

# HOUSE BILL REPORT

## E2SHB 1238

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### As Amended by the Senate

**Title:** An act relating to providing free school meals for all.

**Brief Description:** Providing free school meals for all.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Riccelli, Harris, Alvarado, Thai, Simmons, Senn, Rude, Reeves, Reed, Walen, Peterson, Ortiz-Self, Ormsby, Taylor, Leavitt, Fitzgibbon, Duerr, Doglio, Berry, Bateman, Morgan, Fey, Ramel, Goodman, Fosse, Pollet, Lekanoff, Macri, Chopp, Stonier, Gregerson and Santos; by request of Superintendent of Public Instruction).

### Brief History:

#### Committee Activity:

Education: 1/24/23, 2/7/23 [DPS];

Appropriations: 2/22/23, 2/24/23 [DP2S(w/o sub ED)].

#### Floor Activity:

Passed House: 3/2/23, 93-3.

Senate Amended.

Passed Senate: 4/11/23, 44-5.

### Brief Summary of Engrossed Second Substitute Bill

- Requires school districts to provide breakfast and lunch without charge to any requesting students at public schools serving any of the grades of kindergarten through grade 4 with 30 percent or more of their students eligible for free or reduced-price meals (FRPMs).
- Phases in meal provision requirements over two years, beginning in the 2023-24 school year in schools with 40 percent or more of their students eligible for FRPMs.
- Establishes state reimbursement provisions for the meals provided without charge and directs the Office of the Superintendent of Public Instruction to reimburse school districts in accordance with those

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provisions.

- Requires school districts, subject to funding provisions and beginning in the 2024-25 school year, to implement school breakfast programs in schools subject to the meal provision requirements.
- Modifies funding provisions for the Learning Assistance Program and National Board Certification bonuses for the 2024-25 and 2025-26 school years for school districts and schools subject to the meal provision requirements.

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## HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Santos, Chair; Shavers, Vice Chair; Rude, Ranking Minority Member; Bergquist, Callan, Eslick, Harris, Ortiz-Self, Pollet, Steele, Stonier and Timmons.

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

**Minority Report:** Without recommendation. Signed by 2 members: Representatives McEntire, Assistant Ranking Minority Member; McClintock.

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

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Education. Signed by 27 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chopp, Connors, Couture, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives Chandler, Dye and Schmick.

**Staff:** James Mackison (786-7104).

### **Background:**

Federal School Nutrition Programs, Free and Reduced-Price Meals.

The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) are child nutrition programs funded by the United States Department of Agriculture (Department of Agriculture). 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 are administered in Washington by the Office of the Superintendent of Public Instruction (OSPI), and both programs provide reimbursements to school districts for served meals that meet federal requirements.

Household applications submitted by families to schools are used to determine student eligibility for free or reduced-price meals (FRPMs). To qualify for free school meals, a student's family income must be at or below 130 percent of the federal poverty level (FPL). Students whose families have an income between 130 percent and 185 percent of the FPL are eligible for reduced-price meals. Students whose families earn more than 185 percent of the FPL pay full price, but the meals are federally subsidized to some extent.

The Community Eligibility Provision (CEP) of the federal Healthy, Hunger-Free Kids Act provides an alternative to household applications for FRPMs 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.

The Families First Coronavirus Response Act (P.L. 116-127), federal legislation adopted in 2020 and subsequently extended, allowed states, through a waiver issued by the Department of Agriculture, to provide meals at no charge to all students, regardless of family income, through the 2021-22 school year. Federal provisions authorizing states to provide meals at no charge to all students during the school year have expired.

#### School Breakfast Programs.

Subject to funding requirements, school districts must implement a school breakfast program in each school where more than 40 percent of students eligible to participate in the school's lunch program qualify for FRPMs. If a school with 40 percent or more of its students qualifying for FRPMs begins a lunch program, the school must begin a breakfast program in the second year after commencing its lunch program.

#### Learning Assistance Program.

The Learning Assistance Program (LAP) supports the provision of supplemental instruction and services for students who are not meeting academic standards, a term defined to mean students with the greatest academic deficits in basic skills as identified by statewide, school, or district assessments or other performance measurement tools.

