

2 **E2SHB 2798** - S AMD TO WM COMM AMD (S-5775.1/94)  
3 By Senator Talmadge

4

5 On page 16, after line 20 of the amendment, insert the following:

6 **"PART IX. ANTIHUNGER PROGRAMS**

7 NEW SECTION. **Sec. 30.** 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. 31.** RCW 43.19.010 and 1993 c 472 s 19 are each amended to  
4 read 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 32 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. 32.** 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  
13 sections 30 through 48, chapter . . . , Laws of 1994 (sections 30  
14 through 48 of this act), and shall provide information and data  
15 consistent with available resources, as requested by the antihunger  
16 coordinator, including annual reporting, by November 1 of each year,  
17 concerning the status and progress of each agency's antihunger efforts.

18 NEW SECTION. Sec. 33. A new section is added to chapter 69.80 RCW  
19 to read as follows:

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

22 (2) As used in this section:

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

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

32 (c) "Donate" means to give without requiring anything of monetary  
33 value from the recipient, except that the term shall include giving by  
34 a for-profit or nonprofit organization to another nonprofit  
35 organization, notwithstanding that the donor organization has charged  
36 a nominal fee to the donee organization, if the ultimate recipient or  
37 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, or governmental entity, including a retail  
26 grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer,  
27 farmer, and nonprofit food distributor or hospital. In the case of a  
28 corporation, partnership, organization, association, or governmental  
29 entity, the term includes an officer, director, partner, deacon,  
30 trustee, councilmember, or other elected or appointed individual  
31 responsible for the governance of the entity.

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

1 omission of the donor constituting gross negligence or intentional  
2 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. 34.** The following acts or parts of acts are  
26 each repealed:

27 (1) RCW 69.80.030 and 1983 c 241 s 3; and

28 (2) RCW 69.80.040 and 1983 c 241 s 4.

29 **Sec. 35.** RCW 69.80.900 and 1983 c 241 s 5 are each amended to read  
30 as follows:

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

34 NEW SECTION. **Sec. 36.** A new section is added to Title 15 RCW to  
35 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. 37.** 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 32 of this act, to include personnel and equipment for state-wide  
8 distribution of food and grocery products to state-administered food  
9 programs. Assistance provided will be consistent with available  
10 resources and prescribed federal training requirements.

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

13 NEW SECTION. Sec. 38. 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 32 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. 39. 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 32 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        NEW SECTION.    **Sec. 40.**    A new section is added to Title 75 RCW to  
2 read as follows:

3        The department of fish and wildlife and the department of  
4 corrections shall provide technical assistance to the antihunger  
5 coordinator under section 32 of this act, in researching how to enhance  
6 existing efforts in the recovery, processing, and distribution of  
7 fisheries surplus to correctional facilities and department of social  
8 and health services' programs, while leaving harvest and other license  
9 restrictions and limitations intact. The antihunger coordinator shall  
10 report to the legislature by December 1, 1995, on the outcome of the  
11 research project.

12        **Sec. 41.**    RCW 28A.235.140 and 1993 c 333 s 1 are each amended to  
13 read as follows:

14        (1) For the purposes of this section:

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

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

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

23        (2) School districts shall be required to develop and implement  
24 plans for a school breakfast program in severe-need schools(~~(, pursuant~~  
25 ~~to the schedule in this section. For the second year prior to the~~  
26 ~~implementation of the district's school breakfast program, and for each~~  
27 ~~subsequent school year, each school district shall submit data enabling~~  
28 ~~the superintendent of public instruction to determine which schools~~  
29 ~~within the district will qualify as severe-need schools)). In~~  
30 developing its plan, each school district shall consult with an  
31 advisory committee including school staff and community members  
32 appointed by the board of directors of the district. School districts  
33 shall provide a breakfast program in any school as long as the school  
34 qualifies as a severe-need school or there is data available to confirm  
35 and substantiate the severe-needs status of the school.

36        (3) (~~Using district wide data on school lunch participation during~~  
37 ~~the 1988-89 school year, the superintendent of public instruction shall~~

1 adopt a schedule for implementation of school breakfast programs in  
2 severe-need schools as follows:

3 (a) School districts where at least forty percent of lunches served  
4 to students are free or reduced price lunches shall submit a plan for  
5 implementation of a school breakfast program in severe-need schools to  
6 the superintendent of public instruction no later than July 1, 1990.  
7 Each such district shall implement a school breakfast program in all  
8 severe-need schools no later than the second day of school in the  
9 1990-91 school year and in each school year thereafter.

10 (b) School districts where at least twenty five but less than forty  
11 percent of lunches served to students are free or reduced price lunches  
12 shall submit a plan for implementation of a school breakfast program in  
13 severe-need schools to the superintendent of public instruction no  
14 later than July 1, 1991.) Each such district shall implement a school  
15 breakfast program in all severe-need schools no later than the second  
16 day of school in the 1991-92 school year and in each school year  
17 thereafter.

