

1 Adopted by House 4-11-2013

2 **SB663 H ED AM 4-8 #1**

3 The Committee on Education moves to amend the bill on page
4 one, following the enacting section, by striking the remainder of
5 the bill and inserting in lieu thereof the following:

6 **ARTICLE 5D. West Virginia Feed to Achieve Act.**

7 **§18-5D-1. Short title.**

8 This act shall be known and may be cited as the West Virginia
9 Feed to Achieve Act.

10 **§18-5D-2. Legislative findings; intent.**

11 (a) The Legislature finds and declares that:

12 (1) Every child in school needs to have nutritious meals in
13 order to achieve his or her potential. Providing the best schools
14 and teachers alone does not ensure a child is mentally present and
15 able to learn. A growing body of research establishes that a
16 hungry child is less able to process the information provided and
17 is less likely to be attentive to the lessons being taught.

18 (2) President Harry S. Truman began the national school lunch
19 program in 1946 as a measure of national security to safeguard the
20 health and well-being of the nation's children and to encourage the
21 domestic consumption of nutritious agricultural commodities and
22 other food. Last year in West Virginia, 32.3 million school
23 lunches were served to students in public schools.

1 (3) Research shows that healthy eating, proper nutrition and
2 regular physical activity result in students who have: (A)
3 Increased standardized achievement test scores; (B) improved
4 attendance; (C) reduced tardiness; (D) improved academic,
5 behavioral and emotional functioning; and (E) improved nutrition,
6 and for many students, the nutritious breakfast at school is
7 essential.

8 (4) Schools that provide universal breakfast programs also
9 report: (A) Decreases in discipline and psychological problems; (B)
10 decreases in visits to school nurses; (C) decreases in tardiness;
11 (D) increases in student attentiveness; (E) increases in
12 attendance; and (F) improved learning environments, and these
13 positive attributes are furthered through comprehensive healthy
14 schools policies that include quality nutrition, integrating
15 physical activity during the school day, and teaching children
16 about the importance of embracing a healthy active lifestyle.

17 (5) An effective school breakfast program is not an
18 interruption of the school day; it is an integral and vital part of
19 the school day.

20 (6) The participation rate for the school breakfast program
21 varies greatly among our counties. Those counties which have made
22 a determined effort to increase participation by offering programs
23 to best meet student needs, such as Grab-And-Go Breakfasts,
24 providing Breakfast in the Classroom or providing Breakfast After

1 First Period, are feeding significantly higher percentages of their
2 students.

3 (7) The West Virginia Center on Budget and Policy reports that
4 in 2011 more than 25 percent of the children in West Virginia lived
5 in homes with a household income below the federal poverty line,
6 which is \$23,050 for a family of four. About 50 percent of West
7 Virginia children live in homes with a household income below twice
8 the federal poverty level, \$46,100 for a family of four, which is
9 approximately the level of the Work Force West Virginia self-
10 sufficiency standard.

11 (8) The majority of students from families below the self-
12 sufficiency standard are currently not eating breakfast at school.
13 On the average school day during the 2011-2012 school year, less
14 than half of the West Virginia students eligible for a federally
15 funded free breakfast actually received one. On that same average
16 day, only about one third of the students eligible to receive a
17 reduced price breakfast actually received one.

18 (9) In order to maximize each child's potential to learn and
19 develop, the Legislature, schools and communities must partner to
20 provide the most basic support for learning: nutritious meals.

21 (10) In order to maximize student participation in school
22 nutrition programs and to reduce the secondary adverse impacts of
23 poverty, it is important that schools provide nutritious meals
24 without a risk to students of being stigmatized as poor.

1 (11) High rates of childhood hunger and childhood obesity
2 occur simultaneously because children are not receiving healthy,
3 nutritious food. According to the Data Resource Center for Child
4 and Adolescent Health and others, in 2008 West Virginia ranked 44
5 in overall prevalence of childhood obesity, with 35.5 percent of
6 children considered either overweight or obese.

7 (12) According to the 2008 Pediatric Nutrition Surveillance
8 System, which assesses weight status of children from low-income
9 families participating in the Women Infants and Children program,
10 28.3 percent of low income children age 2-5 are overweight or obese
11 in West Virginia.

