

2 **E2SSB 6157** - H COMM AMD
3 By Committee on State Government

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** Despite the efforts of many dedicated
8 individuals, and the existence of several state, federal, and private
9 antihunger programs, thousands of Washingtonians are still confronted
10 with hunger as a part of their daily lives. Food banks, emergency food
11 programs, school breakfast and lunch programs, charitable kitchens, and
12 special programs for pregnant women, infants, and the elderly are all
13 challenged to meet increased needs. Yet Washington is a leading
14 agricultural state, and has access to ocean fisheries, and many human
15 and technological resources that are underutilized.

16 The legislature finds that food policy in Washington state suffers
17 inefficiencies and lack of connectivity, due to geographical dispersion
18 of the resources needed to address hunger. Although the state agencies
19 charged with various antihunger programs have improved their ability to
20 work together, the existence of unmet service needs, particularly among
21 women, infants, schoolchildren, and the elderly, justifies a new
22 commitment to seeking ways in which to build capacity, improve cost-
23 effectiveness, improve cross-referrals and co-siting among programs,
24 and encourage active participation in food programs by food producers.

25 The legislature finds that the state has an interest in helping
26 hungry persons obtain adequate nutrition. It is established science
27 that well-nourished children perform better in school, and that
28 appropriate nutrition plays a major role in health maintenance,
29 especially for such populations as the elderly, enabling them to
30 maintain independence and saving medical costs.

31 Significantly, proper prenatal nutrition prevents low birthweight
32 in babies, and infant mental and physical well-being is directly tied
33 to adequacy of diet. Given the strong medical connection between
34 nutritional adequacy and well-being, the legislature finds that, as a
35 component of the state's health care reform efforts, it is vital to

1 improve the nutritional status of Washingtonians by all reasonable
2 means.

3 **Sec. 2.** RCW 43.19.010 and 1993 c 472 s 19 are each amended to read
4 as follows:

5 The department of general administration shall be organized into
6 divisions, which shall include (1) the division of capitol buildings,
7 (2) the division of purchasing, (3) the division of engineering and
8 architecture, and (4) the division of motor vehicle transportation
9 service.

10 The director of general administration shall have charge and
11 general supervision of the department. He or she may appoint and
12 deputize such clerical and other assistants as may be necessary for the
13 general administration of the department. Within available resources,
14 the director shall appoint the antihunger coordinator to administer the
15 office of antihunger under section 3 of this act. The director of
16 general administration shall receive a salary in an amount fixed by the
17 governor.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.19 RCW
19 to read as follows:

20 Within available resources, the office of antihunger is created in
21 the department of general administration. The department, in addition
22 to its current authority, shall establish and administer the office.
23 The antihunger coordinator has the following powers and duties:

24 (1) Act as a network to contact and coordinate state hunger
25 programs among public agencies that provide food, food stamps, food
26 stamp nutrition education, meals, or distribution, including:

- 27 (a) The interagency food issues committee;
- 28 (b) Department of agriculture;
- 29 (c) Washington state national guard;
- 30 (d) Department of corrections;
- 31 (e) Department of health;
- 32 (f) Department of social and health services;
- 33 (g) Department of transportation and the transportation commission;
- 34 (h) Department of fish and wildlife;
- 35 (i) Department of community, trade, and economic development; and
- 36 (j) Office of the superintendent of public instruction.

1 (2) Provide technical support, including identification of
2 transportation and distribution opportunities to state agencies and
3 programs in their development of plans to contribute to hunger relief,
4 and receive technical support from an advisory committee composed of
5 the agencies set forth in this section and the voluntary participation
6 of the Washington antihunger and nutrition coalition.

7 (3) Nothing in this section shall be construed to give the
8 antihunger coordinator statutory authority over the activities of food
9 banks, charitable kitchens, private food distributors, or private
10 nonprofit emergency food providers.

11 (4) All agencies identified in this section shall cooperate with
12 the antihunger coordinator to carry out the duties set forth in chapter
13 . . . , Laws of 1994 (this act), and shall provide information and data
14 consistent with available resources, as requested by the antihunger
15 coordinator, including annual reporting, by November 1 of each year,
16 concerning the status and progress of each agency's antihunger efforts.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 69.80 RCW
18 to read as follows:

19 (1) This section may be cited as the "Good Samaritan Food Donation
20 Act."