The state provides two types of funding allocations for the LAP: a general LAP allocation, and an additional high poverty-based allocation for qualifying schools. School districts and schools qualify for one or both allocations based on prior years' percentages of students who qualify for FRPMs.

### National Board Certification Bonuses.

Teachers and other certificated instructional staff (CIS) who have attained certification from the National Board for Professional Teaching Standards (National Board) are eligible for a state-funded bonus for each year they maintain the certification. A qualifying CIS who holds a valid certificate from the National Board for the duration of the 2022-23 school year will receive a bonus of \$6,019.

An additional state-funded annual bonus of \$5,000 is paid to each qualifying CIS with a valid National Board certificate and an instructional assignment in a qualifying high poverty school. "High poverty schools" are designated in rule by the SPI and must meet threshold requirements for the percentage of students who are eligible for FRPMs.

### **Summary of Engrossed Second Substitute Bill:**

#### Providing Public School Students at Qualifying Schools with Access to Meals Served Without Charge.

Beginning with the 2023-24 school year, school districts, a term that includes charter schools, and state-tribal compact schools, must provide breakfast and lunch each school day to any student at a qualifying school who requests a breakfast, lunch, or both. The school districts must provide the meals at no charge to the requesting student and without consideration of the student's eligibility for a federally reimbursed free or reduced-price meal (FRPM). The provided meals must be nutritiously adequate and qualify for reimbursement under the National School Lunch Program (NSLP) or the federal School Breakfast Program (SBP), and students are not eligible for more than one meal in a meal service period.

The obligation to provide meals at no charge to requesting students applies to public schools in which:

- educational services are provided to students in any of the grades of kindergarten through grade 4; and
- thirty percent or more of the enrolled students meet federal eligibility requirements for FRPMs.

The Superintendent of Public Instruction may exempt school districts from the requirements to provide meals at no charge to requesting students if the district shows good cause for not being able to comply with the requirements. Additionally, the meal provision requirements do not apply to schools participating in the Community Eligibility Provision (CEP) that have not completed the duration of the CEP's four-year cycle.

The meal provision requirements are phased in over a two-year period. Beginning in the 2023-24 school year, schools in which 40 percent or more of their enrolled students meet federal requirements for FRPMs must begin providing the meals at no charge to students. Beginning in the 2024-25 school year, the meal provision requirements apply all qualifying

schools in which 30 percent or more of the enrolled students meet federal eligibility requirements for FRPMs.

The Office of the Superintendent of Public Instruction must reimburse school districts on a per-meal reimbursement basis for meals that are not already reimbursed at the United States Department of Agriculture (Department of Agriculture) free rate. The additional state reimbursement amount must be the difference between the Department of Agriculture's free rate and its paid rate.

For school districts that are not participating in the NSLP or the SBP that provided school meals to enrolled students meeting federal eligibility requirements for FRPMs during the 2023-24 school year, the state reimbursement must be equivalent to the per-meal reimbursement that the school district would have otherwise qualified for if it had been participating in the federal school meal programs.

School districts must continue collecting meal applications where applicable and run direct certification at least monthly. Additionally, school districts must annually monitor data for eligibility in the CEP and apply where eligible.

Public schools providing school meals to students are encouraged to buy Washington produced food whenever practicable and when cost is comparable to non-Washington produced food.

#### School Breakfast Programs.

Subject to funding requirements, beginning in the 2024-25 school year, school districts must implement a school breakfast program in each school that is required to provide meals at no charge to all requesting students.

#### Other Provisions.

*Learning Assistance Program.* Funding provisions for the Learning Assistance Program (LAP) are modified as follows for the 2024-25 and 2025-26 school years:

- General LAP allocations for school districts providing meals at no charge to all requesting students that do not participate in the Department of Agriculture's CEP must be based on the school district percentage of students who were eligible for FRPMs in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.
- For the high poverty-based allocation, a school providing meals at no charge to all requesting students that is not participating in the CEP continues to be eligible for the high poverty-based allocation if the school qualified during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

*National Board Certified Teacher Bonuses.* For the 2024-25 and 2025-26 school years, a qualifying certificated instructional staff is eligible for the high poverty schools annual bonus of \$5,000 if they are in an instructional assignment in a school providing meals at no

charge to all requesting students that met the definition of high poverty school during the 2022-23 school year.

