

SENATE BILL REPORT

ESHB 1508

As Reported by Senate Committee On:
Early Learning & K-12 Education, March 27, 2017
Ways & Means, April 4, 2017

Title: An act relating to promoting student health and readiness through meal and nutrition programs.

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

Sponsors: House Committee on 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).

Brief History: Passed House: 3/02/17, 90-8.

Committee Activity: Early Learning & K-12 Education: 3/21/17, 3/27/17 [DPA-WM].
Ways & Means: 4/03/17, 4/04/17 [DPA(EDU), DNP].

Brief Summary of Amended Bill

- Requires high-needs schools to offer breakfast after the bell (BAB) to each student beginning in the 2018-19 school year and only in years in which funding is specifically provided in an operating budget.
- Directs the Office of Superintendent of Public Instruction (OSPI) to develop guidelines to implement BAB programs and allows OSPI to award grants and provide state funding to support BAB programs.
- Tasks the Joint Legislative Audit and Review Committee with conducting an analysis of BAB programs by December 1, 2025.
- Authorizes OSPI to coordinate with the Washington State Department of Agriculture to promote new and existing regional market programs, including farm-to-school initiatives and small farm direct marketing assistance.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

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.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Zeiger, Chair; Fain, Vice Chair; Rolfes, Ranking Minority Member; Billig, Mullet, Rivers and Warnick.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Early Learning & K-12 Education.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senators Honeyford, Vice Chair, Capital Budget ; Padden and Schoesler.

Staff: Jeffrey Mitchell (786-7438)

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 families' 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, 2016, to June 30, 2017, 130 percent of the poverty level is \$31,590 for a family of four; 185 percent is \$44,955.

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 lunch 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 several 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.

Nutrition Standards. In 2012, the USDA enacted standards for school meals. According to the final rules, the USDA did not believe a standard setting a limit on added sugars was necessary given calorie requirements. The USDA stated that a standard would unnecessarily restrict menu planning flexibility.

In 2015, the USDA and the U.S. Department of Health and Human Services published the most recent edition of the Dietary Guidelines for Americans. The guidelines are used to inform school breakfast and lunch programs. Under the guidelines, healthy eating patterns limit added sugars to less than 10 percent of calories per day. Added sugar does not include naturally occurring sugar such as those in fruit or milk.

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.

School districts must demonstrate that they have applied for applicable federal funds before applying for state grant funds.

To the extent funds are appropriated, OSPI must increase state support for school breakfasts and lunches. In the 2015-17 operating budget, the Legislature appropriated state funds specifically to support nutrition programs by:

- eliminating breakfast 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. The Washington State Department of Agriculture (Department) operates the Farm-to-School program to facilitate increased procurement of Washington grown food by schools. According to the Department, the goal is support expanding economic opportunities for farmers while educating students about the connections between food, farming, health, and the environment. The program works closely with the Small Farm and Direct Marketing Program of the Department, a program that seeks to increase the economic viability of small farms, build community vitality, and improve the environmental quality of the region.

A Health Impact Review of this legislation was requested and is available at the Washington State Board of Health's website, <http://sboh.wa.gov/Portals/7/Doc/HealthImpactReviews/HIR-2017-07-HB1508.pdf?ver=2017-02-01-142730-990>.

Summary of Amended Bill: Breakfast After the Bell Programs. Beginning in the 2018-19 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 enrollment of 70 percent or more students 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.

Service Models. 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:

- breakfast in the classroom - where breakfast is served in the classroom, often during homeroom or first period;
- 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; and
- 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.

Instructional Hours. If students are provided the opportunity to engage in educational activity concurrently with the consumption of breakfast and the provision of breakfast allows the regular instructional program to continue functioning, the period of time designated for student participation in BAB must be considered instructional hours.

Nutrition Standards. All breakfasts served in a BAB program must comply with federal meal patterns and nutrition standards. By December 1, 2017, and as needed thereafter, OSPI must develop and distribute best practices and provide technical assistance to school districts on strategies for selecting food items that are low in 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. Grant funds must be used for the costs associated with launching a BAB program, including equipment purchases, training, additional staff costs, and janitorial services.

Grant Funding and State Support for Nutrition Programs. The Legislature does not intend to include BAB programs 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.

To the extent funds are appropriated for this specific purpose, state support for school breakfasts and lunches includes BAB programs.

OSPI. Before January 2, 2018, OSPI must develop and distribute procedures and guidelines for the implementation of BAB programs that comply with federal regulations. OSPI must also offer training and technical and marketing assistance, collaborate with nonprofit organizations, and incorporate the annual collection of information regarding BAB programs.