21 (2) As used in this section:

22 (a) "Apparently fit grocery product" means a grocery product that
23 meets all quality and labeling standards imposed by federal, state, and
24 local laws and regulations even though the product may not be readily
25 marketable due to appearance, age, freshness, grade, size, surplus, or
26 other conditions.

27 (b) "Apparently wholesome food" means food that meets all quality
28 and labeling standards imposed by federal, state, and local laws and
29 regulations even though the food may not be readily marketable due to
30 appearance, age, freshness, grade, size, surplus, or other conditions.

31 (c) "Donate" means to give without requiring anything of monetary
32 value from the recipient, except that the term shall include giving by
33 a for-profit or nonprofit organization to another nonprofit
34 organization, notwithstanding that the donor organization has charged
35 a nominal fee to the donee organization, if the ultimate recipient or
36 user is not required to give anything of monetary value.

1 (d) "Food" means a raw, cooked, processed, or prepared edible
2 substance, ice, beverage, or ingredient used or intended for use in
3 whole or in part for human consumption.

4 (e) "Gleaner" means a person who harvests for free distribution to
5 the needy, or for donation to a nonprofit organization for ultimate
6 distribution to the needy, an agricultural crop that has been donated
7 by the owner.

8 (f) "Grocery product" means a nonfood grocery product, including a
9 disposable paper or plastic product, household cleaning product,
10 laundry detergent, cleaning product, or miscellaneous household item.

11 (g) "Gross negligence" means voluntary and conscious conduct by a
12 person with knowledge, at the time of the conduct, that the conduct is
13 likely to be harmful to the health or well-being of another person.

14 (h) "Intentional misconduct" means conduct by a person with
15 knowledge, at the time of the conduct, that the conduct is harmful to
16 the health or well-being of another person.

17 (i) "Nonprofit organization" means an incorporated or
18 unincorporated entity that:

19 (i) Is operating for religious, charitable, or educational
20 purposes; and

21 (ii) Does not provide net earnings to, or operate in any other
22 manner that inures to the benefit of, any officer, employee, or
23 shareholder of the entity.

24 (j) "Person" means an individual, corporation, partnership,
25 organization, association, trust, or governmental entity, including a
26 retail grocer, wholesaler, hotel, motel, manufacturer, processor,
27 restaurant, caterer, farmer, and nonprofit food distributor or
28 hospital. In the case of a corporation, partnership, organization,
29 association, trust, or governmental entity, the term includes an
30 officer, director, partner, deacon, trustee, councilmember, or other
31 elected or appointed individual responsible for the governance of the
32 entity.

33 (3) A person or gleaner is not subject to civil or criminal
34 liability arising from the nature, age, packaging, or condition of
35 apparently wholesome food or an apparently fit grocery product that the
36 person or gleaner donates to a nonprofit organization for ultimate
37 distribution to needy individuals, except that this subsection does not
38 apply to an injury to or death of an ultimate user or recipient of the

1 food or grocery product that results from an act or omission of the
2 donor constituting gross negligence or intentional misconduct.

3 (4) A person who allows the collection or gleaning of donations on
4 property owned or occupied by the person by gleaners, or paid or unpaid
5 representatives of a nonprofit organization, for ultimate distribution
6 to needy individuals is not subject to civil or criminal liability that
7 arises due to the injury or death of the gleaner or representative,
8 except that this subsection does not apply to an injury or death that
9 results from an act or omission of the person constituting gross
10 negligence or intentional misconduct.

11 (5) If some or all of the donated food and grocery products do not
12 meet all quality and labeling standards imposed by federal, state, and
13 local laws and regulations, the person or gleaner who donates the food
14 and grocery products is not subject to civil or criminal liability in
15 accordance with this section if the nonprofit organization that
16 receives the donated food or grocery products:

17 (a) Is informed by the donor of the distressed or defective
18 condition of the donated food or grocery products;

19 (b) Agrees to recondition the donated food or grocery products to
20 comply with all the quality and labeling standards prior to
21 distribution; and

22 (c) Is knowledgeable of the standards to properly recondition the
23 donated food or grocery product.

