

# SENATE BILL REPORT

## SB 6444

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As of February 11, 2014

**Title:** An act relating to breakfast after the bell programs in certain public schools.

**Brief Description:** Creating the breakfast after the bell program.

**Sponsors:** Senators Litzow, Angel, Tom, Bailey, Billig, Fain and Keiser.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 2/05/14, 2/06/14 [DPS-WM, w/oRec].  
Ways & Means: 2/10/14.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** That Substitute Senate Bill No. 6444 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Litzow, Chair; McAuliffe, Ranking Member; Rolfes, Assistant Ranking Member; Billig, Brown, Cleveland, Fain, Hill and Rivers.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Dammeier, Vice Chair; Mullet.

**Staff:** Katherine Taylor (786-7434)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Lorrell Noahr (786-7708)

**Background:** Free and Reduced-Price Meals (FRPM). School breakfast and lunch programs are subsidized by the U.S. Department of Agriculture, the state, and student co-pays based on family income. In order for students to qualify for free meals, their families' income must be at or below 130 percent of the federal poverty level. Students whose families have income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. Students whose families earn more than 185 percent of the poverty level pay full price, but the meals are still federally subsidized to an extent.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

For the 2012-13 school year, more than 476,000 or 45.7 percent of public school students were reported as eligible FRPM. Approximately 39 percent of students were eligible for free meals.

School Breakfast. In 2012-13, 271 school districts offered school breakfast in 1864 schools. The average daily participation for breakfast was 165,810 students, which represents 15.7 percent of the total enrollment of students. The average daily participation in breakfast for FRPM students was about 34 percent, although 87 percent of all school breakfasts are served to FRPM students. Approximately 70 percent of FRPM students participate in school lunch.

Severe Needs Schools. Under federal guidelines, schools in which more than 40 percent of the lunches served in the previous year were for FRPM students are considered severe needs schools and qualify for additional federal reimbursement for breakfasts. Under state law, these schools must offer school breakfast programs for students. In 2012-13 there were 1660 severe needs schools in Washington.

State Support for Breakfast. The Legislature has appropriated state funds specifically to support school breakfasts in two ways:

- eliminating the breakfast co-pay for students eligible for reduced-price meals, \$0.30 per breakfast; and
- providing additional funding to school breakfast programs for every free and reduced-price breakfast served, \$0.17 per breakfast.

A small amount is also available for grants to try new breakfast programs. For the 2013-15 biennium, the state support is approximately \$5.8 million per year.

Breakfast After the Bell (BAB). BAB includes several food service models where breakfast is served after the beginning of the regular school day, rather than in the cafeteria before school starts. Research on school breakfasts in Washington and in other states indicates that participation in school breakfast is significantly higher in schools using BAB programs.

Under the program of basic education, school districts must provide a specified minimum number of instructional hours per year, which are defined as those hours during which students are provided the opportunity to engage in educational activity planned by, and under the direction of, school district staff. Time actually spent on meals does not count under the definition.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Recommended Substitute):** Beginning in the 2014-15 school year and continuing into the 2015-16 school year, OSPI must dedicate staff within its office to assist all severe needs schools that are interested in offering BAB to make the change from their current breakfast model. The staff must also encourage all interested severe needs schools to explore options for expanding BAB to include all students.

Beginning in the 2016-17 school year, except in certain circumstances, each elementary school that enrolls students in any of grades kindergarten through five that has an enrollment

of 85 percent or more students eligible for FRPM in the prior school year must offer BAB to each student in the school.

Beginning in the 2017-18 school year, except in certain circumstances, each severe needs school must offer BAB to each student in the school.

All public schools are encouraged to offer BAB even if not required to do so.

Severe needs schools with participation rates in school breakfast of 70 percent or more of the students eligible for FRPM are exempt from the certain provisions. OSPI, in consultation with community food and nutrition experts, must issue guidelines for calculating school breakfast participation rates.

