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**SUBSTITUTE HOUSE BILL 1508**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Stonier, Dolan, Ortiz-Self, Riccelli, Orwall, Peterson, Sawyer, Doglio, Gregerson, Slatter, Frame, Macri, Bergquist, Senn, Ryu, Kloba, Stanford, Sells, Farrell, Lovick, McBride, Pollet, Hudgins, Jinkins, Kagi, Appleton, Goodman, Tharinger, Clibborn, Ormsby, Cody, Santos, Fey, and Pettigrew)

AN ACT Relating to promoting student health and readiness through meal and nutrition programs; amending RCW 28A.150.205, 28A.235.150, and 28A.235.160; adding new sections to chapter 28A.235 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that thoughtful and evidence-based school food programs are associated with improved outcomes for students, including fewer disciplinary incidents, better attendance, improved performance on standardized tests, and academic success evidenced through increased graduation rates.

(2) The legislature acknowledges that while many schools currently offer breakfast before the school day, and that many students have benefited from the elimination of lunch copays for qualifying students in kindergarten through third grade, there are significant numbers of students who come to school hungry or who lack financial resources to pay lunch copays.

(3) The legislature acknowledges also that existing school-related farm programs play an important role in helping students to better understanding the relationships between academics, food, farming, and good health.

(4) The legislature finds that the purpose of sections 1 through 12 of this act is to achieve the public policy benefits specified in subsection (1) of this section: Improved student outcomes. To do so, the legislature intends to:

(a) Expand opportunities for students to have a healthy breakfast by requiring schools with large populations of qualifying low-income students to offer breakfast after the bell programs, a program model that has increased breakfast participation rates in other states;

(b) Increase support for the elimination of lunch copays for qualifying students in prekindergarten and in grades for which the copay remains; and

(c) Increase support for school-related farm programs that have proven successful in supporting students through policies that, among other benefits, promote student health and readiness through healthy local foods and school garden projects.

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

The definitions in this section apply throughout sections 3 through 5 of this act unless the context clearly requires otherwise.

(1) "Breakfast after the bell" means a breakfast that is offered to students after the beginning of the school day. Examples of breakfast after the bell models include, but are not limited to:

(a) "Grab and go," where easy-to-eat breakfast foods are available for students to take at the start of the school day or in between morning classes;

(b) "Second chance breakfast," where breakfast foods are available during recess, a nutrition break, or later in the morning, for students who are not hungry first thing in the morning, or who arrive late to school; and

(c) "Breakfast in the classroom," where breakfast is served in the classroom, often during homeroom or first period.

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

(3) "High-needs school" means any public school: (a) That has enrollment of seventy percent or more students eligible for free or reduced-price meals in the prior school year; or (b) that is using provision two of the national school lunch act or the community eligibility provision under section 104(a) of the federal healthy, hunger-free kids act of 2010 to provide universal meals and that has a claiming percentage for free or reduced-price meals of seventy percent or more.

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

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

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

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

(1)(a) In accordance with section 7 of this act and except as provided in subsection (2) of this section, beginning in the 2018-19 school year, each high-needs school shall offer breakfast after the bell to each student and provide adequate time for students to consume the offered food.

(b) Public schools that are not obligated by this section to offer breakfast after the bell are encouraged to do so. Nothing in this section is intended to prevent a high-needs school from implementing a breakfast after the bell program before the 2018-19 school year.

(2) High-needs schools with at least seventy percent of free or reduced-price eligible children participating in both school lunch and school breakfast are exempt from the provisions of subsection (1) of this section. The office of the superintendent of public instruction shall evaluate individual participation rates annually, and make the participation rates publicly available.

(3) Each high-needs school may determine the breakfast after the bell service model that best suits its students. Service models include, but are not limited to, breakfast in the classroom, grab and go breakfast, and second chance breakfast.

