

SENATE BILL REPORT

E2SHB 1238

As Reported by Senate Committee On:
Early Learning & K-12 Education, March 20, 2023
Ways & Means, April 4, 2023

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

Committee Activity: Early Learning & K-12 Education: 3/16/23, 3/20/23 [DPA-WM, w/oRec].

Ways & Means: 3/28/23, 4/04/23 [DPA, DNP, w/oRec].

Brief Summary of Amended Bill

- Requires certain public schools serving grades K-4 to provide breakfast and lunch each school day at no charge to any student who requests these meals.
- Phases in this requirement beginning in schools with 40 percent or more of their students eligible for free or reduced-price meals in the 2023-24 school year, and then including schools with 30 percent or more of their students eligible in the 2024-25 school year.
- Directs school districts to maximize federal funding, and the Office of the Superintendent of Public Instruction to reimburse school districts on a per-meal reimbursement basis for meals that are not already reimbursed at the free rate.

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

- Provides funding stability provisions for the Learning Assistance Program and the National Board Certified Teacher Bonus in the 2024-25 and 2025-26 school years.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Hunt, Mullet and Pedersen.

Minority Report: That it be referred without recommendation.

Signed by Senators Dozier and McCune.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Mullet, Vice Chair, Capital; Rivers, Assistant Ranking Member, Capital; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Nguyen, Pedersen, Saldaña, Torres, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Gildon, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Wilson, L., Ranking Member, Operating; Warnick, Assistant Ranking Member, Capital; Boehnke and Braun.

Staff: Kayla Hammer (786-7305)

Background: Federal School Nutrition Programs. The National School Lunch Program and the School Breakfast Program are federally assisted meal programs. School meal programs are subsidized by the U.S. Department of Agriculture (USDA), the state, and student co-pays based on income. Students whose families have incomes at or below 130 percent of the federal poverty level are eligible for free meals. Students whose families have incomes between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. Eligibility is determined through school meal applications.

Community Eligibility Provision. The federal Healthy, Hunger-Free Kids Act of 2010

includes a universal meal program called the Community Eligibility Provision (CEP). CEP allows schools with high numbers of low-income students to serve free breakfast and lunch to all students without collecting school meal applications. All public schools, including charter schools and state-tribal compact schools, that have an identified student percentage of at least 40 percent, as determined annually, must participate in CEP. Identified student means a student who is directly certified for free school meals based on the student's participation in other means-tested assistance programs, and students who are categorically eligible without an application and not subject to income verification.

Direct Certification. Federal law provides that certain students are deemed categorically eligible for free school meals, which includes students who are or have household members participating in the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance for Needy Families (TANF) Program, or the Food Distribution Program on Indian Reservations. Students are also categorically eligible if they are homeless, migrant, in foster care, or enrolled in Head Start or other eligible prekindergarten programs. Direct certification systems match student enrollment lists against assistance agencies whose participants are categorically eligible for free meals.

School Meal Programs. Current state law requires school districts to implement a school lunch program in each public school in which 25 percent or more of the enrolled K-4 students qualify for free or reduced-price lunch. To the extent funds are appropriated for this purpose, school districts must implement a school breakfast program in each public school in which 40 percent or more of the students qualify for free or reduced-price lunch.

Learning Assistance Program Funding. The Learning Assistance Program (LAP) is designed to provide supplemental instruction and services to assist students who are not meeting academic standards. Allocations for LAP are based on the greater of either the district percentage of students who were eligible for free or reduced-price meals for the school year immediately preceding CEP participation; or a school district's percentage of students who were eligible for free or reduced-price meals in the prior school year. Qualifying schools, with 50 percent or more of students who qualify for free or reduced-price meals, receive an additional high poverty-based allocation.

National Board Certified Teacher Bonus. Certificated instructional staff who have attained certification from the National Board for Professional Teaching Standards receive a bonus each year in which they maintain the certification. Certificated instructional staff who have attained the certification are eligible for an additional bonus if they teach in a school in which at least 70 percent of the students qualify for free and reduced-price lunch.

Summary of Amended Bill: Requirement to Provide Breakfast and Lunch at Certain Public Schools. Beginning with the 2023-24 school year, certain public schools, including charter schools and state-tribal education compact schools, must provide one breakfast and one lunch each school day at no charge to any student who requests these meals and without consideration of student's eligibility for a federally reimbursed free or reduced-price meal.

Meals must be nutritiously adequate and qualify for federal reimbursement.

These requirements apply to public schools in which:

- educational services are provided to students in grades K-4; and
- 30 percent or more of the enrolled students meet federal eligibility requirements for free or reduced-price lunches.

These requirements are phased in and:

- begin in the 2023-24 school year for schools in which 40 percent or more of the enrolled students meet federal eligibility requirements; and
- begin in the 2024-25 school year for schools in which 30, and less than 40, percent of the enrolled students meet federal eligibility requirements.

These requirements do not apply to schools participating in CEP that have not completed the duration of the four-year cycle.

Exemptions. School districts may be exempted from these requirements by showing good cause why they cannot comply. The process and criteria by which school districts may be exempted must be developed by rule and revised if necessary by the Office of the Superintendent of Public Instruction (OSPI).