### **EFFECT OF SENATE AMENDMENT(S):**

In comparison to the engrossed substitute bill, the Senate amendment:

- removes provisions establishing state reimbursement requirements for school meals for school districts that: do not participate in the National School Lunch Program or the School Breakfast Program; and provide school meals to enrolled students meeting federal eligibility requirements for free and reduced-price meals (FRPMs) during the 2023-24 school year;
- makes the school district obligation to provide breakfast and lunch without charge to any requesting students as provided in the underlying bill lapse if federal funding for any school breakfasts or lunches is eliminated;
- removes a provision making the school district obligation to implement a breakfast program in each school that must provide meals at no charge as provided in the underlying bill subject to appropriation, and advances the initial breakfast program implementation date by one year to beginning in the 2023-24 school year; and
- removes a provision that requires public schools with an identified student percentage of less than 40 percent to participate in the Community Eligibility Provision (CEP) if the federal eligibility threshold for participating in the CEP is reduced to less than 40 percent.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill contains multiple effective dates. Please see the bill. However, the bill is null and void unless funded in the budget.

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

(In support) Food is health. Providing free school meals is the most effective way to ensure that kids get the food they need to thrive. About 700,000 students have benefited in Washington from recent changes to meal program participation requirements, but the Legislature should not stop there. The pandemic showed us that schools can feed all children and reduce hunger.

The federal income requirements for free and reduced-price meals do not vary within the state, so families earning \$52,000 must pay student meal costs. School meal costs are significant for families just above the income eligibility requirements.

This bill is a good idea that recognizes current circumstances and the long hours that kids spend at schools. Children cannot learn effectively when they are hungry. Policymakers

should ensure that all Washington students have the nutrition they need and the meals they deserve.

Families experience hardships, and this bill will help. Students should not be burdened by the circumstances of their parents. This bill addresses an equity issue and will allow school meal staff to focus on meal preparation, not operating cash registers.

The bill creates a work group to identify issues resulting from the provision of no-charge meals to students, and this will be helpful for stakeholders.

Healthy meals are foundational to learning. The universal meals program that started during the COVID-19 pandemic was very successful and more students received school meals. Students had more time for meals and socialization when they no longer navigated a payment system. The bill addresses funding around the Learning Assistance Program and this is appreciated.

Surveys by the State Board of Education indicate that elementary school students support free meals for all. This bill will support the whole child and provide adequate nutrition for intellectual development.

Less than half of qualifying students are participating in free meals. When students dine together, they are building community. The law compels students to attend school and should compel districts to feed students. Free meals stigma is real, especially with middle and high school students.

Child hunger is a real problem with widespread impacts. Children who are hungry are more likely to be truant, have academic difficulties, and repeat a grade. This bill is not about helping students and families that don't need supports, it's about helping those that do. Children who are hungry carry a stigma and a hunger in their belly, but this bill can help with both of those issues.

(Opposed) Schools are partners with communities and parents and schools need to stay in their own lane. Parents are responsible for feeding children, not schools. We have options to feed children if parents cannot do so. This bill undermines the goal of creating independent, self-reliant children. Kids that need food are being fed, it's not the role of the state to feed them.

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

(In support) Nutritious food is how we protect children's health and help them learn and grow. Spending time on a student's academic growth will help little if the student is hungry. Providing summer meals during the pandemic showed that childhood hunger could be reduced. This substitute bill focuses on our youngest learners and moves things forward. This policy is also a tax credit for working families. The cost of food has

increased, forcing families to make tough decisions. It should not require a pandemic to feed hungry children. Meals should be locally sourced when practical.

This is an excellent bill. Pairing down the cost is appreciated so that the bill can be fully funded. Universal meals have full support, but there are understandably many budget priorities being considered. The substitute bill moves the conversation forward. Consider re-adding the work group in the original bill.

The original version of the bill would end hunger at school, allowing all children to eat meals at school without worry or stigma. Free meals are good for many positive reasons. The price tag is the only drawback. This substitute proposes a simple and targeted way to help those most in need, young students that are still developing and attend higher poverty schools.

Working with families in crisis shows the impact that food insecurity can have. The State Superintendent highlighted that students cannot learn when they are hungry. The policy ensures students get the food they need without the stigma. It protects the confidentiality of students that qualify for free and reduced-price meal (FRPM) status.