(4) All breakfasts served in a breakfast after the bell program must comply with federal meal patterns and nutrition standards for school breakfast programs under the federal healthy, hunger-free kids act of 2010, (P.L. 111-296) and any federal regulations implementing that act. In addition, each food item served in a breakfast after the bell program must contain less than twenty-five percent, by weight, added sugar. When choosing foods to serve in a breakfast after the bell program, schools must give preference to foods that are healthful and fresh, and if feasible, give preference to Washington-grown food.

(5) Subject to the availability of amounts appropriated for this specific purpose, the superintendent of public instruction shall administer one-time start-up allocation grants to each high-needs school implementing a breakfast after the bell program under this section. Grant funds provided under this section must be used for the costs associated with launching a breakfast after the bell program, including but not limited to equipment purchases, training, additional staff costs, and janitorial services.

(6) 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.

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

(1) Before January 2, 2018, the office of the superintendent of public instruction shall develop and distribute procedures and guidelines for the implementation of section 3 of this act that comply with federal regulations governing the school breakfast program. The guidelines and procedures must include ways schools and districts can solicit and consider the input of families regarding implementation and continued operation of breakfast after the bell programs.

(2) The office of the superintendent of public instruction shall offer training and technical and marketing assistance to all public schools and school districts related to offering breakfast after the bell, including assistance with various funding options available to high-needs schools such as the community eligibility provision under 42 U.S.C. Sec. 1759a(a)(1), programs under provision two of the national school lunch act, and claims for reimbursement under the school breakfast program.

(3) In accordance with this section, the office of the superintendent of public instruction shall collaborate with nonprofit organizations knowledgeable about equity, the opportunity gap, hunger and food security issues, and best practices for improving student access to school breakfast. The office shall maintain a list of opportunities for philanthropic support of school breakfast programs and make the list available to schools interested in breakfast after the bell programs.

(4) The office of the superintendent of public instruction shall incorporate the annual collection of information about breakfast after the bell delivery models into existing data systems and make the information publicly available.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the breakfast after the bell lighthouse project is established. The purpose of the pilot project is to promote best practices for designing, implementing, and operating breakfast after the bell programs by learning from experiences in schools of differing sizes.

(2) The office of the superintendent of public instruction must select four schools to participate in the pilot project: One high school with an enrollment of six hundred or more full-time equivalent students; one high school with an enrollment of fewer than three hundred full-time equivalent students; one elementary school with an enrollment of four hundred or more full-time equivalent students; and one elementary school with an enrollment of fewer than two hundred full-time equivalent students.

(3) The schools selected as lighthouses under this section must apply to the office of the superintendent of public instruction to participate in the pilot project. The selected schools, either by providing technical assistance or other guidance, must serve as resources and examples to other schools of how to successfully design, implement, and operate breakfast after the bell programs.

(4) This section expires July 1, 2020.

**Sec.**  RCW 28A.150.205 and 1992 c 141 s 502 are each amended to read as follows:

Unless the context clearly requires otherwise, the definition in this section applies throughout RCW 28A.150.200 through 28A.150.295.

"Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals. If students are provided the opportunity to engage in educational activity concurrently with the consumption of breakfast, and the provision of breakfast allows the regular instructional program to continue functioning, the period of time designated for student participation in breakfast after the bell, as defined in section 2 of this act, must be considered instructional hours.

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

The office of the superintendent of public instruction, school districts, and affected schools shall implement sections 2 through 5, chapter . . . , Laws of 2017 (sections 2 through 5 of this act) only in years in which funding is specifically provided for the purposes of chapter . . ., Laws of 2017 (this act), referencing chapter . . . , Laws of 2017 (this act) by bill or chapter number or statutory references, in a biennial or supplemental operating budget.

NEW SECTION. **Sec.**  The legislature recognizes that the challenges and difficulties of food insecurity affect Washington households throughout the state. The legislature recognizes also that many families rely on the food and nutritional benefits of reduced-price school lunches, and that hungry students face additional barriers to academic success.

