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ENGROSSED SUBSTITUTE HOUSE BILL 2536

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State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations Subcommittee on Education (originally sponsored by Representatives Hudgins, Dahlquist, Bergquist, Lytton, Pettigrew, Orwall, Kagi, Morrell, Roberts, Tharinger, Haigh, Goodman, Walkinshaw, Riccelli, Pollet, and S. Hunt)

READ FIRST TIME 02/11/14.

1 AN ACT Relating to breakfast after the bell programs in certain  
2 public schools; adding new sections to chapter 28A.235 RCW; and  
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.235  
6 RCW to read as follows:

7 (1) The legislature finds clear evidence that school breakfast is  
8 associated with improved outcomes for students, including fewer  
9 discipline incidents, better attendance, and improved performance on  
10 standardized tests. However, Washington ranks forty-first in the  
11 nation for participation in the school breakfast program at the same  
12 time that childhood poverty and food insecurity are at record highs in  
13 the state. While many students eat breakfast at home, there are  
14 significant numbers of children who come to school hungry. Therefore,  
15 the legislature intends to expand the opportunity for students to get  
16 a healthy breakfast by requiring schools with large populations of low-  
17 income students who are eligible for free and reduced price meals to  
18 serve breakfast after the bell, a model that has increased breakfast  
19 participation rates in various states across the nation.

1 (2) The legislature intends to establish a four-year, phased-in  
2 process for providing breakfast after the bell in high needs schools  
3 and provide technical assistance through dedicated staff within the  
4 office of the superintendent of public instruction to successfully  
5 implement the model, as well as assistance through local public-private  
6 partnerships between the office of the superintendent of public  
7 instruction and nonprofit organizations knowledgeable about hunger and  
8 food security issues.

9 (3) The legislature intends that food served for breakfast must  
10 meet federal standards, be nutritious, and not contribute to childhood  
11 obesity. In addition, nothing in this act is intended to preempt the  
12 responsibility of parents to care for their children, including feeding  
13 them nutritious meals before arriving at school.

14 (4) Finally, the legislature encourages schools providing breakfast  
15 after the bell to use a model that allows breakfast time to be part of  
16 instructional time.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.235  
18 RCW to read as follows:

19 The definitions in this section apply throughout sections 3 and 4  
20 of this act unless the context clearly requires otherwise.

21 (1) "Breakfast after the bell" means a breakfast that is offered to  
22 students after the beginning of the school day.

23 (2) "Eligible for free or reduced price meals" means a student who  
24 is eligible under the national school lunch program or the school  
25 breakfast program to receive lunch or breakfast at no cost to the  
26 student or at a reduced cost to the student.

27 (3) "High needs school" means any public school that has an  
28 enrollment of seventy percent or more students eligible for free or  
29 reduced price meals in the prior school year.

30 (4) "Public school" has the same meaning as provided in RCW  
31 28A.150.010.

32 (5) "School breakfast program" means a program meeting federal  
33 requirements under 42 U.S.C. Sec. 1773.

34 (6) "School lunch program" means a program meeting federal  
35 requirements under 42 U.S.C. Sec. 1751.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 28A.235

2    RCW to read as follows:

3        (1)(a) Beginning in the 2014-15 school year and continuing into the  
4    2015-16 school year, the office of the superintendent of public  
5    instruction shall dedicate staff within the office to assist all high  
6    needs schools that are interested in offering breakfast after the bell  
7    to make the change from their current breakfast model. The staff shall  
8    also encourage all interested high needs schools to explore options for  
9    expanding breakfast after the bell to include all students.

10       (b) Beginning in the 2016-17 school year, except as provided in  
11    subsection (2) of this section, each elementary school that enrolls  
12    students in any of grades kindergarten through five that has an  
13    enrollment of eighty-five percent or more students eligible for free or  
14    reduced price meals in the prior school year must offer breakfast after  
15    the bell to each student in the school.

