

# HOUSE BILL REPORT

## ESHB 2660

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### As Passed Legislature

**Title:** An act relating to increasing the availability of school meals provided to public school students at no student cost.

**Brief Description:** Increasing the availability of school meals provided to public school students at no student cost.

**Sponsors:** House Committee on Education (originally sponsored by Representatives Riccelli, Harris, Santos, Shewmake, Leavitt, Steele, Stonier, Hudgins, Senn, Gregerson, Doglio, Peterson, Thai, Rude, Valdez, Chapman, Bergquist, Goodman, Callan, Tharinger, Maycumber, Pollet, Davis, Kretz and Macri).

### Brief History:

#### Committee Activity:

Education: 1/28/20, 2/6/20 [DPS];  
Appropriations: 2/10/20 [DPS(ED)].

#### Floor Activity:

Passed House: 2/17/20, 97-1.  
Senate Amended.  
Passed Senate: 3/5/20, 45-4.  
House Concurred.  
Passed House: 3/10/20, 95-2.  
Passed Legislature.

### Brief Summary of Engrossed Substitute Bill

- Requires, with limited exceptions, each school with students in or below grade 8 with 62.5 percent or more of its students eligible for free meals through a direct certification process to participate in the federal Community Eligibility Provision (CEP), thereby making school meals available to all students at no charge.
- Modifies funding provisions for the Learning Assistance Program (LAP) by allowing schools participating in the CEP to receive state allocations based on the district's percentage of students who were eligible for free and reduced-price meals in the school year that preceded the school's participation in the CEP.

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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.*

- Modifies eligibility requirements for certain annual teacher bonuses by allowing free and reduced-price lunch eligibility data from the school year immediately preceding the school's participation in the CEP to be used in determining eligibility for the bonuses.
- Extends a directive requiring the Office of the Superintendent of Public Instruction (OSPI) to convene meetings with organizations working on a plan to increase the number of students participating in the CEP, and directs the OSPI and the organizations to examine the impacts to schools and districts that can result from participation in the CEP.

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist, Caldier, Callan, Corry, Harris, Ortiz-Self, Rude, Stonier, Thai, Valdez and Ybarra.

**Staff:** Ethan Moreno (786-7386).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Education be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Minority Report:** Do not pass. Signed by 1 member: Representative Kraft.

**Staff:** Jordan Clarke (786-7123).

### **Background:**

#### Federal School Nutrition Programs.

The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) are child nutrition programs funded by the United States Department of Agriculture. In Washington, the Office of the Superintendent of Public Instruction (OSPI) administers the programs. The NSLP and the SBP are designed to promote the health and well-being of children by providing nutritionally balanced, low-cost or no-cost meals to children each school day. The NSLP and the SBP provide reimbursement for meals served that meet federal requirements. Public or nonprofit private schools and public or nonprofit private residential childcare institutions may participate in the NSLP and the SBP.

#### Free and Reduced-Price Meals.

To qualify for free school meals, a student's family income must be at or below 130 percent of the federal poverty level. Students whose families have an 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 federally subsidized to some extent. In the 2018-19 school year, 478,590 Washington students, or 43 percent, were enrolled in the free or reduced-price meals (FRPMs) program.

#### Community Eligibility Provision.

The Community Eligibility Provision (CEP) of the federal Healthy, Hunger-Free Kids Act provides an alternative to household applications for FRPM by allowing schools with high numbers of low-income students to serve free meals to all students. A school, group of schools, or school district is eligible for the CEP if at least 40 percent of its students are identified as eligible for free meals through means other than household applications, examples of which include: students directly certified through the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families, and foster, homeless, and migrant students. The percentage of eligible students identified without using household applications is the Identified Student Percentage (or ISP).

In Washington in the 2019-20 school year, 319 schools from 89 districts met the ISP requirements and are participating in the CEP.

#### Recent Legislative Actions.

Legislation adopted in 2018 directed the OSPI to develop and implement a plan to increase the number of schools participating in the CEP for the 2018-19 school year and subsequent years. The legislation required the OSPI to convene monthly stakeholder meetings until June 31, 2019, to report on the status of the plan and to coordinate outreach and technical assistance efforts to districts. The legislation, which included identification and outreach duties for the OSPI, required the OSPI to work jointly with specified entities, including community-based organizations and national experts focused on hunger and nutrition and familiar with the CEP, two or more school representatives who have successfully implemented the CEP, and the state agency responsible for Medicaid direct certification.

The 2018 legislation also required the OSPI to annually provide reports to the Legislature each December 1 on the number of schools participating in the CEP. The annual reports must also identify:

- any barriers to implementation;
- recommendations on policy and legislative solutions to overcome barriers to implementation;
- reasons potentially eligible schools and school districts decide not to adopt the CEP; and
- approaches in other states to adopting the CEP.

Support for the CEP participation was also included in the biennial operating budget adopted in 2019. The enacted budget included \$119,000 for each of fiscal years 2020 and 2021 for increasing the number of schools participating in the CEP, and to support breakfast after the bell programs in schools that have adopted the CEP.

#### Learning Assistance Program.

The Learning Assistance Program (LAP) is part of the state's program of basic education and provides supplemental instruction and services to assist students who are not meeting academic standards, and to reduce disruptive classroom behaviors. In implementing the LAP, school districts must focus first on addressing the needs of students in kindergarten through grade 4 who are deficient in reading or reading readiness skills for the purpose of improving reading literacy.

The state funding allocation for the LAP is based on the percentage of students enrolled in the school district who are eligible for FRPMs in the prior school year, but students do not have to be eligible for FRPMs to be served in the LAP.

National Board for Professional Teaching Standards—Bonuses.