12 (13) The Food Research and Action Center has found that
13 providing a balanced school breakfast may protect against childhood
14 obesity. School breakfast participation, particularly when
15 combined with comprehensive efforts that include regular physical
16 activity and promote healthy eating habits, is associated with a
17 lower body mass index, a lower probability of being overweight and
18 a lower probability of obesity, all of which help prevent a range
19 of chronic diseases including Type II Diabetes, high blood
20 cholesterol, high blood pressure, heart disease and stroke.

21 (14) Participation in federally funded meals in child care,
22 preschool, school, or summer settings is associated with a lower
23 body mass index among young, low income children.

24 (15) Private and nonprofit sectors have shown a willingness to

1 commit significant resources to addressing hunger in America,
2 leveraging federal programs and enlisting their employees,
3 customers and clients to improve the availability and accessibility
4 of affordable, healthy food for those in need of assistance.

5 (16) Public schools in this state and others are adopting a
6 continuum of policies to implement low cost, effective programs
7 that include physical activity, physical education, proper
8 nutrition and the promotion of healthy eating habits, along with
9 involvement by school staff, families and communities, and a
10 variety of resources to assist schools in adopting and implementing
11 these programs are easily accessible on the internet and through
12 the Office of Healthy Schools in the West Virginia Department of
13 Education.

14 (b) In order to maximize the economies of scale and to access
15 all available federal funds to support our school nutrition
16 programs, the Feed to Achieve initiative directs schools to make
17 available and to promote the federally approved and subsidized
18 meals to all pre-kindergarten through twelfth grade students, to
19 make them readily available, and to consider reducing or
20 eliminating the cost to students if sufficient funds become
21 available.

22 (c) The Legislature intends to provide a framework for the
23 State Board of Education and the county boards of education to
24 provide, as effectively and as efficiently as possible, a minimum

1 of two nutritious, meals each school day to all students.

2 (d) The Legislature intends for the state and county boards of
3 education to enter into public-private partnerships to eventually
4 provide free nutritious meals for all pre-kindergarten through
5 twelfth grade school children in West Virginia.

6 (e) The Legislature encourages county boards to examine the
7 options available for comprehensive policies and programs to
8 improve student health and promote academic achievement and to
9 establish a comprehensive policy on healthy schools that best meets
10 the needs of their student population.

11 (f) It is not the intention of the Legislature to allow or
12 encourage parents to abdicate their parental responsibility related
13 to providing healthy, nutritious meals for their children.
14 However, it is the intent of the Legislature that no child be
15 denied nutritious meals.

16 (g) It is the intent of the Legislature that healthy
17 nutritious school lunches be made available to all students in a
18 manner which maximizes participation and minimizes stigma attached
19 to participating low income students.

20 **§18-5D-3. School nutrition programs.**

21 (a) Each county board of education shall establish and operate
22 school nutrition programs under which, at a minimum, a nutritious
23 breakfast and lunch are made effectively available to all students
24 enrolled in the schools of the county in accordance with the State

1 Board of Education standards. The standards shall include
2 guidelines for determining the eligibility of students for paid,
3 free and reduced meals. The standards shall also establish
4 procedures and guidelines for the Feed to Achieve initiative to
5 allow for the provision of healthy, nutritious meals to all
6 elementary school students, without cost to students, where schools
7 find it practical to do so.

8 (b) The Feed to Achieve initiative will be phased in for all
9 elementary schools as sufficient funds become available, through
10 donations, contributions and payments made by individuals,
11 communities, businesses, organizations and parents or guardians on
12 behalf of students. Nothing in this article prohibits any school
13 from providing free meals to all of its students.

14 (c) Each county board of education shall:

15 (1) Require all schools to adopt a delivery system approved by
16 the state Office of Child Nutrition, no later than the 2015 school
17 year, that ensures all students are given an adequate opportunity
18 to eat breakfast. These approved systems shall include, but are
19 not limited to, Grab-And-Go Breakfasts, Breakfast In The Classroom
20 or Breakfast After First Period; and

21 (2) Collaborate with the state Office of Child Nutrition to
22 develop strategies and methods to increase the percentage of
23 children participating in the school breakfast and lunch nutrition
24 programs.

