

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H.B. 398  
Mar 15, 2023  
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10153-LUfa-38A

Short Title: Child Care Act.

(Public)

Sponsors: Representative Logan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REENACT THE CHILD CARE TAX CREDIT, TO EXPAND THE NORTH CAROLINA PREKINDERGARTEN (NC PRE-K) PROGRAM AND INCREASE CARE SUBSIDY BY APPROPRIATING FUNDS FOR THOSE PURPOSES, TO PROVIDE LUNCH IN PUBLIC SCHOOLS AT NO COST TO STUDENTS THROUGH AN ALLOCATION BASED ON SCHOOL FOOD AUTHORITY EVALUATIONS, TO APPROPRIATE FUNDS FOR PUBLIC CHILD CARE PROVIDED BY COMMUNITY COLLEGES, AND TO REQUIRE A REPORT ON THE FEASIBILITY AND ADVISABILITY OF A HIGH SCHOOL CHILD CARE APPRENTICESHIP PROGRAM.

The General Assembly of North Carolina enacts:

**PART I. CHILD CARE TAX CREDIT**

**SECTION 1.1.** G.S. 105-151.11 is reenacted as it existed immediately before its expiration, is recodified as G.S. 105-153.11, and reads as rewritten:

**"§ 105-153.11. Credit for child care and certain employment-related expenses.**

(a) Credit. – A person who is allowed a credit against federal income tax for a percentage of employment-related expenses under section 21 of the Code shall be allowed as a credit against the tax imposed by this Part an amount equal to the applicable percentage of the employment-related expenses as defined in section 21(b)(2) of the Code. In order to claim the credit allowed by this section, the taxpayer must provide with the tax return the information required by the Secretary.

(a1) Applicable Percentage. – For employment-related expenses that are incurred only with respect to one or more dependents who are ~~seven-18 years old or older~~ up to 25 years old and are not physically or mentally incapable of caring for themselves, the applicable percentage is the appropriate percentage in the column labeled "Percentage A" in the table below, based on the taxpayer's adjusted gross income determined under the Code. For employment-related expenses that are incurred only with respect to one or more dependents who are 12 years old up to 18 years old and are not physically or mentally incapable of caring for themselves, the applicable percentage is the appropriate percentage in the column labeled "Percentage B" in the table below, based on the taxpayer's adjusted gross income determined under the Code. For employment-related expenses that are incurred only with respect to one or more dependents who are 6 years old up to 12 years old and are not physically or mentally incapable of caring for themselves, the applicable percentage is the appropriate percentage in the column labeled "Percentage C" in the table below, based on the taxpayer's adjusted gross income determined under the Code. For employment-related expenses with respect to any other qualifying individual, the applicable percentage is the appropriate percentage in the column labeled



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"Percentage B" ~~D~~ in the table below, based on the taxpayer's adjusted gross income determined under the Code.

Filing Status	Adjusted Gross Income	Percentage A	Percentage B	<u>Percentage C</u>	<u>Percentage D</u>
Head of Household	Up to \$20,000	<del>9%</del> <u>7%</u>	<del>13%</del> <u>9%</u>	<u>11%</u>	<u>13%</u>
	Over \$20,000 up to \$32,000	<del>8%</del> <u>6.3%</u>	<del>11.5%</del> <u>8%</u>	<u>9.8%</u>	<u>11.5%</u>
	Over \$32,000	<del>7%</del> <u>5.5%</u>	<del>10%</del> <u>7%</u>	<u>8.5%</u>	<u>10%</u>
Surviving Spouse or Joint Return	Up to \$25,000	<del>9%</del> <u>7%</u>	<del>13%</del> <u>9%</u>	<u>11%</u>	<u>13%</u>
	Over \$25,000 up to \$40,000	<del>8%</del> <u>6.3%</u>	<del>11.5%</del> <u>8%</u>	<u>9.8%</u>	<u>11.5%</u>
	Over \$40,000	<del>7%</del> <u>5.5%</u>	<del>10%</del> <u>7%</u>	<u>8.5%</u>	<u>10%</u>
Single	Up to \$15,000	<del>9%</del> <u>7%</u>	<del>13%</del> <u>9%</u>	<u>11%</u>	<u>13%</u>
	Over \$15,000 up to \$24,000	<del>8%</del> <u>6.3%</u>	<del>11.5%</del> <u>8%</u>	<u>9.8%</u>	<u>11.5%</u>
	Over \$24,000	<del>7%</del> <u>5.5%</u>	<del>10%</del> <u>7%</u>	<u>8.5%</u>	<u>10%</u>
Married Filing Separately	Up to \$12,500	<del>9%</del> <u>7%</u>	<del>13%</del> <u>9%</u>	<u>11%</u>	<u>13%</u>
	Over \$12,500 up to \$20,000	<del>8%</del> <u>6.3%</u>	<del>11.5%</del> <u>8%</u>	<u>9.8%</u>	<u>11.5%</u>
	Over \$20,000	<del>7%</del> <u>5.5%</u>	<del>10%</del> <u>7%</u>	<u>8.5%</u>	<u>10%</u>

