

SENATE BILL REPORT

SB 5339

As Reported by Senate Committee On:
Early Learning & K-12 Education, January 30, 2023

Title: An act relating to providing free school meals for all.

Brief Description: Providing free school meals for all.

Sponsors: Senators Nobles, Hunt, Dhingra, Hasegawa, Keiser, Kuderer, Lias, Lovelett, Lovick, Muzzall, Nguyen, Pedersen, Randall, Shewmake, Stanford, Valdez, Warnick and Wilson, C.; by request of Superintendent of Public Instruction.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/23/23, 1/30/23 [DPS-WM, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Adds free school breakfast and lunch to the state's program of basic education effective July 1, 2025.
- Requires school districts to provide free meals beginning in the 2023-24 school year unless the Office of the Superintendent of Public Instruction (OSPI) exempts school districts from this requirement up until the 2025-26 school year.
- Requires school districts to participate in the federal meal programs and directs OSPI to reimburse school districts on a per-meal reimbursement basis for meals that are not already reimbursed at the free rate.
- Directs OSPI to convene a work group to identify and examine actual and potential impacts to education programs funded by the state, resulting from providing meals.
- 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.

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.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5339 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair; Wilson, C., Vice Chair; Hunt and Pedersen.

Minority Report: Do not pass.

Signed by Senator McCune.

Minority Report: That it be referred without recommendation.

Signed by Senators Hawkins, Ranking Member; Dozier.

Staff: Ailey Kato (786-7434)

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. State law requires all public schools that have an identified student percentage of at least 40 percent, as determined annually, to participate in CEP.

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 Need 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 program.

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 is 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.

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.

Program of Basic Education. Basic education is a program defined and funded by the Legislature, intended to meet the state's paramount duty under Article XI of the State Constitution, and delivered by public schools. In *McCleary v. State*, the state supreme court restated that once the Legislature has established full funding for the program of basic education it may not reduce such funding, even in periods of fiscal crisis, without an educational policy rationale.

Summary of Bill (First Substitute): Program of Basic Education. Effective July 1, 2025, meals provided at no charge to students is added to the program of basic education. The legislature does not intend to include summer food service programs within the definition or funding of the program of basic education.

School Meals. Beginning with the 2023-24 school year, each school district, charter school, and state-tribal compact school, must make available, at no cost, one breakfast and one lunch during each school day to any student who requests a meal during the school year without consideration of the student's eligibility for a federally funded free or reduced-price meal. The meals must be nutritiously adequate and qualify for federal reimbursement.

Exemptions. Until the 2025-26 school year, OSPI may exempt school districts from the school meal requirement if the school district shows good cause why they cannot comply. OSPI must develop rules to establish the process and criteria for exemption in consultation with certain groups including a state organization of parents and teachers.

Federal Funding and Reimbursement. To maximize federal funding, school districts must participate in the federal meal programs, continue collecting meal applications where applicable, and run direct certification at least monthly. School districts must annually monitor data for CEP eligibility.

OSPI must reimburse school districts that participate in the federal meal programs on a per-

meal reimbursement basis for meals that are not already reimbursed at the free rate. The additional state reimbursement amount must be the difference between the USDA's free rate and paid rate.

Impacts on State Funding. By September 1, 2023, OSPI must convene a work group to:

- identify and examine actual and potential impacts to education programs funded by the state, resulting from providing meals to all requesting students; and
- recommend actions for avoiding or mitigating impacts.

The work group must meet at least monthly and report findings and recommendations by June 30, 2024.

Learning Assistance Program Funding. For the 2024-25 and 2025-26 school years, LAP allocations for school districts 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 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 as defined in OSPI rule during the 2022-23 school year.

Related Provisions and Amendments. References to free and reduced-price meals are removed or updated to refer to federal eligibility criteria when needed.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Makes the section that includes meals in the program of basic education effective July 1, 2025 and maintains the requirement to provide free meals beginning in the 2023-24 school year unless OSPI grants an exemption, which is allowed until the 2025-26 school year.
- Requires school districts to participate in the federal meal programs to maximize federal funding.
- Specifies that the requirement to provide free meals is during the school year.
- States that the Legislature does not intend to include summer food service programs within the definition or funding of the program of basic education under Article IX of the state Constitution.
- Specifies that only the summer food service program requirements can lapse if the federal reimbursement is eliminated.
- Adds that this policy is not intended to otherwise impact programs that use free and

- reduced-price meal eligibility information.
- Changes various references to consistently use “school districts” and removes an unnecessary reference to the definition of “public school.”

Appropriation: None.

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 Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Many children experience food insecurity. Food is a basic need, and food insecurity is one of the barriers for developing a thriving workforce. Access to healthy food is one of the social determinants of health and is a top priority. Children cannot learn if they are hungry. Students' success should not be limited on the ability of a family's ability to afford food. Every family's circumstance is different. Some families may be too embarrassed to ask for help. The state should stop piecemealing a solution and provide free meals to all students who want it. Providing universal meals at schools normalizes and destigmatizes school meal participation and reduces any shame that students may feel who qualify for free or reduced-price meals. Universal meals were provided during the COVID-19 pandemic, and it helped reduce childhood poverty and hunger. Since universal meals has ended, there has been a significant decline in meal participation and increased meal debt. Universal meals should be made permanent because the tremendous benefits exceed the cost.

CON: Families who are struggling already have access to free and reduced-price meals. The role of government is to develop independent, not dependent, citizens. This bill teaches students to rely on the government. The responsibility to feed children lies with parents, not the government. Providing meals to all students, even those that can afford the meals, decreases the quality of food.

OTHER: Some school districts do not want to participate in the federal meal programs. This bill will require more funding for these school districts to implement, which the state should fund through monthly reporting.

Persons Testifying: PRO: Senator T'wina Nobles, Prime Sponsor; Michael Moran, Confederated Tribes of the Colville Reservation; Logan Endres, Washington State School Directors' Association (WSSDA); Nikki Lockwood, Washington State School Directors' Association (WSSDA); Andrea Davis, Coordinated Care; Mitch Denning, WA Assn of Maintenance and Operation Administrators; Ben Mitchell, Foundation for Tacoma Students; Roni Cook, Washington Education Association; Mollie Grow, WA Chapter of the American Academy of Pediatrics; Jodi Jaap; Karen Brown, Franklin Pierce School District;

Rebecca Skrinde, Helping Hands Food Bank; Mikhail Cherniske, Office of Superintendent of Public Instruction; Andrea Davis, Coordinated Care; Kristin Ang, FAITH ACTION NETWORK; Tom Seigel, Bethel School District.

CON: Jason Perrins, Chewelah SD; Jennifer Heine-Withee; Hannah Ordos.

OTHER: Jake Dingman, Oakesdale School District.

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