



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Mitchell Smith

### **H.B. 734**

132nd General Assembly  
(As Introduced)

**Reps.** LaTourette and Lipps, K. Smith, Boggs

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### **BILL SUMMARY**

- Requires the Department of Education to establish a program under which qualifying higher-poverty public schools must offer breakfast to all enrolled students during the school day and make efforts to increase participation in their breakfast programs.
  - Requires the Department to submit a report on the breakfast program to the General Assembly and the Governor annually by December 31.
  - Requires the Department to publish a list of qualifying public schools, to monitor participating schools, and to offer assistance in implementing and administering the program.
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### **CONTENT AND OPERATION**

#### **Breakfast program**

The bill requires the Department of Education to establish a program, under which qualifying higher-poverty public schools must offer breakfast to all enrolled students during the school day. It applies to schools operated by school districts, community schools (except e-schools), and STEM schools.<sup>1</sup> Each qualifying school must "make efforts" to increase participation rates to at least 70% of the school's free or reduced-price lunch participation rate. The bill requires a school district superintendent or a building principal, in consultation with building staff, to determine the model for serving breakfast under the program. Each breakfast must comply with federal meal patterns and state and federal nutritional standards. The school may charge students for

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<sup>1</sup> R.C. 3313.818, 3314.03(A)(11)(d), and 3326.11.

meals, based on family income in accordance with federal requirements, to cover all or part of the costs incurred in operating the program.<sup>2</sup>

### **Eligibility**

The bill phases in the program over three years, gradually lowering the threshold under which schools qualify for the program based on the percentage of enrolled students that qualify for free or reduced-price meals under federal requirements as follows:

<b>School year after the bill's effective date</b>	<b>Percentage of students that qualify for free or reduced-price lunch</b>
First	70%
Second	60%
Third, and each subsequent year	50% <sup>3</sup>

The bill exempts schools from participation in the program if "for each of the first, second, and third preceding school years, the number of enrolled students in the school who were eligible for free or reduced-price breakfasts or lunches comprised less than the applicable percentage of the total number of enrolled students specified [in the bill]."<sup>4</sup> The application of this provision is unclear.

### **Duties of Department of Education**

The bill requires the Department to publish a list of schools that qualify for the program but does not specify the frequency of publication. The Department also must provide statistical reports on its website specifying the number and percentage of students participating in breakfast programs, disaggregated by district and individual schools.<sup>5</sup> The Department must monitor each school participating in the program to ensure compliance with the program's provisions and offer assistance to schools and school districts, including technical assistance in submitting claims for reimbursement under federal law.<sup>6</sup>

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<sup>2</sup> R.C. 3313.818(A)(2) and (3).

<sup>3</sup> R.C. 3313.18(A)(1).

<sup>4</sup> R.C. 3313.818(C).

<sup>5</sup> R.C. 3313.818(B) and (E).

<sup>6</sup> R.C. 3313.818(B) and (D).



In any school year for which participation in a school's breakfast program has not increased by 10% from the previous year or total participation is less than 70%, the Department must provide written notice of its findings to that school by May 31 of that school year. The school then must submit a plan for increased participation to the Department within 30 days after receiving the notice.<sup>7</sup>

Additionally, the Department annually must prepare a report on the implementation and effectiveness of the program and submit it to the General Assembly and the Governor, by December 31. The report must include the following:

(1) The number of students and participation rates in the breakfast program for each school building;

(2) The type of breakfast model used by each building; and

(3) The number of students and participation rates in free or reduced-price lunch for each building.<sup>8</sup>

## **Background**

The Ohio Department of Education, in conjunction with the U.S. Department of Agriculture (USDA), administers the National School Lunch and School Breakfast programs under the federal "National School Lunch Act" and "Child Nutrition Act of 1966."<sup>9</sup> Under current federal guidelines, students from families with incomes at or below 185% of the federal poverty guidelines are eligible for reduced-price meals, and students from families with incomes at or below 130% of the federal poverty guidelines are eligible for free meals. Children who receive Temporary Assistance for Needy Families, Food Stamps, or who are homeless, runaways, or migrants are also eligible for free lunch.<sup>10</sup>

If a student qualifies for free or reduced-price lunches, the federal government provides cash subsidies and USDA food commodities for the school district or school in order to offset the cost of students paying less for lunches. These students must receive lunches at the rate at which they qualified (either free or reduced).<sup>11</sup>

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<sup>7</sup> R.C. 3313.818(D).

<sup>8</sup> R.C. 3313.818(F).

<sup>9</sup> 42 U.S.C. 1751 *et seq* and 1771 *et seq*.

<sup>10</sup> 42 U.S.C. 1758(b)(12).

<sup>11</sup> <https://fns-prod.azureedge.net/sites/default/files/cn/NSLPFactSheet.pdf>.



## School districts

State law requires each school district to establish and maintain a school breakfast program in every school where at least  $\frac{1}{5}$  of the students qualify for free breakfast, and a lunch program in every school where at least  $\frac{1}{5}$  of the students qualify for free lunch under federal law. However, if the district board determines that it cannot afford to offer a school breakfast or lunch program, the board may opt to not offer either program, but must communicate this decision publicly to residents of the district.<sup>12</sup>

Nevertheless, this opt-out is not available with respect to any school where at least  $\frac{1}{3}$  of the students qualify for free breakfast or free lunch. In that case, the district must provide the program at that school, though it may charge for reduced price or paid breakfasts to cover incurred costs. School districts also must establish breakfast programs in schools where the parents of at least  $\frac{1}{2}$  of enrolled students have requested one. In this case, schools may charge for each breakfast to cover costs incurred from the program. If a school district for good cause (including economic impossibility of compliance) cannot provide meals under the  $\frac{1}{3}$  requirement or by parent request, the State Board must grant an extension of time to comply.<sup>13</sup>

## Community schools

Community schools also must provide a breakfast program if at least  $\frac{1}{3}$  of the students qualify for free breakfast, and a lunch program if at least  $\frac{1}{3}$  of the students qualify for free lunch under federal law. The governing authority of a community school may charge for each reduced price or paid breakfast to help cover costs. However, if the governing authority determines that it cannot provide meals due to financial reasons, it may choose not to, but must communicate this choice to all parents of its students in the manner it deems appropriate. Internet- or computer-based community schools (e-schools) are not required to provide meal programs.<sup>14</sup>

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## HISTORY

ACTION	DATE
Introduced	09-25-18

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<sup>12</sup> R.C. 3313.813(C).

<sup>13</sup> R.C. 3313.813(C)(2) and (5)(b) and (c).

<sup>14</sup> R.C. 3314.18.

