

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 947

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

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

Referred to: Appropriations, Education, if favorable, Rules, Calendar, and Operations of the House

April 26, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO APPROPRIATE FUNDS TO PROVIDE FREE BREAKFAST AND LUNCH TO  
3 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 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 shall  
17 participate in the School Breakfast Program and the National School Lunch Program established  
18 by the federal ~~government~~ government and administered by the Department of Public  
19 Instruction. The program shall be under the jurisdiction of the Division of ~~School Support, Child~~  
20 ~~Nutrition Services-Safe and Healthy Schools Support, School Nutrition Services,~~ of the  
21 Department of Public ~~Instruction and in accordance with federal guidelines as established by the~~  
22 ~~Food and Nutrition Service of the United States Department of Agriculture.~~ Instruction. The  
23 Department of Public Instruction shall allocate sufficient supplementary funds to the local school  
24 administrative units to provide free breakfast for every student who elects to receive free  
25 breakfast and free lunch for every student who elects to receive free lunch. Taking into account  
26 funds provided toward the cost of breakfast and lunch for students under the National School  
27 Lunch Program, the School Breakfast Program, any other federally assisted school nutrition  
28 program, or any program operated by a local school administrative unit, the supplementary funds  
29 provided by the Department shall be sufficient to ensure that each local school administrative  
30 unit is compensated for each participating student up to the federal free meal reimbursement rate.

31 (b) For nutritional purposes, the public schools shall not (i) use cooking oils in their  
32 school ~~food-nutrition~~ programs that contain trans-fatty acids or (ii) sell processed foods  
33 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 reduce  
3 the cost of food, to serve ~~better~~ healthier food, or to provide free ~~or reduced-price lunches to~~  
4 indigent children ~~breakfast and lunch to students~~ and for no other purpose. The term "cost of  
5 operation" means the actual cost incurred in the purchase and preparation of food, the salaries of  
6 all personnel directly ~~engaged~~ employed in providing ~~food~~ school nutrition services, and the cost  
7 of nonfood supplies as outlined under standards adopted by the State Board of Education.  
8 "Personnel" means ~~child nutrition supervisors or directors, bookkeepers~~ persons directly ~~engaged~~  
9 employed in ~~food service record keeping and those persons directly involved in preparing and~~  
10 servicing food. ~~Child~~ the operation of the school nutrition program in the local school  
11 administrative unit. School nutrition personnel shall be paid from the funds of ~~food services~~  
12 school nutrition services only for services rendered in behalf of the ~~child~~ school nutrition  
13 program. ~~Any cost incurred in the provisions and maintenance of school food services over and~~  
14 ~~beyond the cost of operation shall be included in the budget request filed annually by local boards~~  
15 ~~of education with boards of county commissioners.~~ Public schools are not required to comply  
16 with G.S. 115C-522(a) in the purchase of supplies and food for such school ~~food~~ nutrition  
17 services."

18 **SECTION 3.(a)** 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 federally assisted school nutrition programs. All school nutrition services  
23 provided at the school shall meet the same standards and regulations described in G.S. 115C-263.  
24 The Department of Public Instruction shall allocate sufficient supplementary funds to the charter  
25 school to provide free breakfast for every student who elects to receive free breakfast and free  
26 lunch for every student who elects to receive free lunch. Taking into account funds provided  
27 toward the cost of breakfast and lunch for students under the National School Lunch Program,  
28 the School Breakfast Program, any other federally assisted school nutrition program, or any  
29 program operated by a local school administrative unit, the supplementary funds provided by the  
30 Department shall be sufficient to ensure that the charter school is compensated for each  
31 participating student up to the federal free meal reimbursement rate."

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

33 "(l) School Nutrition Program. – ~~The innovative school shall participate in the National~~  
34 ~~School Lunch Program, as provided in G.S. 115C-264.~~ provide school nutrition services for  
35 enrolled students by participating in federally assisted school nutrition programs. All school  
36 nutrition services provided at the school shall meet the same standards and regulations described  
37 in G.S. 115C-263. The Department of Public Instruction shall allocate sufficient supplementary  
38 funds to the innovative school to provide free breakfast for every student who elects to receive  
39 free breakfast and free lunch for every student who elects to receive free lunch. Taking into  
40 account funds provided toward the cost of breakfast and lunch for students under the National  
41 School Lunch Program, the School Breakfast Program, any other federally assisted school  
42 nutrition program, or any program operated by a local school administrative unit, the  
43 supplementary funds provided by the Department shall be sufficient to ensure that the innovative  
44 school is compensated for each participating student up to the federal free meal reimbursement  
45 rate."