School districts support the bill. The Sumner-Bonney Lake School District, which is not eligible for the Community Eligibility Provision (CEP), saw a significant drop in meals this year when free meals were discontinued. Students have to ask staff for food or money, or simply go without eating. Students from working families that do not meet the criteria for FRPMs are also impacted. Remove the barrier of hunger. Providing free meals removes financial stigma, the possibility of student debt, and other things that lead to student shaming. It will help middle income families that are dealing with the rising costs of basic goods. It will create more jobs in schools. Franklin Pierce is a CEP district, and providing free meals allows staff to make a connection with students without having to discuss money. Kids have enough to worry about without worrying about money, something they have no control over. The Edmonds School District has one-third of students qualify for FRPMs, which does not qualify for CEP. Students eligible for FRPMs will skip meals to avoid being stigmatized. The state should pick up the gap left by federal funding. Feeding more kids means more dollars into Washington farms and other parts of the local economy.

It would be difficult to make it through a workday distracted by hunger pains. There are children at school dealing with hunger right now. A family of four that makes \$50,000 a year does not qualify for FRPMs. Hunger has a cost for children and society in the form of health issues, depression, and learning problems. Children that have the nutrition they need have better outcomes and limit the downstream social costs.

Educators support the bill because many students will be positively impacted. Expanding meals, reducing stigma, eliminating debt, and removing barriers are all good things. Schools participating will collect less FRPM data, which is used to fund other state programs focused on higher poverty schools. The work group should be re-added to



address the policy's impact on programs based on FRPM data.

This bill decreases food insecurity. While the fiscal note is high, the return on investment is immeasurable. When hungry, it is hard to learn, participate in activities, or make friends. School meals are often the healthiest meals a student can access. Hunger is tied to future economic outcomes and health outcomes, like diabetes and cardiovascular disease. This is a significant step and can change lives.

The initial decision package from the Office of the Superintendent of Public Instruction (OSPI) requested free meals for all students, and OSPI appreciates the continued work of the Legislature toward this goal. Free meals provide savings to families. A family of four making \$52,000 with two children attending elementary school will spend \$1,800 per year on school meals. This policy will save them money.

(Opposed) The only reason for being against the bill is that the money for it comes from taxpayers. They are taxed enough already. The need for meals is there, but there should be enough money to cover this without impacting taxpayers.

**Persons Testifying (Education):** (In support) Representative Marcus Riccelli, prime sponsor; Michael Moran, Confederated Tribes of the Colville Reservation; Aracely Calvillo, Save the Children Action Network; Logan Endres and Madhumitha Gandhi, Washington State School Directors' Association; Lelach Rave, Washington Chapter of the American Academy of Pediatrics; Randy Spaulding, Washington State Board of Education; Liza Rankin, Seattle Public Schools; Roni Cook, Washington Education Association; Ben Atkinson, Washington State Academy of Nutrition and Dietetics; Mikhail Cherniske, Office of the Superintendent of Public Instruction; and Patrick Durgan, Bellingham Public Schools.

(Opposed) Jason Perrins, Chewelah School District.

**Persons Testifying (Appropriations):** (In support) Representative Marcus Riccelli, prime sponsor; Mitch Denning, Washington Association of Maintenance and Operation Administrators; Rusanne Modeland; Logan Endres, Washington State School Directors' Association; Megan deVries, Edmonds Food and Nutrition Department; Laurie Dent, Sumner-Bonney Lake School District; Nasue Nishida, Washington Education Association; Alexa Mason, Washington Chapter of the American Academy of Pediatrics; Shaquita Bell; Claire Lane, Anti-Hunger and Nutrition Coalition; Jessica Jandayan; Karen Brown, Franklin Pierce Schools; and Mikhail Cherniske, Office of the Superintendent of Public Instruction.

(Opposed) Laurie A. Layne.

**Persons Signed In To Testify But Not Testifying (Education):** Andrea Davis, Coordinated Care; Natalie Estrada; Ben Mitchell, Foundation for Tacoma Students; Karen Brown, Franklin Pierce School District; Alicia Busch, Maple Valley Food Bank; June Ivers, Seattle Council Parent Teacher Student Association.

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