

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 891

Short Title: Free Breakfast and Lunch in K-12 Pub. Schools. (Public)

Sponsors: Representatives Brockman, Quick, Autry, and Holley (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Appropriations

April 26, 2017

1 A BILL TO BE ENTITLED  
2 AN ACT TO APPROPRIATE FUNDS TO PROVIDE FREE BREAKFAST AND LUNCH  
3 TO STUDENTS ATTENDING K-12 PUBLIC SCHOOLS.

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  
8 provide ~~to the extent practicable school food nutrition~~ services in the schools under their  
9 jurisdiction. Meals shall include breakfast and lunch at no cost to students. All school food  
10 nutrition services made available under this authority shall be provided in accordance with  
11 standards and regulations ~~recommended by the Superintendent of Public Instruction and~~  
12 ~~approved by the State Board of Education.~~ established by the Food and Nutrition Service of the  
13 United States 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 shall  
17 participate in the School Breakfast Program and the National School Lunch Program  
18 established by the federal government, government and administered by the Department of  
19 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~~  
21 Services, of the Department of Public ~~Instruction and in accordance with federal guidelines as~~  
22 ~~established by the Food and Nutrition Service of the United States Department of Agriculture.~~  
23 Instruction. The Department of Public Instruction shall allocate sufficient supplementary funds  
24 to the local school administrative units to provide free breakfast for every student who elects to  
25 receive free breakfast and free lunch for every student who elects to receive free lunch. Taking  
26 into account funds provided toward the cost of breakfast and lunch for students under the  
27 National School Lunch Program, the School Breakfast Program, any other federally assisted  
28 school nutrition program, or any program operated by a local school administrative unit, the  
29 supplementary funds provided by the Department shall be sufficient to ensure that each local  
30 school administrative unit is compensated for each participating student up to the federal free  
31 meal reimbursement rate.

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



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

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

20 "**§ 115C-218.4. Charter school nutrition.**

21 (a) The charter school may provide school nutrition services for enrolled students by  
22 participating in the federally assisted school nutrition programs. All school nutrition services  
23 provided at the school shall meet the same standards and regulations described in  
24 G.S. 115C-263. The Department of Public Instruction shall allocate sufficient supplementary  
25 funds to the charter school to provide free breakfast for every student who elects to receive free  
26 breakfast and free lunch for every student who elects to receive free lunch. Taking into account  
27 funds provided toward the cost of breakfast and lunch for students under the National School  
28 Lunch Program, the School Breakfast Program, any other federally assisted school nutrition  
29 program, or any program operated by a local school administrative unit, the supplementary  
30 funds provided by the Department shall be sufficient to ensure that the charter school is  
31 compensated for each participating student up to the federal free meal reimbursement rate."

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

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

35 "**§ 115C-266. North Carolina School Breakfast and Lunch Fund established; source of**  
36 **funding.**

37 (a) Establishment of the Fund. – The North Carolina School Breakfast and Lunch Fund  
38 is established as a special revenue fund to provide financing for breakfast and lunch for  
39 students in public schools, including cooperative innovative high schools, regional schools,  
40 charter schools, and lab schools. All expenses of administering the Fund shall be paid from the  
41 Fund and not from the General Fund. Any interest generated by the Fund is credited to the  
42 Fund. The State Board of Education shall administer the Fund through the Department of  
43 Public Instruction.

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

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

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

49 (c) Determinations of Fund Amount. – By December 15, 2018, and every year  
50 thereafter, the State Board of Education shall prepare and provide to the Joint Legislative  
51 Education Oversight Committee of the General Assembly a report documenting, evaluating,

1 and making recommendations relating to the administration, implementation, and enforcement  
2 of this Part. In its report, the State Board shall set out the funds received to date and the  
3 expected needs of the Fund in the next school year.

4 **"§ 115C-267. Administration of the Fund.**

5 (a) Estimated Number of Participants; Reporting. – Prior to the beginning of the school  
6 year, each local school administrative unit and participating charter school shall survey its  
7 students to determine how many students elect to receive free breakfast or lunch. Within 30  
8 days of the beginning of the school year, the local school administrative unit or charter school  
9 shall report this information to the Department of Public Instruction.

10 (b) Timing of Fund Distribution. – The Department of Public Instruction shall  
11 reimburse local school administrative units and participating charter schools from the Fund  
12 within 30 business days of receipt from the local school administrative unit or charter school of  
13 a request for reimbursement for breakfast or lunch.

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

19 (d) Reimbursement of Funds. – The Department of Public Instruction shall reimburse  
20 local school administrative units and charter schools each month pursuant to G.S. 115C-264(a)  
21 for all breakfasts and lunches served in each respective local school administrative unit or  
22 charter school. The State Board shall use a rapid, reliable method of reimbursing local school  
23 administrative units and charter schools for these amounts. In all cases, the State Board shall  
24 distribute funds to local school administrative units in a manner that is expeditious, ensures  
25 accountability, and safeguards the integrity of the Fund."

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

28 **"§ 105-159.3. Designation of tax to North Carolina School Breakfast and Lunch Fund.**

29 (a) Allocation to the North Carolina School Breakfast and Lunch Fund. – To ensure the  
30 financial viability of the North Carolina School Breakfast and Lunch Fund established in Part 4  
31 of Article 17 of Chapter 115C of the General Statutes, the Department must allocate to that  
32 Fund three dollars (\$3.00) from the income taxes paid each year by each individual with an  
33 income tax liability of at least that amount, if the individual agrees. A taxpayer must be given  
34 the opportunity to indicate an agreement or objection to that allocation in the manner described  
35 in subsection (b) of this section. In the case of a married couple filing a joint return, each  
36 individual must have the option of agreeing or objecting to the allocation. The amounts  
37 allocated under this subsection to the Fund must be credited to it on a monthly basis.

38 (b) Returns. – Individual income tax returns must give an individual an opportunity to  
39 agree to the allocation of three dollars (\$3.00) of the individual's tax liability to the North  
40 Carolina School Breakfast and Lunch Fund. The Department must make it clear to the taxpayer  
41 that the dollars will support financing for breakfast and lunch for students in public schools,  
42 including cooperative innovative high schools, regional schools, charter schools, and lab  
43 schools, and that allocation of the dollars neither increases nor decreases the individual's tax  
44 liability. The following statement must be used to meet this requirement: "Mark "Yes" if you  
45 want to designate \$3.00 of taxes to this special Fund for providing financing, including  
46 administrative costs, for free breakfast and lunch meals to students in public schools, including  
47 cooperative innovative high schools, regional schools, charter schools, and lab schools.  
48 Marking "Yes" does not change your tax or refund." The Department must consult with the  
49 State Board of Education to ensure that the information given to taxpayers complies with the  
50 intent of this section.

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

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

15        **SECTION 5.(b)** This section is effective for taxes imposed for taxable years  
16 beginning on or after January 1, 2017.

17        **SECTION 6.** There is appropriated from the General Fund to the Department of  
18 Public Instruction the sum of two hundred million dollars (\$200,000,000) in nonrecurring funds  
19 for the 2017-2018 fiscal year to provide free breakfast and lunch for students in public schools,  
20 including cooperative innovative high schools, regional schools, charter schools, and lab  
21 schools, for the 2017-2018 school year and the sum of two hundred million dollars  
22 (\$200,000,000) in recurring funds for the 2018-2019 school year to supplement the Fund  
23 established pursuant to Section 4 of this act.

24        **SECTION 7.** Except as otherwise provided, this act becomes effective July 1,  
25 2017, and applies beginning with the 2017-2018 school year.