24 (6) This section may not be construed to create liability.

25 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
26 repealed:

27 (1) RCW 69.80.020 and 1983 c 241 s 2;

28 (2) RCW 69.80.030 and 1983 c 241 s 3; and

29 (3) RCW 69.80.040 and 1983 c 241 s 4.

30 **Sec. 6.** RCW 69.80.900 and 1983 c 241 s 5 are each amended to read
31 as follows:

32 Nothing in this chapter may be construed to create any liability
33 of, or penalty against a donor or distributing organization except as
34 provided in ((RCW 69.80.030)) section 4 of this act.

35 NEW SECTION. **Sec. 7.** A new section is added to Title 15 RCW to
36 read as follows:

1 (1) Agricultural commodity commissions established by statute or
2 rule that deal with food product are encouraged to facilitate and
3 promote the voluntary donation and gleaning of surplus commodities and
4 nonmarketable product, when available and in the manner to be
5 determined by each commission, by dealers, producers, growers,
6 processors, warehousemen, and others involved with each respective
7 commission.

8 (2) The commodities commissions shall, to the extent possible and
9 consistent with available resources, report to the department of
10 agriculture all donations given by the entities set forth in this
11 section, in annual reports due October 15th, covering October 1st
12 through September 30th.

13 **Sec. 8.** RCW 38.12.020 and 1989 c 19 s 12 are each amended to read
14 as follows:

15 The adjutant general shall:

16 (1) Keep rosters of all active, reserve, and retired officers of
17 the militia, and all other records, and papers required to be kept and
18 filed therein, and shall submit to the governor such reports of the
19 operations and conditions of the organized militia as the governor may
20 require.

21 (2) Cause the military law, and such other military publications as
22 may be necessary for the military service, to be prepared and
23 distributed at the expense of the state, to the departments and units
24 of the organized militia.

25 (3) Keep just and true accounts of all moneys received and
26 disbursed by him or her.

27 (4) Attest all commissions issued to military officers of this
28 state.

29 (5) Make out and transmit all militia reports, returns, and
30 communications prescribed by acts of congress or by direction of the
31 department of defense and the national guard bureau.

32 (6) Have a seal, and all copies, orders, records, and papers in his
33 or her office, duly certified and authenticated under the seal, shall
34 be evidence in all cases in like manner as if the originals were
35 produced. The seal now used in the office of the adjutant general
36 shall be the seal of his or her office and shall be delivered by him or
37 her to the successor. All orders issued from his or her office shall
38 be authenticated with the seal.

1 (7) Make such regulations pertaining to the preparation of reports
2 and returns and to the use, maintenance, care, and preservation of
3 property in possession of the state for military purposes, whether
4 belonging to the state or to the United States, as in his or her
5 opinion the conditions demand.

6 (8) Attend to the care, preservation, safekeeping, and repairing of
7 the arms, ordinance, accoutrements, equipment, and all other military
8 property belonging to the state, or issued to the state by the United
9 States for military purposes, and keep accurate accounts thereof. Any
10 property of the state military department which, after proper
11 inspection, is found unsuitable or no longer needed for use of the
12 state military forces, shall be disposed of in such manner as the
13 governor shall direct and the proceeds thereof used for replacements in
14 kind or by other needed authorized military supplies, and the adjutant
15 general may execute the necessary instruments of conveyance to effect
16 such sale or disposal.

17 (9) Issue the military property as the necessity of service
18 requires and make purchases for that purpose. No military property
19 shall be issued or loaned to persons or organizations other than those
20 belonging to the militia, except as permitted by applicable state or
21 federal law.

22 (10) Keep on file in his or her office the reports and returns of
23 military units, and all other writings and papers required to be
24 transmitted to and preserved at the general headquarters of the state
25 militia.

26 (11) Keep all records of volunteers commissioned or enlisted for
27 all wars or insurrections, and of individual claims of citizens for
28 service rendered in these wars or insurrections, and he or she shall
29 also be the custodian of all records, relics, trophies, colors, and
30 histories relating to such wars now in possession of, or which may be
31 acquired by the state.