(b) Employment Related Expenses. – The amount of employment-related expenses for which a credit may be claimed may not exceed three thousand dollars (\$3,000) if the taxpayer's household includes one qualifying individual, as defined in section 21(b)(1) of the Code, and may not exceed six thousand dollars (\$6,000) if the taxpayer's household includes more than one qualifying individual. The amount of employment-related expenses for which a credit may be claimed is reduced by the amount of employer-provided dependent care assistance excluded from gross income.

(c) Limitations. – A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under ~~G.S. 105-134.5(b) or (c)~~, G.S. 105-153.4(b) or (c), as appropriate. No credit shall be allowed under this section for amounts deducted in calculating North Carolina taxable income. The credit allowed by this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except for payments of tax made by or on behalf of the taxpayer."

**PART II. EXPAND NC PRE-K PROGRAM**

**SECTION 2.1.** There is appropriated from the General Fund to the Department of Health and Human Services, Division of Child Development and Early Education, the sum of two hundred million dollars (\$200,000,000) in recurring funds for each year of the 2023-2025 fiscal biennium for the North Carolina Prekindergarten (NC Pre-K) program to expand the number of slots by 32,000 and cover all eligible children 4 years of age.

**PART III. INCREASE SUBSIDIZED CHILD CARE FUNDING**

**SECTION 3.1.** There is appropriated from the General Fund to the Department of Health and Human Services, Division of Child Development and Early Education, the sum of thirty-five million dollars (\$35,000,000) in recurring funds for each year of the 2023-2025 fiscal biennium to increase funding for subsidized child care.

**PART IV. FUND PUBLIC SCHOOL LUNCHES**

**SECTION 4.1.** G.S. 115C-263 reads as rewritten:

**"§ 115C-263. School nutrition services.**

(a) As a part of the function of the public school system, local boards of education-public school units shall have a school food authority to provide to the extent practicable school nutrition services in the schools under their jurisdiction- jurisdiction by offering students lunch at no cost to the student. A school food authority may offer students a breakfast option at a cost to the student, unless the student is eligible for the School Breakfast Program. All school nutrition services made available under this authority shall be provided in accordance with federal guidelines established by the Food and Nutrition Service of the United States Department of Agriculture.

(b) The To the extent that funds are made available for the purpose, the State Board of Education shall allocate funds to school food authorities at public school units for the purpose of providing healthy lunches at no cost to students. In issuing the allocation, the Board shall do the following:

(1) Determine the amount to allocate to each school food authority based on an evaluation of the authority's nutrition services. The Board shall develop the method and criteria for the evaluation, which at a minimum shall account for the following:

- a. The size of the schools served by the school food authority as determined by Average Daily Membership.
- b. The number of students that are eligible for free or reduced-price lunch and the estimated receipts from the National School Lunch Program.
- c. The funds actually expended in the prior year, which may be waived if the school food authority was not in operation in the year prior.
- d. The extent to which the nutrition services promote health and wellness by providing food that is of high quality and nutrient content.
- e. The extent to which the school food authority uses locally sourced food and products.
- f. Any other information the Board deems relevant to the cost and operation of the nutrition services.

