

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 2036**

S. P. 659

In Senate, January 6, 1978

Referred to the Committee on Education. Sent down for concurrence and ordered printed. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

MAY M. ROSS, Secretary

Presented by Senater Conley of Cumberland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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**An Act to Extend School Breakfast Availability to Maine School Children.**

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

20 MRSA c. 109, sub-c. II, as amended, is repealed and the following enacted in its place:

**SUBCHAPTER II**

**NATIONAL SCHOOL FOOD SERVICE PROGRAMS**

**§ 1051. Legislative intent**

**1. Legislative finding. The Legislature finds that:**

**A. The proper nutrition of children is a matter of highest state priority;**

**B. There is a demonstrated relationship between the intake of food and good nutrition and the capacity of children to develop and learn; and**

**C. The teaching of the principles of good nutrition in schools is urgently needed to assist children at all income levels in developing the proper eating habits essential for lifelong good health.**

**2. State policy. It is the policy of the State of Maine that no child shall go hungry at school and that schools have an obligation to provide for the nutritional needs and the nutrition education of all pupils during the school day.**

**§1052. Acceptance and compliance with federal law**

The State, having accepted the provisions and benefits of the Acts of Congress entitled "An Act to Provide Assistance to the States in the Establishment, Maintenance, Operation and Expansion of School Lunch Programs and for Other Purposes," approved June 4, 1946, and "The Child Nutrition Act," approved October 11, 1966, will observe and comply with those Acts, and with any Acts amendatory thereof or supplementary thereto.

#### 1053. School food service programs

1. Establishment; school lunch program. By no later than September 1, 1976, each school committee or board of directors of an administrative unit shall establish and operate a school lunch program under which a lunch shall be made available to all pupils enrolled in the schools of the district.

2. Establishment; "especially needy" school breakfast program. By no later than September 1, 1978, each school committee or board of directors of an administrative unit shall establish and operate a school breakfast program under which a breakfast shall be made available to all pupils enrolled in any school of the district which is deemed to be "especially needy," as that term is defined in section 1054.

3. Establishment; all pupils school breakfast program. By no later than September 1, 1979, each school committee or board of directors of an administrative unit shall establish and operate a school breakfast program under which a breakfast shall be made available to all pupils enrolled in any school of the district not covered by subsection 2.

#### § 1054. Especially needy schools

1. Definition. An "especially needy school" shall be defined as any school in which 25% or more of the children in attendance are eligible for free or reduced price meals under applicable federal regulations, or as any school which is officially designated as a Title 1 school under the Elementary and Secondary Education Act of 1966.

2. Reimbursement. Any school facility designated as especially needy shall be assigned the appropriate increased "especially needy" per meal reimbursement calculated pursuant to Title 42, Section 1773, (c) and (d) of the United States Code and derivative regulations in support of the cost of free and reduced price breakfasts.

#### § 1055. Program exceptions.

1. Exemptions. The following are exempt from the mandatory participation requirements of section 1053:

A. An administrative unit which has been authorized by the commissioner under subsection 2 to postpone the establishment of either a National School Lunch Program or a National School Breakfast Program, or both; and

B. All high schools limited to students in grades 9, 10, 11, and 12.

2. Application for postponement. An administrative unit which has been authorized by the commissioner as of September 1, 1976, to postpone the establishment of a National School Lunch Program, or which has been authorized by the commissioner as of September 1, 1978, to postpone the establishment of a National School Breakfast Program, may apply to the commissioner to postpone the establishment of the program for an additional 3 years. The commissioner, with the authorization of the board, may grant the requested postponement, provided:

**A. The school committee or board of directors of the administrative unit has held a public hearing on its proposed application; and**

**B. Any one of the following conditions are met:**

**(1) It has been documented to the commissioner's satisfaction that the administrative unit lacks space for the program and there is no appropriate alternative source of meals for the students;**

**(2) It is impossible for the administrative unit to contract for or to otherwise procure Type A meals for its students; or**

**(3) The lack of need for the program, as determined by the school committee or board of directors, is documented to the commissioner's satisfaction and was evident at the public hearing.**

**3. Annual review.** The commissioner shall annually review the conditions in each of the administrative units which has been granted a postponement under subsection 2. If he finds that the conditions in an administrative unit have changed so that a postponement is no longer warranted, he may require that the administrative unit establish the appropriate school feeding program at the start of the next school year. Whenever 1% of the residents living within the boundaries of the administrative unit petition the commissioner, he shall cause to be called a public hearing on the postponement under subsection 2 prior to his next annual review.