32 (12) Establish and maintain as part of his or her office a bureau
33 of records of the services of the organized militia of the state, and
34 upon request furnish a copy thereof or extract therefrom, attested
35 under seal of his or her office, and such attested copy shall be prima
36 facie proof of service, birthplace, and citizenship.

37 (13) Keep a record of all real property owned or used by the state
38 for military purposes, and in connection therewith he or she shall have
39 sole power to execute all leases to acquire the use of real property by

1 the state for military purposes, or lease it to other agencies for use
2 for authorized activities. The adjutant general shall also have full
3 power to execute and grant easements for rights of way for
4 construction, operation, and maintenance of utility service, water,
5 sewage, and drainage for such realty.

6 (14) Provide assistance to the antihunger coordinator under section
7 3 of this act, to include personnel and equipment for state-wide
8 distribution of food and grocery products to nonprofit food programs.
9 Assistance provided will be consistent with available resources and
10 prescribed federal training requirements.

11 This section shall constitute statutory authority for the
12 Washington national guard antihunger program.

13 NEW SECTION. Sec. 9. A new section is added to chapter 72.09 RCW
14 to read as follows:

15 The department of corrections shall provide inmate labor, at no
16 cost to food donors or charitable institutions, where feasible and
17 consistent with available resources, in accordance with the inmate work
18 program standards under RCW 72.09.100, to assist in the voluntary
19 gleaning and distribution of food and grocery products for charitable
20 purposes under section 3 of this act. The department may request
21 training or information on appropriate gleaning methods from the
22 Washington state university cooperative extension service and shall
23 supply only adequately trained inmates for gleaning activities. The
24 secretary of the department of corrections shall adopt rules to
25 implement this section.

26 NEW SECTION. Sec. 10. A new section is added to chapter 81.04 RCW
27 to read as follows:

28 The commission, in cooperation with the department of health and
29 the antihunger coordinator under section 3 of this act, shall identify
30 statutory and regulatory barriers to backhauling by transporters of
31 donated food and grocery products. The commission shall adopt rules
32 necessary to facilitate the backhauling of donated food products and
33 shall report to the antihunger coordinator on other barriers, such as
34 lack of waiver of published rates, that impede the efficient
35 utilization of volunteer truck transport of food and grocery products.

1 **Sec. 11.** RCW 28A.235.140 and 1993 c 333 s 1 are each amended to
2 read as follows:

3 (1) For the purposes of this section:

4 (a) "Free or reduced-price lunches" means lunches served by a
5 school district that qualify for federal reimbursement as free or
6 reduced-price lunches under the national school lunch program.

7 (b) "School breakfast program" means a program meeting federal
8 requirements defined in 42 U.S.C. Sec. 1773.

9 (c) "Severe-need school" means a school that qualifies for a
10 severe-need school reimbursement rate from federal funds for school
11 breakfasts served to children from low-income families.

12 (2) School districts shall be required to develop and implement
13 plans for a school breakfast program in severe-need schools(~~(, pursuant~~
14 ~~to the schedule in this section. For the second year prior to the~~
15 ~~implementation of the district's school breakfast program, and for each~~
16 ~~subsequent school year, each school district shall submit data enabling~~
17 ~~the superintendent of public instruction to determine which schools~~
18 ~~within the district will qualify as severe-need schools)). In~~
19 developing its plan, each school district shall consult with an
20 advisory committee including school staff and community members
21 appointed by the board of directors of the district. School districts
22 shall provide a breakfast program in any school as long as the school
23 qualifies as a severe-need school or there is data available to confirm
24 and substantiate the severe-needs status of the school.

