

GENERAL ASSEMBLY OF NORTH CAROLINA  
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40338-MTa-35

Short Title: Free Breakfast & Lunch in Pub. Sch. Units. (Public)

Sponsors: Representative Brockman.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO APPROPRIATE FUNDS TO PROVIDE FREE BREAKFAST AND LUNCH TO  
3 STUDENTS ATTENDING PUBLIC SCHOOL UNITS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115C-263 reads as rewritten:

6 "§ 115C-263. Required provision of services.

7 As a part of the function of the public school system, local boards of education shall provide  
8 ~~to the extent practicable school food nutrition~~ services in the schools under their jurisdiction.  
9 Meals shall include breakfast and lunch at no cost to students. All school food nutrition services  
10 made available under this authority shall be provided in accordance with standards and  
11 regulations recommended by the Superintendent of Public Instruction and approved by the State  
12 Board of Education established by the Food and Nutrition Service of the United States  
13 Department of Agriculture."

14 SECTION 2. G.S. 115C-264 reads as rewritten:

15 "§ 115C-264. Operation.

16 (a) In the operation of their public school nutrition programs, ~~the public schools public~~  
17 school units shall participate in the School Breakfast Program and the National School Lunch  
18 Program established by the federal government government and administered by the Department  
19 of Public Instruction. The program shall be under the jurisdiction of the Division of School  
20 Support, Child Nutrition Services Safe and Healthy Schools Support, School Nutrition Services,  
21 of the Department of Public Instruction and in accordance with federal guidelines as established  
22 by the Food and Nutrition Service of the United States Department of Agriculture. Instruction.  
23 The Department of Public Instruction shall allocate sufficient supplementary funds to public  
24 school units to provide free breakfast for every student who elects to receive free breakfast and  
25 free lunch for every student who elects to receive free lunch. Taking into account funds provided  
26 toward the cost of breakfast and lunch for students under the National School Lunch Program,  
27 the School Breakfast Program, any other federally assisted school nutrition program, or any  
28 program operated by a public school unit, the supplementary funds provided by the Department  
29 shall be sufficient to ensure that each public school unit is compensated for each participating  
30 student up to the federal free meal reimbursement rate.

31 (b) For nutritional purposes, ~~the public schools public school units~~ shall not (i) use  
32 cooking oils in their school ~~food nutrition~~ programs that contain trans-fatty acids or (ii) sell  
33 processed foods containing trans-fatty acids that were formed during the commercial processing  
34 of the foods.

35 (c) All school ~~food nutrition~~ services shall be operated on a nonprofit basis, and any  
36 earnings therefrom over and above the cost of operation as defined herein shall be used to reduce



1 the cost of food, to serve ~~better~~ healthier food, or to provide free ~~or reduced-price lunches to~~  
2 ~~indigent children~~ breakfast and lunch to students and for no other purpose. The term "cost of  
3 operation" means the actual cost incurred in the purchase and preparation of food, the salaries of  
4 all personnel directly ~~engaged~~ employed in providing ~~food~~ school nutrition services, and the cost  
5 of nonfood supplies as outlined under standards adopted by the State Board of Education.  
6 "Personnel" means ~~child nutrition supervisors or directors, bookkeepers~~ persons directly engaged  
7 employed in ~~food service record keeping and those persons directly involved in preparing and~~  
8 ~~serving food.~~ Child ~~the operation of the school nutrition program.~~ School nutrition personnel  
9 shall be paid from the funds of ~~food services~~ school nutrition services only for services rendered  
10 in behalf of the ~~child~~ school nutrition program. ~~Any cost incurred in the provisions and~~  
11 ~~maintenance of school food services over and beyond the cost of operation shall be included in~~  
12 ~~the budget request filed annually by local boards of education with boards of county~~  
13 ~~commissioners.~~ Public schools ~~school units~~ are not required to comply with G.S. 115C-522(a) in  
14 the purchase of supplies and food for such school ~~food~~ nutrition services."

15 **SECTION 3.(a)** Article 14A of Chapter 115C of the General Statutes is amended by  
16 adding a new section to read:

17 **"§ 115C-218.4. Charter school nutrition.**

18 The charter school may provide school nutrition services for enrolled students by  
19 participating in federally assisted school nutrition programs. All school nutrition services  
20 provided at the school shall meet the same standards and regulations described in  
21 G.S. 115C-263."

