

1                                   **Senate Bill No. 663**

2           (By Senators Unger, Edgell, Cookman, Laird, Miller, Palumbo,  
3                             Plymale, Prezioso, Stollings, M. Hall and Barnes)

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5       [Originating in the Select Committee on Children and Poverty;  
6   reported March 27, 2013.]

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9    A BILL to repeal §18-5-37 of the Code of West Virginia, 1931, as  
10           amended; and to amend said code by adding thereto a new  
11           article, designated §18-5D-1, §18-5D-2 ,§18-5D-3 and §18-5D-4,  
12           all relating to improving the nutrition and health of West  
13           Virginia's children; creating the West Virginia Feed to  
14           Achieve Act; providing legislative findings and intent;  
15           phasing in implementation of the West Virginia Feed to Achieve  
16           Act; requiring nutritious breakfast and lunch be made  
17           available to all students; requiring all schools to adopt  
18           delivery systems, strategies and methods to maximize  
19           participation by students; providing for record keeping and  
20           reporting; authorizing continuation or termination of  
21           nutrition programs under certain conditions; providing that  
22           classroom teachers may not be required to operate a breakfast  
23           program as part of their regular duties; establishing  
24           nonprofit foundations or funds to provide moneys for school  
25           nutrition programs; providing for acceptance of private

1 contributions; authorizing expenditures of private funds to  
2 draw down maximum federal funds for child nutrition;  
3 authorizing certain expenditures; prohibiting use of private  
4 funds for administrative or personnel expenses; authorizing  
5 partnerships with federal and state agencies and public and  
6 private organizations to expand options for providing healthy,  
7 nutritious food to children; encouraging healthy food  
8 initiatives such as community gardens and farm-to-school  
9 programs; and requiring an annual audit of the private funds.

10 *Be it enacted by the Legislature of West Virginia:*

11 That §18-5-37 of the Code of West Virginia, 1931, as amended,  
12 be repealed; and that said code be amended by adding thereto a new  
13 article, designated §18-5D-1, §18-5D-2, §18-5D-3 and §18-5D-4, all  
14 to read as follows:

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

16 **§18-5D-1. Short title.**

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

19 **§18-5D-2. Legislative findings; intent.**

20 (a) The Legislature finds and declares that:

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

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

7           (3) Research shows that students who eat breakfast at school  
8 have: (A) Increased standardized achievement test scores; (B)  
9 improved attendance; (C) reduced tardiness; (D) improved academic,  
10 behavioral and emotional functioning; and (E) improved nutrition.

11           (4) Schools that provide universal breakfast in the classroom  
12 also report: (A) Decreases in discipline and psychological  
13 problems; (B) decreases in visits to school nurses; (C) decreases  
14 in tardiness; (D) increases in student attentiveness; (E) increases  
15 in attendance; and (F) improved learning environments.

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

19           (6) The participation rate for the school breakfast program  
20 varies greatly among our counties. Those counties which have made  
21 a determined effort to increase participation by offering programs  
22 to best meet student needs, such as grab-and-go breakfasts,  
23 providing breakfast in the classroom or providing breakfast after  
24 first period, are feeding significantly higher percentages of their  
25 students.

26           (7) The West Virginia Center on Budget and Policy reports that

1 in 2011 more than twenty-five percent of the children in West  
2 Virginia lived in homes with a household income below the federal  
3 poverty line, which is \$23,050 for a family of four. About fifty  
4 percent of West Virginia children live in homes with a household  
5 income below twice the federal poverty level, \$46,100 for a family  
6 of four, which is approximately the level of the Work Force West  
7 Virginia self-sufficiency standard.

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

15 (9) In order to maximize each child's potential to learn and  
16 develop, the Legislature, schools and communities must partner to  
17 provide the most basic learning tool: nutritious meals.

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

22 (11) High rates of childhood hunger and childhood obesity  
23 occur simultaneously because children are not receiving healthy,  
24 nutritious food. According to the Data Resource Center for Child  
25 and Adolescent Health and others, in 2008 West Virginia ranked 44  
26 in overall prevalence of childhood obesity, with 35.5 percent of

1 children considered either overweight or obese.

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

7 (13) The Food Research and Action Center has found that  
8 providing a balanced school breakfast may protect against childhood  
9 obesity. School breakfast participation is associated with a lower  
10 body mass index, lower probability of being overweight and lower  
11 probability of obesity.

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

15 (15) Private and nonprofit sectors have shown a willingness to  
16 commit significant resources to addressing hunger in America,  
17 leveraging federal programs and enlisting their employees,  
18 customers and clients to improve the availability and accessibility  
19 of affordable, healthy food for those in need of assistance.