16       (c) Beginning in the 2017-18 school year, except as provided in  
17    subsection (2) of this section, each high needs school must offer  
18    breakfast after the bell to each student in the school.

19       (d) All public schools are encouraged to offer breakfast after the  
20    bell even if not required to do so under this section.

21       (2)(a) High needs schools with participation rates in school  
22    breakfast of seventy percent or more of the students eligible for free  
23    or reduced price meals are exempt from the provisions of subsection (1)  
24    of this section. The office of the superintendent of public  
25    instruction, in consultation with community food and nutrition experts,  
26    shall issue guidelines for calculating school breakfast participation  
27    rates.

28       (b) High needs schools that demonstrate that expected direct costs  
29    will exceed expected revenues for the breakfast after the bell program  
30    are exempt from the requirements of subsection (1) of this section for  
31    the ensuing school year. Expected direct costs include but are not  
32    limited to the costs of food and other commodities, supplies,  
33    compensation for food service workers, and associated custodial  
34    services. Expected revenues include federal and state reimbursements  
35    for school breakfast, any additional state funds allocated for the  
36    purposes of this section, and student copays. The office of the  
37    superintendent of public instruction shall develop a worksheet for the  
38    purposes of this subsection (2)(b) and must notify a qualifying high

1 needs school of its exemption in a timely manner before the start of  
2 the school year. A high needs school may reapply annually for the  
3 exemption.

4 (3)(a) Each high needs school may determine the breakfast after the  
5 bell service model that best suits its students. Service models  
6 include, but are not limited to, breakfast in the classroom, grab and  
7 go breakfast, or a breakfast after first period.

8 (b) Breakfast after the bell may be served at a time to be  
9 determined by the high needs school, so long as it occurs at breakfast  
10 time after the beginning of the school day.

11 (c) If all students in a high needs school are provided the  
12 opportunity to engage in educational activity planned by and under the  
13 direction of school district staff concurrently with the serving and  
14 consumption of breakfast, the period of time designated for student  
15 participation in breakfast after the bell shall be considered  
16 instructional hours under RCW 28A.150.205.

17 (4) All breakfasts served in a breakfast after the bell program  
18 must comply with federal meal patterns and nutrition standards for  
19 school breakfast programs under the federal healthy, hunger-free kids  
20 act of 2010, (P.L. 111-296) and any federal regulations interpreting  
21 that act.

22 (5) The legislature does not intend to include the programs under  
23 this section within the state's obligation for basic education funding  
24 under Article IX of the state Constitution.

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

27 (1) Before August 1, 2014, the office of the superintendent of  
28 public instruction shall develop and distribute procedures and  
29 guidelines for the implementation of section 3 of this act, which must  
30 be in compliance with the school breakfast program and the school lunch  
31 program.

32 (2) The office of the superintendent of public instruction shall  
33 dedicate staff within the office to offer technical assistance to all  
34 public schools and school districts related to offering breakfast after  
35 the bell, including assistance with various available funding  
36 mechanisms to support breakfast after the bell programs such as

1 universal breakfast, the community eligibility option under 42 U.S.C.  
2 Sec. 1759a, programs under provision two of the national school lunch  
3 act, and claims for reimbursement under the school breakfast program.

4 (3) In fulfilling its responsibilities under this section, the  
5 office of the superintendent of public instruction shall collaborate  
6 with nonprofit organizations knowledgeable on hunger and food security  
7 issues and best practices for improving student access to school  
8 breakfast. The office shall also seek partnerships with philanthropic  
9 organizations interested in supporting breakfast after the bell in high  
10 needs schools.

11 (4) Any federal or state moneys received by a public school or  
12 school district as reimbursement for breakfasts served under this  
13 section may only be used for the food and operations associated with  
14 the food service program of the school or district.

15 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this  
16 act, referencing this act by bill or chapter number, is not provided by  
17 June 30, 2014, in the omnibus appropriations act, this act is null and  
18 void.

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