#### **§ 1056. Duties of the commissioner**

**1. Rules promulgated.** Within 60 days after the effective date of this subchapter, the commissioner shall promulgate rules in accordance with this subchapter and in conformity with the United States Department of Agriculture regulations to implement and administer the school lunch and the school breakfast programs required by section 1053. These rules shall be promulgated in accordance with the Maine Administrative Procedure Act.

**2. Standards of income eligibility.** The commissioner shall establish standards of income eligibility for free and reduced priced lunches and breakfasts. These standards shall be the maximum allowable household income limits for free and reduced price meals that are prescribed by the United States Department of Agriculture, pursuant to Title 42, Sections 1758 and 1773, respectively, of the United States Code

**3. Determination of eligibility.** The commissioner shall prescribe uniform methods for and obtain a determination of pupil eligibility for free and reduced price lunches and breakfasts. The methods shall ensure the confidentiality of the information contained in the application for eligibility for free and reduced price lunches and breakfasts. These methods shall also ensure that all parents and pupils are made aware of the existence of free and reduced price meals.

**4. Guidelines.** The commissioner shall prescribe guidelines to assure that a pupil or household eligible to receive free or reduced price lunches or breakfasts is not discriminated against or overtly identified.

**5. Food preference.** The commissioner shall ensure that the food preference of pupils shall be accommodated, to the maximum extent feasible.

**6. Reporting system.** The commissioner shall prescribe a uniform reporting system for the collection, compilation, and analysis of data relative to the administration of this subchapter.

7. **Technical advice and assistance.** The commissioner may give technical advice and assistance to any school committee or board of directors in connection with the establishment and operation of school food service programs.

8. **Maintain nutritional standards.** The commissioner shall establish and maintain nutritional standards and regulations for all school food services' programs, subject to the requirements of section 1057, subsection 2.

9. **Standards for food service personnel.** The commissioner may establish training and educational standards and qualifications for positions of school food service program supervisors, managers, and other school food service program employees.

10. **Appraisal; nutrition benefit.** The commissioner may, to the extent that funds are available, conduct appraisals of the nutrition benefits of school lunch and breakfast programs and report his findings to the State Board of Education.

11. **Other standards and procedures.** The commissioner shall prescribe other necessary standards and procedures to efficiently and effectively administer this subchapter.

#### § 1057. Administration

1. **Plans for implementation.** Each school committee or board of directors of an administrative unit where either a school lunch program or a school breakfast program, or both, have not been implemented, shall submit to the commissioner, in a manner prescribed by the commissioner, a plan for the implementation of the particular program. The plan shall be submitted within 90 days after receiving directives for plan content from the commissioner.

2. **Nutritional standards.** Each meal served under the auspices of either the National School Lunch Program or the National School Breakfast Program shall meet the standards prescribed by the United States Department of Agriculture in accordance with Title 42, Sections 1758 and 1773, respectively, of the United States Code and their derivative regulations and shall supply at least 1/3 of the recommended daily dietary allowance established by the National Research Council of the National Academy of Sciences. All school lunches shall meet nutritional standards established by the United States Department of Agriculture for Type A meals.

3. **Management of food service programs; use of funds.**

A. The school committee or board of directors of an administrative unit shall make all contracts to provide material, personnel and equipment necessary to carry out the National School Lunch Act and the Child Nutrition Act of 1966. They shall hire the necessary employees to manage and operate their school food service programs.

B. The school committee or board of directors of an administrative unit shall use funds disbursed to it under this subchapter, appropriations and other money received from the State for school food service programs, gifts received for school food service programs and the receipts from the sale of meals under these school food service programs for meeting the expenses incurred under paragraph A.

4. **Nonfood assistance.** The commissioner shall prescribe a method for determining, and shall determine, any actual, reasonable and necessary initial equipment and capital outlay costs incurred by a school committee or board of directors of an administrative unit after the effective date of this subchapter for the specific purpose of complying with the requirements of implementing a school breakfast or lunch program. The commissioner

shall report to the Legislative with recommendations for full reimbursement of all costs not otherwise reimbursed or scheduled to be reimbursed with federal or state funding or permissible pupil payments.