Certificated instructional staff (CIS) who have attained certification from the National Board for Professional Teaching Standards (National Board Certification) receive a bonus each year in which they maintain the certification. The bonus amount is adjusted for inflation, and the annual bonus per CIS in the 2019-20 school year is \$5,505.

If the CIS is in an instructional assignment in a school in which at least 70 percent of the students qualify for the free and reduced-price lunch program, or as otherwise provided in the biennial operating budget, the CIS is eligible for an additional \$5,000 bonus per year.

**Summary of Engrossed Substitute Bill:**

Mandatory Participation in the Community Eligibility Provision for Qualifying Schools.

Except as provided otherwise, each school with students in or below grade 8 that has an ISP of at least 62.5 percent, as determined annually by each April 1, must participate in the CEP in the subsequent school year and throughout the duration of the CEP's four-year cycle. Schools that provide meals to all students and at no cost to the students through an arrangement with a local entity are exempted from the CEP participation requirements.

Learning Assistance Program.

Provisions governing the state funding allocation for the LAP are modified to allow schools participating in the CEP to receive funding allocations based on the district's percentage of students who were eligible for FRPMs for the school year that preceded the school's participation in the CEP, or the district percentage of students in grades kindergarten through grade 12 who were eligible for FRPMs in the prior school year, whichever is greater.

National Board for Professional Teaching Standards—Bonuses.

Provisions governing bonus eligibility for qualifying instructional staff are modified. A CIS with National Board Certification is eligible for the annual \$5,000 bonus for instructional assignments in qualifying schools if the CIS is an instructional assignment in a school that meets the definition of "high poverty school" as defined by the OSPI in the school year immediately preceding the school's participation in the CEP.

Office of the Superintendent of Public Instruction.

Duties of the OSPI related to the CEP are modified. The requirement to convene monthly meetings with organizations working on a plan to increase the number of students participating in the CEP is reenacted and extended by two years until June 30, 2021. In

completing these duties, the OSPI and the organizations working jointly on the plan must also, by December 1, 2020, examine the impacts to schools and districts that can result from participation in the CEP and identify approaches to addressing those impacts.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 28, 2020.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Education):**

(In support) This is a complicated bill in a complicated policy area, but children should be fed to improve test scores and because it is the right thing to do. On a national level, Washington's participation rate in the CEP is very low.

There are 285,000 food insecure children in the state. This leads to numerous health and intellectual concerns. Food is medicine, and if a small town in North Carolina figured out how to feed students, so can Washington. This bill is essential to communities and is a good first step to make sure that all children receive the food they need.

Hungry students struggle to learn and strive. Washington is forty-fifth in the nation in school breakfast participation. The CEP helps large numbers of students by providing meals at no costs to students. The CEP is a win-win for students and schools, including making more food available and eliminating fee collection processes.

One in 10 households struggle with food insecurity. The CEP is not simple, but it is not difficult. The CEP allows schools to eliminate the meal applications and offer meals to all students. The challenge is that school funding provisions are tied to the number of students who are eligible for FRPMs. Stakeholders are working with the sponsor on an amendment to address that issue.

Children of color experience poverty at two 2 to three times the rates of other children, but there are barriers, including stigmas, associated with accessing FRPMs. The CEP is a common sense solution that will enhance meal solutions for children. Administration of the CEP is simple, and kids can take meals without embarrassment because the meals are available to all.

The OSPI supports programs that provide free meals at schools.

(Opposed) None.

(Other) The break-even point for participation in the CEP is an ISP of 62.5 percent. The bill should be modified to include a more gradual implementation schedule. The bill includes a tight timeline and districts may need more time to decide whether to participate in the CEP. The bill also may increase school food service costs.

The decision to apply for the CEP is a difficult one and districtwide implementation of the CEP takes time. The bill may result in unintended consequences, including lower free and reduced-price rates, crowded cafeterias, and increased staff time. Additional facility needs, such as freezers, might also be necessary to accommodate an increase in the number of meals served.

If the bill is implemented, schools will lose the poverty count for students, and district poverty rates could decline if the paper applications for FRPMs are discontinued. These changes could affect school funding, including a loss of LAP funding.

The intention of the legislation should be supported, but stakeholders have concerns about a resulting loss of funding for the neediest schools.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Three-quarters of teachers report that they have hungry students in their classrooms. Washington is ranked forty-fifth in the nation for Community Eligibility Provision (CEP) participation. Participating in CEP eliminates the cost barrier for low-income students, allows districts to receive more funding in federal reimbursement, and decreases administrative costs for school nutrition programs. The state pays lunch copayments for kindergarten through third grade now, so participating in CEP could lead to some savings.

The scope of the bill has been pared down, and now schools will not unintentionally lose Learning Assistance Program (LAP) funding due to participating in CEP. The substitute bill also increases the student percentage to 62.5 percent, limits the mandate to schools that are kindergarten through eighth grades, and protects funding for LAP and National Board Certification bonuses.

(Opposed) None.

**Persons Testifying (Education):** (In support) Representative Riccelli, prime sponsor; Sally Peach, Washington Chapter of the American Academy of Pediatrics; Kate Burke, Spokane City Council; Claire Brown, United Way of King County; Claire Lane, Anti-Hungry and Nutrition Coalition; Christina Wong, Northwest Harvest; and Leanne Eko, Office of the Superintendent of Public Instruction.

(Other) Donna Parsons, Washington School Nutrition Association; Karen Brown, Franklin Pierce School District; Simone Boe, Washington Education Association; Clifford Traisman, Seattle Public Schools; and Dan Steele, Washington Association of School Administrators.

**Persons Testifying (Appropriations):** Simone Boe, Washington Education Association; Christina Wong, Northwest Harvest; and Donna Parsons, Washington School Nutrition Association.

**Persons Signed In To Testify But Not Testifying (Education):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.