20 (b) In order to maximize the economies of scale and to access  
21 all available federal funds to support our school nutrition  
22 programs, the Feed to Achieve initiative requires free meals to be  
23 provided to all prekindergarten through twelfth grade students, as  
24 funds becomes available.

25 (c) The Legislature intends to provide a framework for the  
26 State Board of Education and the county boards of education to

1 provide a minimum of two nutritious, free meals each school day to  
2 all students.

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

7 **§18-5D-3. School nutrition programs.**

8 (a) Each county board of education shall establish and operate  
9 school nutrition programs under which, at a minimum, a nutritious  
10 breakfast and lunch are made effectively available to all students  
11 enrolled in the schools of the county in accordance with the State  
12 Board of Education standards. The standards shall include  
13 guidelines for determining the eligibility of students for paid,  
14 free and reduced meals. The standards shall also establish  
15 procedures and guidelines for the Feed to Achieve initiative to  
16 provide free meals to all elementary school students.

17 (b) The Feed to Achieve initiative will be phased in for all  
18 elementary schools as sufficient funds become available. Nothing  
19 in this article prohibits any school from providing free meals to  
20 all of its students.

21 (c) Each county board of education shall:

22 (1) Require all schools to adopt a delivery system approved by  
23 the State Office of Child Nutrition, no later than the 2015 school  
24 year, that ensures all students are given an adequate opportunity  
25 to eat breakfast. These approved systems shall include, but are  
26 not limited to, grab-and-go breakfasts, breakfast in the classroom

1 or breakfast after first period; and

2 (2) collaborate with the State Office of Child Nutrition to  
3 develop strategies and methods to increase the percentage of  
4 children participating in the school breakfast and lunch nutrition  
5 programs.

6 (d) In addition to other statistics, the county boards of  
7 education, in consultation with the State Office of Child  
8 Nutrition, shall determine the number of children in each school  
9 who are participating in each meal offered by the school; the  
10 number of children who are not eating each meal offered by the  
11 school; and the total daily attendance.

12 (e) The State Office of Child Nutrition shall report to the  
13 Joint Committee on Government and Finance, the Select Committee on  
14 Children and Poverty and the Legislative Oversight Commission on  
15 Education Accountability on or before December 31, 2015, and each  
16 year thereafter, on the impacts of the Feed to Achieve Act and any  
17 recommendations for legislation.

18 (f) County boards of education may utilize the nonprofit funds  
19 or foundations established in section four of this article or other  
20 available funds to offset the costs of providing free meals to  
21 elementary students.

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

26 (h) Classroom teachers may not be required to participate in

1 the operation of the school breakfast program as part of their  
2 regular duties.

3 **§18-5D-4. Creating public-private partnerships; creating nonprofit**  
4 **foundation or fund; audit.**

5 (a) The Department of Education and each county board of  
6 education shall promptly establish a nonprofit foundation or fund  
7 to provide supplemental or matching funds to increase participation  
8 in the nutrition programs in the Feed to Achieve initiative set  
9 forth in subsection (c) of this section. The Department of  
10 Education shall utilize its foundation or fund to assist county  
11 boards of education in counties whose foundation or fund lacks  
12 sufficient business, industry and individual contributors to fund  
13 the Feed to Achieve nutrition programs.

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

17 (c) Expenditures by the state or county foundations or from  
18 the funds shall be used for provision of food to students through  
19 any of the programs or initiatives approved by the Office of Child  
20 Nutrition, including the following programs: School Breakfast  
21 Program, National School Lunch Program, the Summer Food Service  
22 Program, the Fresh Fruit and Vegetable Program, the Child and Adult  
23 Care Food Program, the farm-to-school initiative and community  
24 gardens. Expenditures may also be made for initiatives developed  
25 with the Department of Health and Human Resources and public-  
26 private partnerships to provide outreach and nutritional meals when



1 students are not in school.

2 (d) No administrative expenses or personnel expenses for any  
3 of the state departments implementing this act, the State Board of  
4 Education, any county board of education, school or program may be  
5 paid by the foundation or from the fund.

6 (e) Individuals or businesses that contribute to the  
7 foundation or fund may specify schools or nutrition programs for  
8 which the contribution is to be used.

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

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

21 (h) The Department of Education shall collaborate with the  
22 Department of Health and Human Resources to develop effective  
23 strategies and programs such as after-school nutrition outreach and  
24 programs that improve the healthy lifestyle of all students in  
25 prekindergarten through twelfth grade. The Department of Health  
26 and Human Resources may propose rules for promulgation in

1 accordance with the provisions of article three, chapter twenty-  
2 nine-a of this code to effectuate any programs so developed.

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