Federal Funding and Reimbursement. OSPI must reimburse school districts required to provide meals at no charge on a per meal reimbursement basis for meals not already reimbursed at the federal free rate. The additional state reimbursement amount must be the difference between the free rate and paid rate.

To maximize federal funding, school districts must continue collecting free and reduced-price meal eligibility applications, and run direct certification at least monthly. School districts must also monitor data for eligibility for CEP and apply where eligible as required by state law.

These requirements will lapse if the federal reimbursement for any school breakfasts or lunches is eliminated.

School Breakfast Programs. Beginning in the 2024-25 school year, school districts must implement a breakfast program in each school that is required to provide school meals to any student who requests these meals.

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

Learning Assistance Program Funding. For the 2024-25 and 2025-26 school years, LAP allocations for school districts providing meals at no charge and not participating in CEP

must be based on the school district percentage of students in grades K-12 who were eligible for free or reduced-price meals in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest.

For those same two school years, a school providing meals at no charge and not participating in CEP continues to meet the definition of a qualifying school for LAP high poverty funding if the school met the definition one year of the 2019-20 through 2022-23 school years, or in the prior school year.

National Board Certified Teacher Bonus. For the 2024-25 and 2025-26 school years, individuals are eligible for the bonus in qualifying high poverty schools if they met the definition of high poverty school defined in OSPI rule during the 2022-23 school year.

EFFECT OF WAY & MEANS COMMITTEE AMENDMENT(S):

- Removes state reimbursement for school districts that are not participating in the school lunch program or the school breakfast program that provided school meals to enrolled students meeting federal eligibility requirements for free and reduced-price lunches during the 2023-24 school year.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Provides that the requirements related to free school meals will lapse if the federal reimbursement for any school breakfasts or lunches is eliminated.
- Removes subject to appropriations language as it relates to school districts being required to implement a breakfast program in each school providing meals at no charge beginning in the 2023-24 school year and in accordance with the school meal requirements.

Appropriation: The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: Looking at social determinants of health, food is health. Childhood hunger is one of the most serious issues impacting children and food insecurity is an equity issue. Hungry students struggle to learn and thrive. When meals are

provided at school, there is a huge decrease in childhood hunger and children have more access to nutritious food. When universal meals are provided, it avoids any lunch shaming, stigma, and unpaid meal debt. This is a working family tax credit and is especially important during this time of inflation and reduction in SNAP benefits. This bill will work toward universal meals by providing free meals to more students at the higher poverty elementary schools. Universal meals also streamline kitchen operations because it allows staff to focus on preparing food and not on paperwork. There is a concern that as more universal meals are provided, this could negatively impact funding based on free and reduced-price meal eligibility. The bill should include an OSPI work group to address this issue.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Marcus Riccelli, Prime Sponsor; Mitch Denning, WA Assn of Maintenance and Operation Administrators; Logan Endres, Washington State School Directors' Association (WSSDA); Dr. Laurie Dent, Sumner-Bonney Lake School District; Mikhail Cherniske, Office of Superintendent of Public Instruction; Ben Mitchell, Foundation for Tacoma Students; Andrea Davis; Mercedes White Calf, NAYA-Native American Youth & Family Center Action Fund; Simone Boe, Washington Education Association; Juliana Morena, Washington Education Association; Sara Seelmeyer, United Way of King County; Sophia Hernandez, The Washington Bus; Tsering Lhewa, MD, FAAP, Washington Chapter of the American Academy of Pediatrics.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):
No one.

Staff Summary of Public Testimony on Bill as Amended by Early Learning & K-12 Education (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: The CEP allows no barrier, no stigma meals for kids in Yakima and should make the model repeatable in Washington. Having access to free meals leaves more time for families as it reduces a parent's workload. Support the expansion of free meals and hope for future of free meals for all students. The bill is a critical stepping stone and a cost efficient way to end childhood hunger. The fiscal note has been paired down and the funding is provided in the House budget, please move forward. A poll shows that 64 percent of voters want free meals for all funded even considering the cost to the state. Feeding kids is a building block in getting them to college. School meals provided community. Pediatricians support the policy as physical health is not possible without adequate nutrition. The current threshold for free lunches do not align with the actual cost of living in Washington.

OTHER: Meals for all is directly related to survival rate for children. Graduation requirements are required in health and fitness and meals should be part of that. Reject this bill and provide free meals for all.

Persons Testifying (Ways & Means): PRO: Thomas Reynolds, Northwest Harvest;

Nicole Curtis; Arlista Holman, Washington State School Directors' Association (WSSDA); Sara Seelmeyer, United Way of King County; Mitch Denning, WA Assn of Maintenance & Operation Administrators; Andrew Villeneuve, Northwest Progressive Institute; Collin Bannister, ASWSU; Patrick Durgan, Bellingham Public Schools // WSNA; Lelach Rave, Washington Chapter of the AAP; Mikhail Cherniske, Office of Superintendent of Public Instruction.

OTHER: Sarah Arison.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.