The legislature further recognizes that the state's 2016-2017 biennial operating budget included funding for eliminating lunch copays for qualifying kindergarten through third grade students, and that extending this copay elimination to students in the fourth through twelfth grades is an appropriate and cost-effective way to promote the health and academic success of students who qualify for reduced-price lunches.

**Sec.**  RCW 28A.235.150 and 1993 c 333 s 3 are each amended to read as follows:

(1)(a) To the extent funds are appropriated for this specific purpose, the superintendent of public instruction may award grants to school districts to:

(i) Increase awareness of and participation in school breakfast and lunch programs((~~, to~~)), including breakfast after the bell programs;

(ii) Improve program quality((~~, and to~~)), including the nutritional content of program food and the promotion of nutritious food choices by students;

(iii) Promote innovative school-based programs, including but not limited to developing organic gardens that provide produce used in school breakfast or lunch programs; and

(iv) Improve the equipment and facilities used in the programs.

(b) If applicable, school districts shall demonstrate that they have applied for applicable federal funds before applying for funds under this subsection.

(2) To the extent funds are appropriated for this specific purpose, the superintendent of public instruction shall increase the state support for school breakfasts and lunches, including breakfast after the bell programs.

(3) As used in this section, "breakfast after the bell" has the definition in section 2 of this act.

**Sec.**  RCW 28A.235.160 and 2005 c 287 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Free or reduced-price lunch" means a lunch served by a school district participating in the national school lunch program to a student qualifying for national school lunch program benefits based on family size-income criteria.

(b) "Lunch copay" means the amount a student who qualifies for a reduced-price lunch is charged for a reduced-price lunch.

(c) "School lunch program" means a meal program meeting the requirements defined by the superintendent of public instruction under subsection (2)(b) of this section.

((~~(c)~~)) (d) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

((~~(d)~~)) (e) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

((~~(e)~~)) (f) "Summer food service program" means a meal or snack program meeting the requirements defined by the superintendent of public instruction under subsection (4) of this section.

(2) School districts shall implement a school lunch program in each public school in the district in which educational services are provided to children in any of the grades kindergarten through four and in which twenty-five percent or more of the enrolled students qualify for a free or reduced-price lunch. In developing and implementing its school lunch program, each school district may consult with an advisory committee including school staff, community members, and others appointed by the board of directors of the district.

(a) Applications to determine free or reduced-price lunch eligibility shall be distributed and collected for all households of children in schools containing any of the grades kindergarten through four and in which there are no United States department of agriculture child nutrition programs. The applications that are collected must be reviewed to determine eligibility for free or reduced-price lunches. Nothing in this section shall be construed to require completion or submission of the application by a parent or guardian.

(b) Using the most current available school data on free and reduced-price lunch eligibility, the superintendent of public instruction shall adopt a schedule for implementation of school lunch programs at each school required to offer such a program under subsection (2) of this section as follows:

(i) Schools not offering a school lunch program and in which twenty-five percent or more of the enrolled students are eligible for free or reduced-price lunch shall implement a school lunch program not later than the second day of school in the 2005-06 school year and in each school year thereafter.

(ii) The superintendent shall establish minimum standards defining the lunch meals to be served, and such standards must be sufficient to qualify the meals for any available federal reimbursement.

(iii) Nothing in this section shall be interpreted to prevent a school from implementing a school lunch program earlier than the school is required to do so.

(3) To ((~~[the]~~)) the extent funds are appropriated for this purpose, each school district shall implement a school breakfast program in each school where more than forty percent of students eligible to participate in the school lunch program qualify for free or reduced-price meal reimbursement by the school year 2005-06. For the second year before the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify for this requirement. Schools where lunch programs start after the 2003-04 school year, where forty percent of students qualify for free or reduced-price meals, must begin school breakfast programs the second year following the start of a lunch program.