18 ((c) School districts where less than twenty five percent of  
19 lunches served to students are free or reduced price lunches shall  
20 submit a plan for implementation of a school breakfast program in  
21 severe-need schools to the superintendent of public instruction no  
22 later than July 1, 1992. Each such district shall implement a school  
23 breakfast program in all severe-need schools no later than the second  
24 day of school in the 1992-93 school year and in each school year  
25 thereafter.

26 (d) School districts that did not offer a school lunch program in  
27 the 1988-89 school year are encouraged to implement such a program and  
28 to provide a school breakfast program in all severe-need schools when  
29 eligible.))

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

33 (5) Students who do not meet family-income criteria for free  
34 breakfasts shall be eligible to participate in the school breakfast  
35 programs established under this section, and school districts may  
36 charge for the breakfasts served to these students except as provided  
37 in section 43 of this act. Requirements that school districts have  
38 school breakfast programs under this section shall not create or imply  
39 any state funding obligation for these costs. The legislature does not

1 intend to include these programs within the state's obligation for  
2 basic education funding under Article IX of the Constitution.

3 (6) School districts that as of the effective date of this section  
4 do not have a school lunch program shall develop a plan for a school  
5 lunch program and establish a feasible timeline for instituting the  
6 program.

7 **Sec. 42.** RCW 28A.235.155 and 1993 c 333 s 4 are each amended to  
8 read as follows:

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

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

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

17 NEW SECTION. **Sec. 43.** A new section is added to chapter 28A.235  
18 RCW to read as follows:

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

26 NEW SECTION. **Sec. 44.** A new section is added to chapter 28A.235  
27 RCW to read as follows:

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

1 investigate and take appropriate action on complaints regarding  
2 compliance with this section shall be remedied by the superintendent of  
3 public instruction.

4 NEW SECTION. **Sec. 45.** A new section is added to chapter 28A.235  
5 RCW to read as follows:

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

12 NEW SECTION. **Sec. 46.** A new section is added to chapter 74.04 RCW  
13 to read as follows:

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

21 NEW SECTION. **Sec. 47.** The antihunger coordinator shall report to  
22 the legislature by December 1, 1995, on the effectiveness of sections  
23 30 through 46 of this act.

24 NEW SECTION. **Sec. 48.** A new section is added to chapter 43.70 RCW  
25 to read as follows:

26 (1) The legislature intends to increase the number of persons being  
27 served by the women, infant, and children (WIC) program, using state  
28 funding to maximize federal fund availability. The WIC program is a  
29 federally funded program established in 1972 by an amendment to the  
30 child nutrition act of 1966. The purpose of the program is to serve as  
31 an adjunct to health care by providing nutritious food; nutrition  
32 education and counseling; health screening; and referral services to  
33 pregnant and breast-feeding women, infants, and children in certain  
34 high-risk categories. The WIC program in the state of Washington is  
35 administered by the office of WIC services in the department of health.

1 (2) The department of health shall establish a capacity building  
2 task force to seek ways to reach more of the WIC target populations and  
3 to provide additional capital grants to local agencies, and to provide  
4 start-up funds for new local agencies. The department of health shall  
5 consider cost-containment options, such as sole-source contracting and  
6 multistate buying agreements, for cereals and other foods, and shall  
7 implement the options if the options appear cost-effective.

8 NEW SECTION. **Sec. 49.** Sections 30 through 48 of this act are  
9 necessary for the immediate preservation of the public peace, health,  
10 or safety, or support of the state government and its existing public  
11 institutions, and shall take effect immediately."

12 Renumber the remaining parts and sections consecutively and correct  
13 internal references accordingly.

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17 On page 17, beginning on line 25 of the title amendment, strike  
18 "and 74.12.350" and insert "74.12.350, 43.19.010, 69.80.900, 38.12.020,  
19 28A.235.140, and 28A.235.155"

20 On page 17, line 29 of the title amendment, strike "adding a new  
21 section to chapter 74.04 RCW;" and insert "adding new sections to  
22 chapter 74.04 RCW; adding a new section to chapter 43.19 RCW; adding a  
23 new section to chapter 69.80 RCW; adding a new section to Title 15 RCW;  
24 adding a new section to chapter 72.09 RCW; adding a new section to  
25 chapter 81.04 RCW; adding a new section to Title 75 RCW; adding new  
26 sections to chapter 28A.235 RCW;"

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30 On page 18, line 1 of the title amendment, after "74.12.360" insert  
31 ", 69.80.030, and 69.80.040"

1           On page 18, beginning on line 1 of the title amendment, strike "and  
2 providing an effective date" and insert "providing an effective date;  
3 and declaring an emergency"

--- **END** ---