

# HOUSE BILL REPORT

## HB 1685

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### As Reported by House Committee On: Education

**Title:** An act relating to supporting effective implementation of the hunger-free students' bill of rights act of 2018.

**Brief Description:** Concerning free or reduced-price meals for students.

**Sponsors:** Representatives Peterson, Harris, Appleton, Bergquist, Gregerson, Fey, Leavitt, Ormsby, Valdez and Hudgins.

#### **Brief History:**

##### **Committee Activity:**

Education: 2/12/19, 2/18/19 [DP].

#### **Brief Summary of Bill**

- Makes various changes to the Hunger Free Students' Bill of Rights Act of 2018, including: (1) changing the timeline for school district actions on unpaid student meals; (2) allowing schools to serve qualifying alternative meals to students with insufficient funds if doing so does not publicly identify the student; and (3) allowing school districts to deny a student in grades 9 through 12 access to a meal or ala carte food item if the Legislature has not provided funding to school districts to reimburse the financial losses.
- Directs the Office of the Superintendent of Public Instruction, subject to available funding, to prepare a report on unpaid meal and food debts of students in the 2016-19 school years.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** Do pass. Signed by 19 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist, Caldier, Callan, Corry, Harris, Kilduff, Kraft, Ortiz-Self, Rude, Stonier, Thai, Valdez and Ybarra.

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

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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.*

## **Background:**

### Federal School Nutrition Programs.

The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) are child nutrition programs funded by the United States Department of Agriculture (USDA). In Washington, the Office of the Superintendent of Public Instruction (OSPI) administers the programs. 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 provide reimbursement for meals served that meet federal requirements. Public or nonprofit private schools and public or nonprofit private residential child care institutions may participate in the NSLP and the SBP.

### Free and Reduced Price Meals.

To qualify for free school meals, a student's family income must be at or below 130 percent of the federal poverty level. Students whose families have an income between 130 percent and 185 percent of the federal poverty level are eligible for reduced-price meals. Students whose families earn more than 185 percent of the poverty level pay full price, but the meals are federally subsidized to some extent. In the 2017-18 school year, 465,407 Washington students, or 42 percent, were enrolled in the free or reduced price meals (FRPMs) program.

### Community Eligibility Provision.

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 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 (for example, students directly certified through the Supplemental Nutrition Assistance Program or Temporary Assistance for Needy Families, and foster, homeless, and migrant students).

### Hunger-Free Students' Bill of Rights Act of 2018.

Legislation adopted in 2018 (i.e., Engrossed Substitute House Bill 2610, enacted as Ch. 271, Laws of 2018), established various requirements related to school meals for schools, school districts, and the OSPI. Among other provisions, the legislation, which was adopted as the Hunger-Free Students' Bill of Rights Act, established new requirements for school meal-related communications between school personnel and students and established new duties for the OSPI.

As established in the legislation, school personnel, school district personnel, and volunteers are prohibited from taking any action that would publicly identify a student who cannot pay for a school meal or for meals previously served to the student, including requiring the student to wear an identifying marker or serving the student an alternative meal. These same personnel are also prohibited from requiring a student who cannot pay for a school meal or previous meals to dispose of an already served meal.

Communications from a school or school district about amounts owed for previously served meals to a student under the age of 15 may only be directed to the student's parent or guardian. School districts must notify the student's parent or guardian of a negative balance on the student's school meal account within 10 days of the student earning a negative

balance. Within 30 days of sending this notice, the district must exhaust all options to directly certify the student for FRPMs. If the school district is unable to directly certify the student for FRPMs, the district must provide the parent with application information for FRPMs in the notification.

If a student has not paid for five or more previous meals, the school is required to take specified actions, including determining whether the student is categorically eligible for free meals, and having school personnel contact the parent or guardian to offer assistance with an application for FRPMs or other matters.

With limited exceptions, schools participating in the NSLP or the SBP must annually distribute and collect applications for households of children in kindergarten through grade 12 to determine student eligibility for FRPMs. If necessary, these schools must provide language assistance with the application materials to parents and guardians. Schools are required, in accordance with federally granted authority, to complete and submit an eligibility application for a student if, based upon information available to the school, the student is likely eligible for FRPMs, but has not submitted an application.