**§ 1058. Compliance.**

1. **Supervision.** The commissioner shall supervise the statewide implementation of the National School Breakfast Program and the National School Lunch Program, and shall investigate acts of alleged noncompliance with the requirements of applicable state or federal statutes or regulations. In the event that the commissioner finds that a school committee or board of directors of an administrative unit has failed to comply with the statutes or regulations, the commissioner shall certify such noncompliance to the Attorney General. The Attorney General shall conduct any investigation which may be necessary to establish non compliance. The Attorney General may then seek injunctive relief in any court of law of competent jurisdiction.

2. **Right to bring suit.** Any pupil, parent or school committee or board of directors or an administrative unit aggrieved by the action or inaction of any person or institution in complying with the requirements of applicable state or federal statutes or regulations, shall have the right to bring suit in a court of competent jurisdiction to enforce its respective rights thereunder. Nothing contained in subsection 1 shall be construed to limit, supersede or in any way affect this right.

**§ 1059. Nutrition education**

The commissioner in cooperation with the Bureau of Health and local school committees or boards of directors of administrative units shall be responsible for the development, promotion, supervision and coordination of nutrition education programs in the schools of the State. The programs shall coordinate classroom instruction with the food service program and shall be of sufficient variety and flexibility to meet the needs of pupils in the total educational spectrum.

**§ 1060. Annual report**

The commissioner shall make an annual report to the Legislature relating to the implementation and administration of the National School Breakfast Program and the National School Lunch Program and shall send a copy of the report to each school committee or board of directors of an administrative unit.

**§ 1061. Treasurer of State as custodian**

The Treasurer of State is designated custodian of all moneys received by the State from the Federal Government for establishment, maintenance, operation and expansion of food service programs and he shall receive and provide for the proper custody of all moneys and disburse moneys on requisition of the commissioner to school committees, boards of directors of public schools, sponsors of child care food programs and sponsors of summer food service programs for children.

**§ 1062. Accounts; records; reports and operation**

The commissioner shall prescribe regulations for the keeping of accounts and records and the making of reports by the superintending school committees or school directors. These accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for a period of 3 years after the end of the fiscal year to which they pertain. The school committee or school directors of an administrative

**unit shall on or before September 1st of each year furnish the commissioner satisfactory proof that books, accounts, financial documents and reports for the fiscal year preceding have been examined and found to be in a satisfactory and accurate condition with proper vouchers on file. The audit shall be made by the State Department of Audit or by individuals or firms recognized as competent auditors by training and experience or by qualified public accountants.**

#### STATEMENT OF FACT

This bill will extend the availability of school breakfasts to those children in Maine who are now receiving school lunches. Any school district which is presently exempt from the lunch program will also be exempt from the breakfast program.

According to figures released by the Department of Educational and Cultural Services, while over 125,000 Maine school children presently participate in the school lunch program, less than 10,000 are participating in the breakfast program.

The department has also indicated that no additional administrative costs will be necessary and that the federal breakfast reimbursement is sufficient to cover local district costs. The schools in Maine presently providing breakfasts use no local or state funds.

Extension of the school breakfast program will accomplish several important goals.

1. Improve the learning potential for school children. Numerous studies and surveys have conclusively shown a direct correlation between hunger/inadequate nutrition and learning/performance potential. While no statewide survey has yet to verify the frequency of childhood hunger in Maine, the Bureau of Health has concluded that malnutrition in the State is a significant problem, particularly among school age children.

2. Improve health standards through nutrition education. The Bureau of Health has indicated that health standards can and should be improved through a substantial increase in nutrition education, especially in the area of food selection and preparation. Under the recently enacted 1977 amendments to the Child Nutrition Act, substantially increased federal funds for nutrition education have been provided in conjunction with school food service programs.

3. Stimulate local economic growth. It is estimated that over 5 million federal dollars for food purchases and support personnel will come into local school districts throughout Maine by extension of the breakfast program. It is anticipated that much of these funds will directly benefit the state's food industry.

Each of the aforementioned benefits are obtainable at no cost to the State and with no imposition of such a program on any school district unable to provide meals in their schools.