22 **SECTION 3.(b)** G.S. 115C-75.9(l) reads as rewritten:

23 "(l) School Nutrition Program. – ~~The innovative school shall participate in the National~~  
24 ~~School Lunch Program, as provided in G.S. 115C-264.~~ provide school nutrition services for  
25 enrolled students by participating in federally assisted school nutrition programs. All school  
26 nutrition services provided at the school shall meet the same standards and regulations described  
27 in G.S. 115C-263."

28 **SECTION 3.(c)** G.S. 115C-238.72(b) reads as rewritten:

29 "(b) Food Service. – The local school administrative unit identified by resolution shall  
30 ~~provide, to the extent practicable,~~ provide school food services to the regional school. ~~school in~~  
31 accordance with G.S. 115C-263. For purposes of federal funding through the National School  
32 Lunch Program or other federally supported food service programs, the local school  
33 administrative unit identified by resolution shall ~~be permitted to include eligible students enrolled~~  
34 ~~in the regional school.~~ Other participating units shall not include students enrolled in the regional  
35 school for purposes of federally supported food service programs."

36 **SECTION 3.(d)** G.S. 115C-150.14 is amended by adding a new subsection to read:

37 "(a1) A school governed by this Article shall provide school nutrition services for enrolled  
38 students by participating in federally assisted school nutrition programs. All school nutrition  
39 services provided at the school shall meet the same standards and regulations described in  
40 G.S. 115C-263."

41 **SECTION 3.(e)** G.S. 116-239.8(b)(4)c. reads as rewritten:

42 "c. Food services. – Students enrolled in a laboratory school shall be  
43 provided school nutrition services by the laboratory school  
44 participating in federally assisted school nutrition programs. All  
45 school nutrition services provided at the school shall meet the same  
46 standards and regulations described in G.S. 115C-263. Upon request,  
47 the local school administrative unit in which the laboratory school is  
48 located shall administer the School Breakfast Program and the  
49 National School Lunch Program for the laboratory school in  
50 accordance with G.S. 115C-264."

1           **SECTION 4.** Article 17 of Chapter 115C of the General Statutes is amended by  
2 adding a new Part to read:

3           "Part 4. The North Carolina School Breakfast and Lunch Fund.

4           "**§ 115C-266. North Carolina School Breakfast and Lunch Fund established; source of**  
5           **funding.**

6           (a)   Establishment of the Fund. – The North Carolina School Breakfast and Lunch Fund  
7 is established as a special revenue fund to provide financing for breakfast and lunch for students  
8 in public school units. All expenses of administering the Fund shall be paid from the Fund and  
9 not from the General Fund. Any interest generated by the Fund is credited to the Fund. The State  
10 Board of Education shall administer the Fund through the Department of Public Instruction.

11          (b)   Source of Funding. – Money received from all of the following sources shall be  
12 deposited in the North Carolina School Breakfast and Lunch Fund:

13               (1)   Designations made to the Fund by individual taxpayers pursuant to  
14               G.S. 105-159.3.

15               (2)   Voluntary donations made directly to the Fund.

16          (c)   Determinations of Fund Amount. – By December 15, 2021, and every year thereafter,  
17 the State Board of Education shall prepare and provide to the Joint Legislative Education  
18 Oversight Committee of the General Assembly a report documenting, evaluating, and making  
19 recommendations relating to the administration, implementation, and enforcement of this Part.  
20 In its report, the State Board shall set out the funds received to date and the expected needs of  
21 the Fund in the next school year.

22          "**§ 115C-267. Administration of the Fund.**

23          (a)   Estimated Number of Participants; Reporting. – Prior to the beginning of the school  
24 year, each public school unit shall survey its students to determine how many students elect to  
25 receive free breakfast or lunch. Within 30 days of the beginning of the school year, the public  
26 school unit shall report this information to the Department of Public Instruction.

27          (b)   Timing of Fund Distribution. – The Department of Public Instruction shall reimburse  
28 a public school unit from the Fund within 30 business days of receipt of a request from the unit  
29 for reimbursement for breakfast or lunch.