A school district or charter school may apply to OSPI for a one-year waiver of the requirements by demonstrating that providing BAB in a particular severe needs school will result in undue financial hardship for the district or charter school. School districts or charter schools may annually reapply no more than twice for such a waiver based on the same criteria as the initial waiver.

Each severe needs school may determine the BAB service model that best suits its students. Service models include, but are not limited to, breakfast in the classroom, grab-and-go breakfast, or a breakfast after first period.

BAB may be served at a time to be determined by the severe needs school, so long as it occurs at breakfast time after the beginning of the school day.

If all students in a severe needs school are provided the opportunity to engage in educational activity planned by and under the direction of school district staff concurrently with the serving and consumption of breakfast, the period of time designated for student participation in BAB must be considered instructional hours.

All breakfasts served in a BAB program must comply with federal meal patterns and nutrition standards for school breakfast programs under the federal Healthy, Hunger-Free Kids Act and any federal regulations interpreting that act.

The Legislature does not intend to include the programs under this section within the state's obligation for basic education funding under Article IX of the state Constitution.

Before August 1, 2014, OSPI must develop and distribute procedures and guidelines for the implementation of certain parts of this act, which must be in compliance with the school breakfast program and the school lunch program.

OSPI must dedicate staff within the office to offer technical assistance to all public schools and school districts related to offering BAB, including assistance with various available funding mechanisms to support BAB programs such as universal breakfast, the community eligibility option, programs under provision two of the National School Lunch Act, and claims for reimbursement under the school breakfast program.

In fulfilling its responsibilities, OSPI must collaborate with nonprofit organizations knowledgeable on hunger, food security issues, and best practices for improving student access to school breakfast. OSPI must also seek partnerships with philanthropic organizations interested in supporting BAB in severe needs schools.

Any federal or state monies received by a public school or school district as reimbursement for breakfasts served may only be used for the food and operations associated with the food service program of the school or district.

Several definitions are provided.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Early Learning & K-12 Education):** PRO: We are enthusiastic about this bill. Child hunger is at an all-time high. This will help to remove stigma. We support this bill because it establishes a mandate. Serving breakfast in severe needs schools is already a mandate, but this would make it better. We do not expect schools to do this alone. This just asks for breakfast to be served at a more appropriate time. More and more of our kids are victims of the opportunity gap. This will foster a better learning environment. Instruction can begin while breakfast is being eaten. Many students who are eligible for this breakfast do not get it. This is not an unfunded mandate.

CON: This is a challenge. OSPI does not have federal staff because this is federal funding. More fruit has to be added to meals, but there is no funding for it. The Federal Way School District has tried BAB.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Katie Mosehauer, WA Appleseed; Wendy Rader-Konofalsky, WA Education Assn.; Lauren McGowan, Carol Wood, United Way of King County; Dave Westberg, Operating Engineers #609.

CON: Mitch Denning, Alliance of Educational Assns.

**Staff Summary of Public Testimony (Ways & Means):** PRO: If students are well fed, they succeed in school and are less disruptive. Consumption of school breakfast is 50 percent below the consumption of school lunch, partly due to transportation and other issues. United Way has funded pilots to more than 20 schools to develop best practices. The fiscal note could be offset through philanthropic efforts. There are a number of schools already doing this and having positive outcomes. We do not believe this mandate is unfunded. Breakfast is already being served. This bill expands the timing of when it can be delivered.

CON: This is an unfunded mandate. This bill requires all students to be served breakfast after the bell. Costs for breakfast are already set to increase \$0.18–\$0.25 per meal, without

additional federal reimbursement. This creates a problem even before the implementation of BAB. More time should be given for stakeholders to discuss this issue. BAB costs money to implement and operate. Currently there are 281 schools that participate in BAB. Of those schools, 38 operate in the black, and 243 operate in the red.

**Persons Testifying (Ways & Means):** PRO: Nick Federici, United Way of King County.

CON: Mitch Denning, Alliance of Educational Assns.; Jeff Fleury, WA School Nutrition Assn.