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

47 "(b) Food Service. – ~~The local school administrative unit identified by resolution shall~~  
48 ~~provide, to the extent practicable, provide~~ school food services to the regional school ~~school in~~  
49 accordance with G.S. 115C-263. For purposes of federal funding through the National School  
50 Lunch Program or other federally supported food service programs, the local school  
51 administrative unit identified by resolution shall be permitted to include eligible students enrolled

1 in the regional school. The Department of Public Instruction shall allocate sufficient  
2 supplementary funds to the local school administrative unit to include eligible students enrolled  
3 in the regional school pursuant to G.S. 115C-264. Other participating units shall not include  
4 students enrolled in the regional school for purposes of federally supported food service  
5 programs."

6 **SECTION 3.(d)** G.S. 116-239.8(b)(4) reads as rewritten:

7 "(4) Food and transportation services. – The local school administrative unit in  
8 which the laboratory school is located shall provide food services and  
9 transportation to students attending the laboratory school. ~~school~~ pursuant to  
10 G.S. 115C-263. The local school administrative unit in which the laboratory  
11 school is located shall administer the School Breakfast Program and the  
12 National School Lunch Program for the laboratory school in accordance with  
13 G.S. 115C-264. The Department of Public Instruction shall allocate sufficient  
14 supplementary funds to the local school administrative unit to include eligible  
15 students enrolled in the laboratory school pursuant to G.S. 115C-264. The  
16 chancellor shall arrange for the provision of these services from the local  
17 school administrative unit."

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

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

21 "**§ 115C-266. North Carolina School Breakfast and Lunch Fund established; source of**  
22 **funding.**

23 (a) Establishment of the Fund. – The North Carolina School Breakfast and Lunch Fund  
24 is established as a special revenue fund to provide financing for breakfast and lunch for students  
25 in public school units. For purposes of this Part, the term "public school unit" refers to local  
26 school administrative units, regional schools, charter schools, innovative schools, and UNC  
27 laboratory schools. All expenses of administering the Fund shall be paid from the Fund and not  
28 from the General Fund. Any interest generated by the Fund is credited to the Fund. The State  
29 Board of Education shall administer the Fund through the Department of Public Instruction.

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

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

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

35 (c) Determinations of Fund Amount. – By December 15, 2020, and every year thereafter,  
36 the State Board of Education shall prepare and provide to the Joint Legislative Education  
37 Oversight Committee of the General Assembly a report documenting, evaluating, and making  
38 recommendations relating to the administration, implementation, and enforcement of this Part.  
39 In its report, the State Board shall set out the funds received to date and the expected needs of  
40 the Fund in the next school year.

41 "**§ 115C-267. Administration of the Fund.**

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

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

49 (c) Use of Funds. – Monies in the fund shall be used to fund breakfasts and lunches for  
50 students electing to receive those meals. If the money in the fund is insufficient to fully fund all  
51 breakfasts and lunches for all students electing to receive those meals over the course of the year,

1 the State Board of Education shall use additional State funds provided for this purpose. It is the  
2 intent of the General Assembly to fund any shortfall.

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

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

11 **§ 105-159.3. Designation of tax to North Carolina School Breakfast and Lunch Fund.**

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

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

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

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

46 **SECTION 5.(b)** This section is effective for taxes imposed for taxable years  
47 beginning on or after January 1, 2019.

48 **SECTION 6.** There is appropriated from the General Fund to the Department of  
49 Public Instruction the sum of two hundred million dollars (\$200,000,000) in nonrecurring funds  
50 for the 2019-2020 fiscal year to provide free breakfast and lunch for students in the 2019-2020  
51 school year in accordance with this act and the sum of two hundred million dollars

1 (\$200,000,000) in recurring funds for the 2020-2021 school year to supplement the Fund  
2 established pursuant to Section 4 of this act.  
3       **SECTION 7.** Except as otherwise provided, this act becomes effective July 1, 2019,  
4 and applies beginning with the 2019-2020 school year.