

# SENATE BILL REPORT

## ESB 6003

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As Passed Senate, January 19, 2018

**Title:** An act relating to breakfast after the bell programs in certain public schools.

**Brief Description:** Promoting student health and readiness through meal and nutrition programs.

**Sponsors:** Senators Wellman, Billig, Palumbo, Frockt, Rolfes, Van De Wege, Lias, Keiser, Pedersen, Hunt, Conway, Chase, Saldaña and Kuderer.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 1/11/18, 1/15/18 [DP, DNP].

**Floor Activity:**

Passed Senate: 1/19/18, 40-8.

### Brief Summary of Engrossed Bill

- Requires high-needs schools to offer breakfast after the bell (BAB) to each student beginning in the 2019-20 school year and only in years in which funding is specifically provided in a budget
- Directs the Office of the Superintendent of Public Instruction (OSPI) to develop guidelines to implement BAB programs, administer one-time start-up grants, and provide state funding to support BAB and other nutrition programs.
- Tasks the Joint Legislative Audit and Review Committee (JLARC) with conducting an analysis of BAB programs by December 1, 2026.
- Authorizes OSPI to coordinate with the Washington State Department of Agriculture (WSDA) to promote new and existing regional market programs, including farm-to-school initiatives and small farm direct marketing assistance.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass.

Signed by Senators Wellman, Chair; Rolfes, Vice Chair; Zeiger, Ranking Member; Billig, Hawkins, Hunt, Mullet, Pedersen and Rivers.

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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.*

**Minority Report:** Do not pass.  
Signed by Senator Padden.

**Staff:** Ailey Kato (786-7434)

**Background:** Free and Reduced-Price Meals. School breakfast and lunch programs are subsidized by the U.S. Department of Agriculture (USDA), the state, and student co-pays based on family income. In order for students to qualify for free meals, their family's income must be at or below 130 percent of the federal poverty level. Students whose families have income between 130 percent and 185 percent of the federal poverty level are eligible for reduced price meals. For the period of July 1, 2017, to June 30, 2018, 130 percent of the poverty level is \$31,980 for a family of four and 185 percent is \$44,510.

Federal law provides different options for reducing administrative burdens for free and reduced-price meals including community eligibility. Community eligibility allows schools with high numbers of low-income children to serve free breakfast and lunch to all students without collecting school meal applications. OSPI reports that 471,138 or 43.4 percent of public school students were eligible for free and reduced-price meals in Washington in October 2016.

Breakfast After the Bell (BAB) Programs. Some schools have BAB programs where breakfast is offered to students after the beginning of the school day. BAB programs include a number of different food service models.

Instructional Hours. Under the program of basic education, school districts must provide a specified minimum number of instructional hours per year, which are defined as those hours during which students are provided the opportunity to engage in educational activity planned by, and under the direction of, school district staff. Time actually spent on meals does not count under the definition.

Grant Funding and State Support for Nutrition Programs. To the extent funds are appropriated, OSPI may award grants to school districts to:

- increase participation in school breakfast and lunch programs;
- improve program quality; and
- improve the equipment and facilities used in the programs.

To the extent funds are appropriated, OSPI must increase state support for school breakfasts and lunches. In the 2017-19 operating budget, the Legislature appropriated state funds to support nutrition programs by:

- eliminating breakfast and lunch co-pays for students eligible for reduced-price meals;
- providing assistance for supporting summer food service programs and initiating new programs in low-income areas;
- reimbursing school districts for school breakfasts served to students eligible for free and reduced-price meals; and
- providing assistance to school districts for initiating and expanding school breakfast programs.

School-Related Farm Programs. WSDA operates the Farm-to-School program to facilitate increased procurement of Washington grown food by schools and the Small Farm Marketing Assistance program to help farms in their direct marketing efforts.

**Summary of Engrossed Bill:** Breakfast After the Bell Programs. Beginning in the 2019-20 school year, each high-needs school must offer BAB to each student and provide adequate time for students to consume the offered food. High-needs school means any public school that:

- has 70 percent or more students enrolled who are eligible for free or reduced-price meals in the prior year; or
- is providing universal meals under federal law and has a claiming percentage for free or reduced-price meals of 70 percent or more.

This requirement and other BAB requirements must be implemented only in years in which funding is specifically provided for in a biennial or supplemental operating budget. High-needs schools with at least 70 percent of free or reduced-price eligible children participating in both school lunch and breakfast are exempt from this requirement. Public schools not obligated to offer BAB are encouraged to do so.

