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**SECOND SUBSTITUTE SENATE BILL 5437**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Litzow, McAuliffe, Fain, Billig, Rivers, Hill, Rolfes, Hasegawa, Jayapal, Habib, Kohl-Welles, Chase, Pedersen, and Conway)

AN ACT Relating to breakfast after the bell programs in certain public schools; adding new sections to chapter 28A.235 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  (1) The legislature finds clear evidence that school breakfast is associated with improved outcomes for students, including fewer discipline incidents, better attendance, and improved performance on standardized tests. The legislature acknowledges that many schools currently offer breakfast before the school day. Nevertheless, Washington ranks forty-first in the nation for participation in the national school breakfast program at the same time that childhood poverty and food insecurity are at record highs in the state. While many students eat breakfast at home, there are significant numbers of children who come to school hungry. Therefore, the legislature intends to expand the opportunity for students to get a healthy breakfast by requiring schools with large populations of low-income students who are eligible for free and reduced-price meals to serve breakfast after the bell, a model that has increased breakfast participation rates in various states across the nation.

(2) The legislature intends to establish a process for providing breakfast after the bell in high-needs schools beginning in the 2016-17 school year and to successfully implement the program by providing technical and marketing assistance through dedicated staff within the office of the superintendent of public instruction. The legislature also intends that breakfast after the bell programs be implemented with the input of families of students at the affected schools.

(3) The legislature encourages schools providing breakfast after the bell to use a model that allows breakfast time to be part of instructional time or a model that can be implemented during an existing passing period, such as a nutrition break. As long as breakfast is offered to all students after the instructional day has begun, schools and districts have great flexibility in choosing how to serve breakfast after the bell.

(4) Finally, nothing in this act is intended to preempt the responsibility of parents to care for their children, including feeding them nutritious meals before arriving at school. Moreover, the legislature's focus on breakfast after the bell is not intended to indicate interest in ceasing school breakfast programs that offer breakfast before the start of the school day. Rather, it is an attempt to expand opportunities for hungry children to eat breakfast on school days.

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 and 4 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)(i) Subject to the availability of amounts appropriated for this specific purpose, the superintendent of public instruction shall administer one-time start-up allocation grants of up to six thousand dollars to each high-needs school implementing a breakfast after the bell program. The grant 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.

(ii) In the 2016-17 school year, grants must be provided beginning with the top third of high-need schools ranked by the percentage of students eligible for free and reduced-price meals. In the 2017-18 school year, grants must be provided to the top fifty percent of high-need schools ranked by the percentage of students eligible for free and reduced-price meals that did not receive a prior grant under this section. In the 2018-19 school year, the remaining high needs schools that did not receive a prior grant under this section must be provided grants.

(b) Beginning in the school year that the school receives the grant, the school must offer breakfast after the bell to each student and provide adequate time for students to eat.

(c) All public schools are encouraged to offer breakfast after the bell even if not required to do so under this section.

(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)(a) 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.

(b) If all students in a high-needs school are provided the opportunity to engage in educational activity planned by and under the direction of school district staff concurrently with the consumption of breakfast, the period of time designated for student participation in breakfast after the bell may be provided during instructional hours under RCW 28A.150.205.

(4) Any rules adopted by the state board of education must permit student participation in breakfast after the bell during instructional hours.

(5) 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.

(6) The legislature does not intend to include the funding for 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, 2016, the office of the superintendent of public instruction shall develop and distribute procedures and guidelines for the implementation of section 3 of this act, which must be in compliance with federal regulations governing the school breakfast program. These guidelines 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 dedicate staff within the office to 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, including 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 fulfilling its responsibilities under 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.

(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.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2015, in the omnibus appropriations act, this act is null and void.

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