25 (3) (~~Using district wide data on school lunch participation during~~
26 ~~the 1988-89 school year, the superintendent of public instruction shall~~
27 ~~adopt a schedule for implementation of school breakfast programs in~~
28 ~~severe-need schools as follows:~~

29 (a) ~~School districts where at least forty percent of lunches served~~
30 ~~to students are free or reduced price lunches shall submit a plan for~~
31 ~~implementation of a school breakfast program in severe-need schools to~~
32 ~~the superintendent of public instruction no later than July 1, 1990.~~
33 ~~Each such district shall implement a school breakfast program in all~~
34 ~~severe-need schools no later than the second day of school in the~~
35 ~~1990-91 school year and in each school year thereafter.~~

36 (b) ~~School districts where at least twenty five but less than forty~~
37 ~~percent of lunches served to students are free or reduced price lunches~~
38 ~~shall submit a plan for implementation of a school breakfast program in~~
39 ~~severe-need schools to the superintendent of public instruction no~~

1 ~~later than July 1, 1991.~~) Each such district shall implement a school
2 breakfast program in all severe-need schools no later than the second
3 day of school in the 1991-92 school year and in each school year
4 thereafter.

5 ~~((c) School districts where less than twenty five percent of
6 lunches served to students are free or reduced price lunches shall
7 submit a plan for implementation of a school breakfast program in
8 severe-need schools to the superintendent of public instruction no
9 later than July 1, 1992. Each such district shall implement a school
10 breakfast program in all severe-need schools no later than the second
11 day of school in the 1992-93 school year and in each school year
12 thereafter.~~

13 ~~(d) School districts that did not offer a school lunch program in
14 the 1988-89 school year are encouraged to implement such a program and
15 to provide a school breakfast program in all severe-need schools when
16 eligible.)~~

17 (4) The requirements in this section shall lapse if the federal
18 reimbursement rate for breakfasts served in severe-need schools is
19 eliminated.

20 (5) Students who do not meet family-income criteria for free
21 breakfasts shall be eligible to participate in the school breakfast
22 programs established under this section, and school districts may
23 charge for the breakfasts served to these students except as provided
24 in section 14 of this act. Requirements that school districts have
25 school breakfast programs under this section shall not create or imply
26 any state funding obligation for these costs. The legislature does not
27 intend to include these programs within the state's obligation for
28 basic education funding under Article IX of the Constitution.

29 (6) School districts that as of the effective date of this act do
30 not have a school lunch program shall develop a plan for a school lunch
31 program and establish a feasible timeline for instituting the program.

32 **Sec. 12.** RCW 28A.235.150 and 1993 c 333 s 3 are each amended to
33 read as follows:

34 (1) To the extent funds are appropriated, the superintendent of
35 public instruction may award grants to school districts to increase
36 participation in school breakfast and lunch programs, to improve
37 program quality, and to improve the equipment and facilities used in
38 the programs. School districts shall demonstrate that they have

1 applied for applicable federal funds before applying for funds under
2 this subsection.

3 (2) To the extent funds are appropriated, the superintendent of
4 public instruction shall increase the state support for school
5 breakfasts and lunches. Funds appropriated under this subsection are
6 intended to increase participation by eligible students in school food
7 programs, and shall be used solely to enhance school breakfast and
8 lunch programs.

9 **Sec. 13.** RCW 28A.235.155 and 1993 c 333 s 4 are each amended to
10 read as follows:

11 (1) The superintendent of public instruction shall administer funds
12 for the federal summer food service program.

13 (2) The superintendent of public instruction may award grants, to
14 the extent funds are appropriated, to eligible organizations to help
15 start new summer food service programs for children or to help expand
16 summer food services for children.

17 (3) The superintendent of public instruction shall apply for all
18 available federal funds for summer food service program outreach.

19 NEW SECTION. **Sec. 14.** A new section is added to chapter 28A.235
20 RCW to read as follows:

21 School districts are encouraged to take advantage of the
22 opportunity to serve all enrolled students in designated high-needs
23 schools under special assistance known as Provision 2, 7 C.F.R. 245(b).
24 The superintendent of public instruction shall ensure that information
25 on Provision 2 is provided to all school districts with schools where
26 more than seventy-five percent of students qualify for free or reduced-
27 price school meals by the end of 1994.

28 NEW SECTION. **Sec. 15.** A new section is added to chapter 28A.235
29 RCW to read as follows:

30 Within six months of the effective date of this act, and every two
31 years thereafter, school districts with breakfast or lunch programs
32 shall assess whether the programs allow the students sufficient and
33 realistic time to be served and to eat. If the assessment shows that
34 there is insufficient time for personal hygiene, serving, and
35 consumption of school meals, the school shall allow more time by any
36 feasible means, including the use of adult volunteer help, additional

1 cafeteria shifts, or more staffing. Failure to properly assess such
2 programs and correct problems identified by assessment, or to promptly
3 investigate and take appropriate action on complaints regarding
4 compliance with this section shall be remedied by the superintendent of
5 public instruction.

