

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY

S.P. 99 - L.D. 359

**An Act To Address Student Hunger with a "Breakfast after the Bell"
Program**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is imperative that this legislation take effect as soon as possible to avoid confusion in implementation and to allow the Department of Education to publish pertinent information; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §6602, sub-§1, ¶F is enacted to read:

F. Except as provided under paragraph G, a school administrative unit with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year shall operate an alternative breakfast delivery service that provides breakfast after the start of the school day and before any lunch period in the school begins for students at that public school. A school administrative unit with a public school in which at least 70% of students who are eligible for free and reduced-price meals under paragraph A participate in the breakfast program under paragraph B is exempt from the requirements of this paragraph.

The department shall publish annually, by July 1, 2020 and every July 1st thereafter, on its publicly accessible website, information regarding schools required to comply with and schools exempt from this paragraph in the preceding school year, including, but not limited to, the name of the school, any alternative breakfast delivery service operated, free and reduced-price breakfast participation rate and the financial impact of the program on the school nutrition budget.

Sec. 2. 20-A MRSA §6602, sub-§1, ¶G is enacted to read:

G. A school administrative unit subject to paragraph F may opt out of the alternative breakfast delivery service required under paragraph F if the following conditions are met:

(1) The governing body of the school administrative unit holds a public hearing regarding the service. The governing body of the school administrative unit shall post public notice in each municipality in the unit of the time and location of the hearing at least 10 days before the hearing. The chair of the governing body of the school administrative unit shall conduct the hearing;

(2) The school administrative unit submits to the governing body a detailed cost-benefit analysis and any other material that demonstrates that implementing the alternative breakfast delivery service would cause undue financial or logistical hardship;

(3) The public and the governing body of the school administrative unit evaluate the cost-benefit analysis and any written material submitted for purposes of this paragraph;

(4) Within 30 days of the public hearing under subparagraph (1), the governing body of the school administrative unit, by majority vote, determines that an alternative breakfast delivery service is not financially or logistically viable and that the school administrative unit will opt out; and

(5) The governing body of the school administrative unit notifies the department of the vote to opt out under subparagraph (4).

Opting out under this paragraph must be renewed every 2 years. A school administrative unit with a public school shall notify the department of the intent to renew its decision to opt out under this paragraph before the end of the 2nd school year after the previous vote.

The department shall adopt rules to implement this paragraph including rules governing the application process and standards to address evaluation criteria based on need for the funding of alternative breakfast delivery services in school administrative units. The rules must include procedures to track health and academic outcomes through data collection and evaluation of students and schools that participate in alternative breakfast delivery services. Procedures to track health and academic outcomes must include tracking and ensuring that all public schools required to implement the alternative breakfast delivery service are demonstrating at least an annual 10 percentage point increase in their school breakfast participation rate. If the department determines that a participating public school has not increased its breakfast participation rate by at least 10 percentage points, the department shall provide written notification including improvement strategies to the public school. Upon receipt of written notification by the department, a public school that has not increased its breakfast participation rate by at least 10 percentage points shall submit a final plan within 30 days after the start of the next school year documenting new strategies to increase its breakfast participation rate. A public school that demonstrates a successful breakfast program, which means that at least 70% of the

students who are eligible for free and reduced-price meals under paragraph A are participating in the breakfast program under paragraph B, is not required to meet the annual 10 percentage point breakfast participation rate increase as long as that public school maintains at least a 70% breakfast participation rate. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. 20-A MRSA §6602, sub-§2, as amended by PL 2011, c. 379, §5, is further amended to read:

2. Exceptions. The following are exempt from subsection 1, paragraphs A and B and F:

- A. All secondary schools limited to students in grades 9, 10, 11 and 12; and
- B. A school administrative unit authorized by the commissioner under subsection 9 to postpone the establishment of the program.

Sec. 4. 20-A MRSA §6602, sub-§4, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. State funds, gifts and appropriations for school food service programs, including state funds specifically for school administrative units with a public school in which at least 50% of students qualified for a free or reduced-price lunch during the preceding school year that operate an alternative breakfast delivery service that provides breakfast after the start of the school day pursuant to subsection 1, paragraph F; and

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.