(4) Each school district shall implement a summer food service program in each public school in the district in which a summer program of academic, enrichment, or remedial services is provided and in which fifty percent or more of the children enrolled in the school qualify for free or reduced-price lunch. However, the superintendent of public instruction shall develop rules establishing criteria to permit an exemption for a school that can demonstrate availability of an adequate alternative summer feeding program. Sites providing meals should be open to all children in the area, unless a compelling case can be made to limit access to the program. The superintendent of public instruction shall adopt a definition of compelling case and a schedule for implementation as follows:

(a) Beginning the summer of 2005 if the school currently offers a school breakfast or lunch program; or

(b) Beginning the summer following the school year during which a school implements a school lunch program under subsection (2)(b) of this section.

(5) Schools not offering a breakfast or lunch program may meet the meal service requirements of subsections (2)(b) and (4) of this section through any of the following:

(a) Preparing the meals on-site;

(b) Receiving the meals from another school that participates in a United States department of agriculture child nutrition program; or

(c) Contracting with a nonschool entity that is a licensed food service establishment under RCW 69.07.010.

(6) Requirements that school districts have a school lunch, breakfast, or summer nutrition program under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the state Constitution.

(7) Subject to the availability of amounts appropriated for this specific purpose, beginning in the 2017-18 school year, school districts with school lunch programs must begin to eliminate lunch copays for students in prekindergarten through twelfth grade who qualify for reduced-price lunches. This phase out must, by the end of the 2018-19 school year, eliminate the lunch copay for all elementary school and prekindergarten students. The phasing out of the lunch copay for all other students must begin in the 2019-20 school year and be completed by the end of the 2020-21 school year.

(8) The requirements in this section shall lapse if the federal reimbursement for any school breakfasts, lunches, or summer food service programs is eliminated.

((~~(8)~~)) (9) School districts may be exempted from the requirements of this section by showing good cause why they cannot comply with the office of the superintendent of public instruction to the extent that such exemption is not in conflict with federal or state law. The process and criteria by which school districts are exempted shall be developed by the office of the superintendent of public instruction in consultation with representatives of school directors, school food service, community-based organizations and the Washington state PTA.

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

(1) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction may coordinate with the department of agriculture to promote and facilitate new and existing farm-to-school programs and small and direct marketing farm programs within school districts. In coordinating with the department of agriculture, the office of the superintendent of public instruction is encouraged to provide technical support and assistance, including outreach strategies and best practices, to school districts with or considering the establishment of farm-to-school programs and small and direct marketing farm programs within their district.

(2) Subject to the availability of amounts appropriated for this specific purpose, school districts may coordinate with the department of agriculture to promote and facilitate new and existing farm-to-school programs and small and direct marketing farm programs within their district. In coordinating with the department, school districts are encouraged to designate one or more staff members to be, with respect to farm-to-school programs and small and direct marketing farm programs, a single point of contact for the department of agriculture and the office of the superintendent of public instruction.

(3) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction may award grants to school districts to collaborate with community-based organizations, food banks, and farms or gardens for reducing high school dropout occurrences through farm engagement projects. Projects established by school districts that receive grants in accordance with this section must:

(a) Primarily target low-income and disengaged youth who have dropped out or who are at risk of dropping out of high school; and

(b) Provide participating youth with opportunities for:

(i) Performing community service, including, but not limited to, building food gardens for low-income families, and work-based learning and employment during the school year and summer through farm or garden programs;

(ii) Earning core and elective credits applied toward high school graduation, including but not limited to, science, health, and career and technical education credits;

(iii) Receiving development support and services, including social and emotional learning, counseling, leadership training, and career and college guidance; and

(iv) Improving food security for themselves and their community through the project.

NEW SECTION. **Sec.**  This act may be known and cited as the Washington kids ready to learn act of 2017.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2017, in the omnibus appropriations act, this act is null and void.

**--- END ---**