Joint Legislative Audit and Review Committee (JLARC) Analysis. By December 1, 2025, JLARC must submit an analysis of schools that establish BAB programs, including any findings and recommendations, to OSPI and the education committees of the Legislature. The analysis must include a review of any changes in student attendance, health, and academic progress. The analysis must also include a review of the outcomes of similar programs or efforts in other states.

Expiration Date. The BAB and OSPI provisions, except for the grant funding and state support, expire June 30, 2027.

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

Washington State Department of Agriculture. The regional markets programs of the Department 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.

Department program staff may provide information, resources, and technical assistance to farms, food businesses, and buyers, including schools, on a variety of topics. The regional markets programs may support school districts in establishing or expanding farm-to-school initiatives by providing information and guidance on a variety of topics.

OSPI and School Districts. OSPI and school districts may coordinate with the Department 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.

Null and Void. This entire act is null and void unless funded in the budget.

EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):

- Removes the requirement that breakfast items served in a BAB program contain less than 25 percent, by weight, added sugar.
- Requires the OSPI to develop and distribute best practices and provide technical assistance on strategies for selecting food items that are low in added sugar by December 1, 2017.
- States that student consumption of BAB is not part of the definition or funding of the program of basic education in the definition of instructional hours.
- Makes technical wording corrections.

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.

Staff Summary of Public Testimony on Engrossed Substitute House Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: When students are hungry, they are sad, anxious, and distracted. Students need their basic needs met like food and shelter before they can focus on learning. Schools with high breakfast participation have higher test scores and fewer absences. BAB programs make breakfast part of the school day just like lunch so that more students can eat breakfast. This bill provides flexibility for high poverty schools to pick a service delivery model that works for them. These programs do not require students to eat a school breakfast, but they give students the opportunity to get a healthy meal to fuel them throughout the day. This bill's health impact review shows it will help improve earning potential and decrease health disparities. The JLARC analysis will help ensure that the programs in this bill are a strong investment. BAB programs have the potential to bring in more federal funding because of the efficiency of running school breakfast programs within an economy of scale. This bill provides a diverse set of targeted strategies to help students, schools, farms, and communities. The Department of Agriculture programs provide the technical assistance, training, education, and access to resources that help farmers sell directly to consumers and to compete in the ever-changing marketplace. This bill will help connect fresh and healthy meals with children's academic opportunities.

Persons Testifying (Early Learning & K-12 Education): PRO: Representative Monica Jurado Stonier, Prime Sponsor; Donna Parsons, OSPI - Director of Child Nutrition Services; Claire Lane, Anti-Hunger & Nutrition Coalition; Karen Kinney, WA State Farmers Market Association; Heather Lindberg, WA PTSA; Helen Myrick, United Way of Pierce County; Mitch Denning, WA School Nutrition Association; Lisa Chatterton, WA School Nutrition Association.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): No one.

Staff Summary of Public Testimony on Bill as Amended by Early Learning & K-12 Education (Ways & Means): PRO: This bill had 90 votes coming out of the House of

Representatives. The provisions of the original that did not have support because of the fiscal impact were removed. Hungry students struggle to learn, pay attention, and thrive. The national breakfast program is not working as well as it could. Washington ranks 45th in the nation in terms of breakfast program participation among low-income students. School cafeterias are open for business but are underutilized in terms of breakfast participation. Schools with higher breakfast participation have higher academic performance. With higher participation, school districts will be able to leverage about \$20 million in federal funds. There are 58,000 students in Pierce County that rely on free and reduced price meals. There are some worthwhile grant programs in this bill. This bill represents a small step that is a big step. We support the funding for the Washington State Department of Agriculture farm-to-school direct marketing initiative. This bill supports what farmers need as well as what kids need. We need a state Department of Agriculture that can respond to all of its farmers and can help connect farmers with schools. The direct marketing program has been crucial to this effort.

OTHER: We support section 8 of the bill, relating to the Washington State Department of Agriculture activities, with respect to farmers and school districts. Connecting our local farms to our school districts is critical because they can provide farm fresh, nutritious foods to our school districts. This bill is a way to benefit our children and the economic viability of our small farmers.

Persons Testifying (Ways & Means): PRO: Representative Monica Jurado Stonier, Prime Sponsor; Lauren McGowan, Sr. Director, Ending Homelessness & Poverty; Helen McGovern-Pilant, Executive Director, Emergency Food Network; Mitch Denning, WA School Nutrition Association; Wade Bennett, Owner of Rockridge Orchards in Enumclaw; Dave Mastin, The Office of Superintendent of Public Instruction; Karen Kinney, Washington State Farmers Market Association.

OTHER: Tom Davis, WA Farm Bureau.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.