1 (d) In addition to other statistics, the county boards of
2 education, in consultation with the state Office of Child
3 Nutrition, shall determine the number of children in each school
4 who are participating in each meal offered by the school; the
5 number of children who are not eating each meal offered by the
6 school; and the total daily attendance.

7 (e) The state Office of Child Nutrition shall report to the
8 Joint Committee on Government and Finance, the Select Committee on
9 Children and Poverty and the Legislative Oversight Commission on
10 Education Accountability on or before December 31, 2015, and each
11 year thereafter, on the impacts of the Feed to Achieve Act and any
12 recommendations for legislation.

13 (f) County boards of education may utilize the nonprofit funds
14 or foundations established in section four of this article or other
15 available funds to offset the costs of providing free meals, after
16 school and summer nutrition programs to elementary students.

17 (g) If at any time federal financial appropriations to this
18 state for school nutrition programs are terminated, county boards
19 of education are hereby authorized, but not required, to continue
20 the programs at their own expense.

21 (h) Classroom teachers may not be required to participate in
22 the operation of the school breakfast program as part of their
23 regular duties.

24 **§18-5D-4. Creating public-private partnerships; creating non-profit**

1 **foundation or fund; audit.**

2 (a) The Department of Education and each county board of
3 education shall promptly establish a fund that is restricted solely
4 for the receipt and expenditure of gifts, grants and bequests for
5 the purposes of this article and may establish in lieu thereof a
6 nonprofit foundation for this purpose. The purpose of the fund or
7 nonprofit foundation is to provide supplemental or matching funds
8 to increase participation in the nutrition programs in the Feed to
9 Achieve initiative set forth in subsection (c) of this section.
10 The Department of Education shall utilize its fund or nonprofit
11 foundation to assist county boards of education in counties whose
12 fund or foundation lacks sufficient business, industry and
13 individual contributors to fund the Feed to Achieve nutrition
14 programs.

15 (b) Financial support for the fund or foundation may come from
16 either public or private gifts, grants, contributions, bequests and
17 endowments.

18 (c) Expenditures from the state or county funds or by the
19 foundations shall be used for provision of food to students through
20 any of the programs or initiatives approved by the Office of Child
21 Nutrition, including the following programs: School Breakfast
22 Program, National School Lunch Program, the Summer Food Service
23 Program, the Fresh Fruit and Vegetable Program, the Child and Adult
24 Care Food Program, the farm to school initiative, and community

1 gardens. Expenditures may also be made for initiatives developed
2 with the Department of Health and Human Resources and public-
3 private partnerships to provide outreach and nutritional meals when
4 students are not in school.

5 (d) No administrative expenses or personnel expenses for any
6 of the state departments implementing this act, the State Board of
7 Education, any county board of education, school or program may be
8 paid from the funds or by the foundations.

9 (e) Individuals or businesses that contribute to the funds or
10 foundations may specify schools or nutrition programs for which the
11 contribution is to be used.

12 (f) The Department of Education and county boards of education
13 may establish public-private partnerships to enhance current or
14 advance additional nutrition programs that provide nutritious food
15 for children to take home for weekend meals.

16 (g) The Department of Education and county boards of education
17 shall form or expand existing partnerships with the federal and
18 state departments of agriculture, Department of Health and Human
19 Resources, local master gardeners, county extension agents or other
20 experts in the field of agriculture or gardening to develop
21 community gardens, farm to school programs and other such programs
22 that teach students how to grow and produce healthy food and
23 provide healthy food to the students.

24 (h) The Department of Education shall collaborate with the

1 Department of Health and Human Resources to develop effective
2 strategies and programs such as after school nutrition outreach and
3 programs that improve the healthy lifestyle of all students in pre-
4 kindergarten through twelfth grade. The Department of Health and
5 Human Resources may propose rules for promulgation in accordance
6 with the provisions of article three, chapter twenty-nine-a of this
7 code to effectuate any programs so developed.

8 (i) All moneys contributed to a fund or foundation established
9 pursuant to this section and all expenditures made therefrom shall
10 be audited as part of the annual independent audit of the State
11 Board of Education and the county boards of education.