30          (c)   Use of Funds. – Monies in the Fund shall be used to fund breakfasts and lunches for  
31 students electing to receive those meals. If the money in the Fund is insufficient to fully fund all  
32 breakfasts and lunches for all students electing to receive those meals over the course of the year,  
33 the State Board of Education shall use additional State funds provided for this purpose. It is the  
34 intent of the General Assembly to fund any shortfall.

35          (d)   Reimbursement of Funds. – The Department of Public Instruction shall reimburse  
36 public school units each month pursuant to G.S. 115C-264(a) for all breakfasts and lunches  
37 served in each public school unit. The State Board shall use a rapid, reliable method of  
38 reimbursing public school units for these amounts. In all cases, the State Board shall distribute  
39 funds to the units in a manner that is expeditious, ensures accountability, and safeguards the  
40 integrity of the Fund."

41           **SECTION 5.(a)** Part 2 of Article 4 of Chapter 105 of the General Statutes is amended  
42 by adding a new section to read:

43           "**§ 105-159.3. Designation of tax to North Carolina School Breakfast and Lunch Fund.**

44           (a)   Allocation to the North Carolina School Breakfast and Lunch Fund. – To ensure the  
45 financial viability of the North Carolina School Breakfast and Lunch Fund established in Part 4  
46 of Article 17 of Chapter 115C of the General Statutes, the Department must allocate to that Fund  
47 three dollars (\$3.00) from the income taxes paid each year by each individual with an income tax  
48 liability of at least that amount, if the individual agrees. A taxpayer must be given the opportunity  
49 to indicate an agreement or objection to that allocation in the manner described in subsection (b)  
50 of this section. In the case of a married couple filing a joint return, each individual must have the

1 option of agreeing or objecting to the allocation. The amounts allocated under this subsection to  
2 the Fund must be credited to it on a monthly basis.

3 (b) Returns. – Individual income tax returns must give an individual an opportunity to  
4 agree to the allocation of three dollars (\$3.00) of the individual's tax liability to the North Carolina  
5 School Breakfast and Lunch Fund. The Department must make it clear to the taxpayer that the  
6 dollars will support financing for breakfast and lunch for students in public school units, as  
7 defined in G.S. 115C-266(a), and that allocation of the dollars neither increases nor decreases the  
8 individual's tax liability. The following statement must be used to meet this requirement: "Mark  
9 "Yes" if you want to designate \$3.00 of taxes to this special Fund for providing financing,  
10 including administrative costs, for free breakfast and lunch meals to students in public schools.  
11 Marking "Yes" does not change your tax or refund." The Department must consult with the State  
12 Board of Education to ensure that the information given to taxpayers complies with the intent of  
13 this section.

14 The Department must inform the entities it approves to reproduce the return that they must  
15 comply with the requirements of this section and that a return may not reflect an agreement or  
16 objection unless the individual completing the return decided to agree or object after being  
17 presented with the statement required by subsection (b) of this section and, as available  
18 background information or instructions, the information required by subsection (c) of this  
19 section. No software package used in preparing North Carolina income tax returns may default  
20 to an agreement or objection. A paid preparer of tax returns may not mark an agreement or  
21 objection for a taxpayer without the taxpayer's consent.

22 (c) Instructions. – The instructions for individual income tax returns must include the  
23 following explanatory statement: "The North Carolina School Breakfast and Lunch Fund  
24 provides an alternative source of funding to offset the costs of breakfast and lunch meals for  
25 students attending public school. Three dollars from the taxes you pay will go to the Fund if you  
26 mark an agreement. Regardless of what choice you make, your tax will not increase, nor will any  
27 refund be reduced."

28 **SECTION 5.(b)** This section is effective for taxes imposed for taxable years  
29 beginning on or after January 1, 2021.

30 **SECTION 6.** There is appropriated from the General Fund to the Department of  
31 Public Instruction the sum of two hundred million dollars (\$200,000,000) in nonrecurring funds  
32 for the 2021-2022 fiscal year to provide free breakfast and lunch for students in the 2021-2022  
33 school year in accordance with this act and the sum of two hundred million dollars  
34 (\$200,000,000) in recurring funds for the 2022-2023 fiscal year to supplement the Fund  
35 established pursuant to Section 4 of this act.

36 **SECTION 7.** Except as otherwise provided, this act becomes effective July 1, 2021,  
37 and applies beginning with the 2021-2022 school year.