Each high-needs school may determine the BAB service model that best suits its students. Service models include, but are not limited to, the following:

- grab and go breakfast—where easy-to-eat breakfast foods are available for students to take at the start of the school day or in between morning classes;
- second chance breakfast—where breakfast foods are available during recess, a nutrition break, or later in the morning; and
- breakfast in the classroom—where breakfast is served in the classroom, often during homeroom or first period.

Instructional Hours. If students are provided the opportunity to engage in educational activity that is part of the regular instructional program concurrently with the consumption of breakfast, that period of time must be considered instructional hours.

Nutrition Standards. All breakfasts served in a BAB program must comply with federal meal patterns and nutrition standards. In addition, each food item served in a BAB program must contain less than 25 percent, by weight, added sugar. When choosing foods to serve in a BAB program, schools must give preference to foods that are healthful and fresh, and if feasible, give preference to Washington-grown food.

Start-Up Grants. Subject to the availability of amounts appropriated for this specific purpose, OSPI must administer one-time, start-up allocation grants to each high-needs school implementing a BAB program.

OSPI. Before January 2, 2019, OSPI must develop and distribute procedures and guidelines for the implementation of BAB programs that comply with federal regulations. OSPI must also offer training, technical, and marketing assistance; collaborate with nonprofit organizations; and incorporate the annual collection of information regarding BAB programs.

Grant Funding and State Support for Nutrition Programs. The Legislature does not intend to include BAB programs, including the provision of breakfast, within the definition or funding of the state's obligation for basic education under Article IX of the state Constitution. To the extent funds are appropriated for this specific purpose, OSPI may award grants to school districts to:

- increase awareness of and participation in BAB programs;
- improve nutritional content of program food and the promotion of nutritious food choices by students; and
- promote innovative school-based programs, including developing organic gardens that provide produce used in school breakfast or lunch programs.

JLARC Analysis. JLARC must submit an analysis of schools that establish BAB programs, including any findings and recommendations, by December 1, 2026. The analysis must include specified topics.

The BAB and OSPI provisions, except for the grant funding and state support, expire June 30, 2028.

School-Related Farm Programs. The following provisions are subject to the availability of amounts appropriated for these specific purposes.

*WSDA.* The regional markets programs of WSDA must be a centralized connection point for schools and other institutions for accessing and sharing information, tools, ideas, and best practices for purchasing Washington-grown food. WSDA program staff may provide information, resources, and technical assistance to farms, food businesses, and buyers, including schools, on a variety of topics.

*OSPI and School Districts.* OSPI and school districts may coordinate with the WSDA to promote and facilitate new and existing regional markets programs, including farm-to-school initiatives and small farm direct marketing assistance. School district representatives involved in these initiatives may include school nutrition staff, purchasing staff, student representatives, and parent organizations.

*Grants.* OSPI 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 that receive grants must primarily target low-income and disengaged youth and provide participating youth with opportunities for performing community service, earning credits, receiving development support and services, and improving food security.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed. Includes a null and void clause.

**Staff Summary of Public Testimony:** PRO: Breakfast is the most important meal of the day. Eating breakfast makes a difference in students' ability to learn, improves test scores, and decreases visits to the nurse. Many low-income students do not have access to a healthy breakfast before school begins. When breakfast is offered before the school day, students may have to miss extracurricular opportunities such as student government. This bill makes breakfast part of the school day just like lunch. It makes sense to serve breakfast when students are at school and ready to eat and learn. The start-up grants will help schools implement BAB programs by providing funding for equipment needs. The bill should include farm-to-school programs to help schools source locally grown foods. Schools do not have the ability to measure sugar by weight because this information is not on nutrition labels. The bill allows for grants to support organic gardens, but the word organic should be removed because they are difficult to certify. The state's new accountability system will track absenteeism. BAB programs can help increase attendance and decrease tardiness.

OTHER: A health impact review found that evidence indicates that the bill has potential to increase the number of low-income students and students of color who eat breakfast, which in turn has potential to improve educational outcomes, improve earning potential, and decrease health disparities.

**Persons Testifying:** PRO: Senator Lisa Wellman, Prime Sponsor; Lauren McGowan, United Way of King County; Heather Lindberg, Washington State PTA; Christina Wong, Northwest Harvest; Dr. Flip Herndon, Seattle Public Schools; Donna Parsons, Child Nutrition Services Director, OSPI; Mitch Denning, Alliance of Educational Associations; Janis Campbell-Aikens, Washington School Nutrition Association; Ricardo Sanchez, citizen; Dave Powell, Stand for Children.

OTHER: Lindsay Herendeen, Health Policy Analyst, State Board of Health.

**Persons Signed In To Testify But Not Testifying:** No one.