

23 **Sec. 15.** NRS 387.090 is hereby amended to read as follows:

24 387.090 ~~[-The]~~ *Except as otherwise provided in sections 2 to*
25 *12, inclusive, of this act, the* board of trustees of each school district
26 and the governing body of each charter school may:

27 1. Operate or provide for the operation of programs of nutrition
28 in the public schools under their jurisdiction.

29 2. Use therefor money disbursed to them pursuant to the
30 provisions of NRS 387.068 to 387.112, inclusive, *and sections 2 to*
31 *12, inclusive, of this act*, gifts, donations and other money received
32 from the sale of food under those programs.

33 3. Deposit the money in one or more accounts in one or more
34 banks or credit unions within the State.

35 4. Contract with respect to food, services, supplies, equipment
36 and facilities for the operation of the programs.

37 **Sec. 16.** The provisions of subsection 1 of NRS 218D.380 do
38 not apply to any provision of this act which adds or revises a
39 requirement to submit a report to the Legislature.

40 **Sec. 17.** 1. There is hereby appropriated from the State
41 General Fund to the State Department of Agriculture:

42 For the Fiscal Year 2015-2016..... \$1,000,000

43 For the Fiscal Year 2016-2017..... \$1,000,000

44 2. The sums appropriated by subsection 1 must be used to
45 make the allocations required by subsection 2 of section 8 of this act



1 to public schools that participate in the Breakfast After the Bell
2 Program created by section 6 of this act. A public school that is
3 currently providing breakfast after the bell for the 2014-2015 school
4 year in accordance with the school breakfast program created by 42
5 U.S.C. § 1773 is not eligible to receive such an allocation from the
6 appropriation.

7 3. Any balance of the sums appropriated by subsection 1
8 remaining at the end of the respective fiscal years must not be
9 committed for expenditure after June 30 of the respective fiscal
10 years by the entity to which the appropriation is made or any
11 entity to which money from the appropriation is granted or
12 otherwise transferred in any manner, and any portion of the
13 appropriated money remaining must not be spent for any purpose
14 after September 16, 2016, and September 15, 2017, respectively, by
15 either the entity to which the money was appropriated or the
16 entity to which the money was subsequently granted or transferred,
17 and must be reverted to the State General Fund on or before
18 September 16, 2016, and September 15, 2017, respectively.

19 **Sec. 18.** This act becomes effective:

- 20 1. Upon passage and approval for the purpose of adopting
21 regulations and performing any other preparatory administrative
22 tasks that are necessary to carry out the provisions of this act; and
23 2. On July 1, 2015, for all other purposes.

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