6 NEW SECTION. **Sec. 16.** A new section is added to chapter 28A.235
7 RCW to read as follows:

8 School districts shall ensure that food sold on school grounds is
9 consistent with the dietary guidelines for Americans as provided in the
10 edition of "Nutrition & Your Health: Dietary Guidelines for
11 Americans," by the United States departments of agriculture and health
12 and human services in print on the effective date of this act, or a
13 later edition as adopted by reference by the superintendent by rule.

14 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.70 RCW
15 to read as follows:

16 (1) The legislature intends to increase the number of persons being
17 served by the women, infant, and children (WIC) program, using state
18 funding to maximize federal fund availability. The WIC program is a
19 federally funded program established in 1972 by an amendment to the
20 child nutrition act of 1966. The purpose of the program is to serve as
21 an adjunct to health care by providing nutritious food; nutrition
22 education and counseling; health screening; and referral services to
23 pregnant and breast-feeding women, infants, and children in certain
24 high-risk categories. The WIC program in the state of Washington is
25 administered by the office of WIC services in the department of health.

26 (2) The department of health shall establish a capacity building
27 task force to seek ways to reach more of the WIC target populations.
28 The department of health shall consider cost-containment options, such
29 as sole-source contracting and multistate buying agreements, for
30 cereals and other foods, and shall implement the options if the options
31 appear cost-effective.

32 NEW SECTION. **Sec. 18.** The department of social and health
33 services shall form a task force to discuss initiation of a future
34 pilot project using electronic benefit transfer technology for the food
35 stamp program composed of the following members appointed jointly by

1 the chair of the senate government operations committee and the house
2 of representatives state government committee:

3 (1) Up to eight members representing the retail and grocery
4 industries. These representatives shall be selected from nominations
5 submitted by state-wide business organizations representing these
6 industries; and

7 (2) Up to four members representing the financial services
8 industry. These representatives shall be selected from nominations
9 submitted by state-wide organizations representing this industry. The
10 task force shall research the status of federal implementation efforts,
11 as well as the effectiveness of pilot programs in other states, and the
12 costs and benefits of this program to affected businesses. The
13 department shall report to the appropriate standing committees of the
14 legislature on the task force's findings by December 1, 1995.

15 Private industry members of the task force shall serve voluntarily,
16 without compensation or reimbursement of expense.

17 NEW SECTION. **Sec. 19.** A new section is added to chapter 74.04 RCW
18 to read as follows:

19 The department shall, with the assistance of the antihunger
20 coordinator, develop an outcome measurement to show increased service
21 to individuals in the department's nutrition program for the elderly.
22 The purpose of the outcome measurement shall be to improve
23 accountability and effectiveness and to motivate outreach programs to
24 the elderly, by measuring program success in empirical evidence of
25 increased numbers of persons served.

26 NEW SECTION. **Sec. 20.** The antihunger coordinator shall report to
27 the legislature by December 1, 1995, on the effectiveness of chapter
28 . . . , Laws of 1994 (this act).

29 NEW SECTION. **Sec. 21.** If specific funding for the purposes of
30 sections 2 and 3 of this act, referencing sections 2 and 3 of this act
31 by bill number and section number, is not provided by June 30, 1994, in
32 the omnibus appropriations act, sections 2 and 3 of this act are null
33 and void.

34 NEW SECTION. **Sec. 22.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 23.** If any part of this act is found to be in
4 conflict with federal requirements that are a prescribed condition to
5 the allocation of federal funds to the state, the conflicting part of
6 this act is inoperative solely to the extent of the conflict and with
7 respect to the agencies directly affected, and this finding does not
8 affect the operation of the remainder of this act in its application to
9 the agencies concerned. The rules under this act shall meet federal
10 requirements that are a necessary condition to the receipt of federal
11 funds by the state.

12 NEW SECTION. **Sec. 24.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect immediately."

--- END ---