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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)

READ FIRST TIME 02/24/17.

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

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

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

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

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

1 (4) The legislature finds that the purpose of sections 1 through  
2 12 of this act is to achieve the public policy benefits specified in  
3 subsection (1) of this section: Improved student outcomes. To do so,  
4 the legislature intends to:

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

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

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

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

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

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

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

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

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

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

36 (3) "High-needs school" means any public school: (a) That has  
37 enrollment of seventy percent or more students eligible for free or  
38 reduced-price meals in the prior school year; or (b) that is using  
39 provision two of the national school lunch act or the community

1 eligibility provision under section 104(a) of the federal healthy,  
2 hunger-free kids act of 2010 to provide universal meals and that has  
3 a claiming percentage for free or reduced-price meals of seventy  
4 percent or more.

5 (4) "Public school" has the same meaning as provided in RCW  
6 28A.150.010.

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

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

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.235  
12 RCW to read as follows:

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

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

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

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

33 (4) All breakfasts served in a breakfast after the bell program  
34 must comply with federal meal patterns and nutrition standards for  
35 school breakfast programs under the federal healthy, hunger-free kids  
36 act of 2010, (P.L. 111-296) and any federal regulations implementing  
37 that act. In addition, each food item served in a breakfast after the  
38 bell program must contain less than twenty-five percent, by weight,  
39 added sugar. When choosing foods to serve in a breakfast after the

1 bell program, schools must give preference to foods that are  
2 healthful and fresh, and if feasible, give preference to Washington-  
3 grown food.

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

12 (6) The legislature does not intend to include the programs under  
13 this section within the state's obligation for basic education  
14 funding under Article IX of the state Constitution.

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

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

25 (2) The office of the superintendent of public instruction shall  
26 offer training and technical and marketing assistance to all public  
27 schools and school districts related to offering breakfast after the  
28 bell, including assistance with various funding options available to  
29 high-needs schools such as the community eligibility provision under  
30 42 U.S.C. Sec. 1759a(a)(1), programs under provision two of the  
31 national school lunch act, and claims for reimbursement under the  
32 school breakfast program.

33 (3) In accordance with this section, the office of the  
34 superintendent of public instruction shall collaborate with nonprofit  
35 organizations knowledgeable about equity, the opportunity gap, hunger  
36 and food security issues, and best practices for improving student  
37 access to school breakfast. The office shall maintain a list of  
38 opportunities for philanthropic support of school breakfast programs

1 and make the list available to schools interested in breakfast after  
2 the bell programs.

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

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

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

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

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

29 (4) This section expires July 1, 2020.

30 **Sec. 6.** RCW 28A.150.205 and 1992 c 141 s 502 are each amended to  
31 read as follows:

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

34 "Instructional hours" means those hours students are provided the  
35 opportunity to engage in educational activity planned by and under  
36 the direction of school district staff, as directed by the  
37 administration and board of directors of the district, inclusive of  
38 intermissions for class changes, recess, and teacher/parent-guardian

1 conferences that are planned and scheduled by the district for the  
2 purpose of discussing students' educational needs or progress, and  
3 exclusive of time actually spent for meals. If students are provided  
4 the opportunity to engage in educational activity concurrently with  
5 the consumption of breakfast, and the provision of breakfast allows  
6 the regular instructional program to continue functioning, the period  
7 of time designated for student participation in breakfast after the  
8 bell, as defined in section 2 of this act, must be considered  
9 instructional hours.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.235  
11 RCW to read as follows:

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

19 NEW SECTION. **Sec. 8.** The legislature recognizes that the  
20 challenges and difficulties of food insecurity affect Washington  
21 households throughout the state. The legislature recognizes also that  
22 many families rely on the food and nutritional benefits of reduced-  
23 price school lunches, and that hungry students face additional  
24 barriers to academic success.

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

32 **Sec. 9.** RCW 28A.235.150 and 1993 c 333 s 3 are each amended to  
33 read as follows:

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

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

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

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

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

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

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

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

20 **Sec. 10.** RCW 28A.235.160 and 2005 c 287 s 1 are each amended to  
21 read as follows:

22 (1) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) To (~~{the}~~) the extent funds are appropriated for this  
37 purpose, each school district shall implement a school breakfast  
38 program in each school where more than forty percent of students  
39 eligible to participate in the school lunch program qualify for free  
40 or reduced-price meal reimbursement by the school year 2005-06. For



1 the second year before the implementation of the district's school  
2 breakfast program, and for each subsequent school year, each school  
3 district shall submit data enabling the superintendent of public  
4 instruction to determine which schools within the district will  
5 qualify for this requirement. Schools where lunch programs start  
6 after the 2003-04 school year, where forty percent of students  
7 qualify for free or reduced-price meals, must begin school breakfast  
8 programs the second year following the start of a lunch program.

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

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

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

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

29 (a) Preparing the meals on-site;

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

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

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

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

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

13       ~~((+8))~~ (9) School districts may be exempted from the  
14 requirements of this section by showing good cause why they cannot  
15 comply with the office of the superintendent of public instruction to  
16 the extent that such exemption is not in conflict with federal or  
17 state law. The process and criteria by which school districts are  
18 exempted shall be developed by the office of the superintendent of  
19 public instruction in consultation with representatives of school  
20 directors, school food service, community-based organizations and the  
21 Washington state PTA.

22       NEW SECTION. Sec. 11. A new section is added to chapter 28A.235  
23 RCW to read as follows:

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

35       (2) Subject to the availability of amounts appropriated for this  
36 specific purpose, school districts may coordinate with the department  
37 of agriculture to promote and facilitate new and existing farm-to-  
38 school programs and small and direct marketing farm programs within  
39 their district. In coordinating with the department, school districts

1 are encouraged to designate one or more staff members to be, with  
2 respect to farm-to-school programs and small and direct marketing  
3 farm programs, a single point of contact for the department of  
4 agriculture and the office of the superintendent of public  
5 instruction.

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

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

15 (b) Provide participating youth with opportunities for:

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

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

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

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

28 NEW SECTION. **Sec. 12.** This act may be known and cited as the  
29 Washington kids ready to learn act of 2017.

30 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
31 this act, referencing this act by bill or chapter number, is not  
32 provided by June 30, 2017, in the omnibus appropriations act, this  
33 act is null and void.

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