The OSPI is charged with developing and implementing a plan to increase the number of schools participating in the CEP for the 2018-19 school year and subsequent school years. Until June 30, 2019, the OSPI must convene the entities and persons working on the plan each month to report on the plan's status and to coordinate outreach and technical assistance efforts to schools and school districts.

The legislation also directs the OSPI to collect, analyze, and promote to school districts and applicable community-based organizations, best practices in local meal charge policies that are required by a specific memorandum of the USDA.

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## **Summary of Bill:**

### School Meal-Related Communications.

School personnel continue to be prohibited from taking any action that would publicly identify a student who does not have sufficient funds for a school meal or for previous meals. However, schools may serve a student a federally reimbursable alternative meal that is available to all students, in a manner that does not publicly identify the student.

Limited meal denial provisions are established. School districts may deny a student in grade 9 through 12 access to a meal or an a la carte food item if the Legislature has not provided funding for school districts to reimburse financial losses attributable to negative student meal account balances. Also, school districts may deny a student access to:

- a second meal in a one meal period;
- a la carte food items; or
- a meal or an a la carte food item if the debt limit established by the parent or guardian for a student's meal account has been reached.

Communications from a school or school district about amounts owed for meals previously served to a student who is in grade 8 or an earlier grade, rather than under the age of 15, may only be directed to the student's parent or guardian.

A school district remains obligated to notify a parent or guardian of the negative balance of a student's school meal account, but the district may do so within 10 days after the student's school meal account has reached a negative balance or according to a notification policy adopted by the school district. Additionally, school actions that must be taken to determine a student's eligibility for FRPMs must occur when a student's meal account has had a negative balance for 10 days, instead of when a student has not paid for five or more meals.

If the school district is unable to directly certify the student for FRPMs, and no application has been submitted for the student, the school district must provide the parent or guardian with a paper copy of and an electronic link to an application for FRPMs with the required notification.

Districts remain obligated to exhaust all options to directly certify the student for FRPMs, and a student may not be denied access to a federally reimbursable school meal during the time in which the school district is attempting to directly certify the student for the meals.

#### Duties for the Office of the Superintendent of Public Instruction.

Subject to specific legislative funding, the OSPI is directed to collect and summarize data from school districts on unpaid meal and food debts of students that were incurred by school districts in school years 2016-17, 2017-18, and 2018-19. In accordance with these prescribed data actions, the OSPI is required to provide a report to the Governor and the education committees of the House of Representatives and the Senate by September 1, 2019.

A provision in the 2018 legislation directing the OSPI to collect, analyze, and promote best practices in local meal charge policies that are required by a memorandum of the USDA is modified by deleting requirements obligating the OSPI to collect and analyze the best practices information. Additionally, the actions of the OSPI are required only if applicable funding is provided by the Legislature.

The duty of the OSPI to convene entities and persons working on a plan to increase the number of schools participating in the CEP is extended by two additional years to June 30, 2021. Also, the OSPI is directed to provide related summary reports to the education committees of the House of Representatives and the Senate on or before each September 1.

#### Other Provisions.

Requirements generally obligating each school that participates in the NSLP, the SBP, or both, to annually distribute *and collect* an FRPM application to all households with children in kindergarten through grade 12 are changed to require only that the application materials be distributed to the households.

If a student who, based on information available to the school, is likely eligible for FRPMs has not submitted an application to determine eligibility, the school may, rather than must, exercise specific federally granted authority to complete and submit the application for the student.

Provisions referring to students who cannot pay for meals are changed to students with insufficient funds.

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**Appropriation:** None.

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

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Legislation enacted last year created an opportunity for children who do not have enough money for school meals to eat those meals. As is true in 60-day sessions, not all bills can be perfected. This bill, which was created with agency and stakeholder input, cleans up some of the issues in last year's legislation.

Schools are accumulating quite a bit of school meal-related debt under the law enacted last year. This bill will help with that issue, but districts will continue to accumulate debt.

(Opposed) None.

(Other) The concept of treating all students with respect is strongly supported, but the bill could be improved with amendments, including amendments related to funding provisions.

**Persons Testifying:** (In support) Representative Peterson, prime sponsor; Leanne Eko, Office of the Superintendent of Public Instruction; and Aaron Czyzewski, Anti-Hunger and Nutrition Coalition, and Food Lifeline.

(Other) Mitch Denning, Alliance of Educational Associations.

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