(2) Ensure the funds are distributed on a fair and equitable basis.

(3) Issue the allocation at the beginning of each fiscal year, except that the Board may reserve for future allocation a reasonable amount, not to exceed ten percent (10%) of the total funds available for providing nutrition services.

(c) The State Board of Education may adopt rules regulating the provision of school nutrition that impose additional restrictions that are not inconsistent with the federal guidelines.

1       (d) Funds allocated pursuant to this section shall supplement and not supplant any other  
2 funds from any other source provided for the same purpose."

3       **SECTION 4.2.** G.S. 115C-218.75 is amended by adding a new subsection to read:

4       "(k) A charter school shall provide school nutrition services in accordance with  
5 G.S. 115C-263 and G.S. 115C-264."

6       **SECTION 4.3.** G.S. 115C-238.72(b) reads as rewritten:

7       "(b) Food Service. – The local school administrative unit identified by resolution shall  
8 ~~provide, to the extent practicable, school food~~ provide school nutrition services to the regional  
9 ~~school.~~ school in accordance with G.S. 115C-263 and G.S. 115C-264. For purposes of federal  
10 funding through the National School Lunch Program or other federally supported ~~food~~ nutrition  
11 service programs, the local school administrative unit identified by resolution shall be permitted  
12 to include eligible students enrolled in the regional school. Other participating units shall not  
13 include students enrolled in the regional school for purposes of federally supported ~~food~~ nutrition  
14 service programs."

15       **SECTION 4.4.** G.S. 115C-150.14 is amended by adding a new subsection to read:

16       "(a1) A school governed by this Article shall provide school nutrition services in  
17 accordance with G.S. 115C-263 and G.S. 115C-264."

18       **SECTION 4.5.** G.S. 116-239.8(b)(4)c. reads as rewritten:

19       " ~~c. Food~~ Nutrition Services. – Laboratory schools shall provide school  
20 nutrition services in accordance with G.S. 115C-263 and  
21 G.S. 115C-264. Upon request, the local school administrative unit in  
22 which the laboratory school is located shall administer the National  
23 School Lunch Program for the laboratory ~~school in accordance with~~  
24 G.S. 115C-264.school."

25       **SECTION 4.6.** There is appropriated from the General Fund to the Department of  
26 Public Instruction the sum of one hundred five million dollars (\$105,000,000) in recurring funds  
27 for the 2023-2024 fiscal year to provide lunch to students in public school units at no cost to the  
28 students in accordance with this section. Should this appropriation not be sufficient to fulfill the  
29 provisions of this section for the 2023-2024 fiscal year, the State Board of Education may use  
30 funds appropriated to State Aid for Public Schools for this purpose.

31       **SECTION 4.7.** There is appropriated from the General Fund to the Department of  
32 Public Instruction the sum of three million one hundred sixty-six thousand six hundred dollars  
33 (\$3,166,600) in nonrecurring funds for the 2023-2024 fiscal year to satisfy any outstanding  
34 school nutrition program debt. Should this appropriation not be sufficient to satisfy all school  
35 nutrition debt by the end of the 2023-2024 fiscal year, the State Board of Education shall use  
36 funds appropriated to State Aid for Public Schools for this purpose.

37       **SECTION 4.8.** The State Board of Education is granted authority to adopt temporary  
38 rules to enact this section until permanent rules are adopted.

## 39 **PART V. FUNDS FOR PUBLIC CHILD CARE PROVIDED BY COMMUNITY** 40 **COLLEGES**

41       **SECTION 5.1.** Appropriation. – There is appropriated from the General Fund to the  
42 Community Colleges System Office the sum of ten million dollars (\$10,000,000) in nonrecurring  
43 funds for the 2023-2024 fiscal year to be allocated proportionally to each community college  
44 with an active child care program that is available to the public to support and maintain that  
45 program. The State Board of Community Colleges shall adopt a formula for allocating these  
46 funds. Funds shall be allocated based on the number of children served by the program, and the  
47 State Board shall prioritize the award of funds based on the financial needs of the program. These  
48 funds shall not revert at the end of the 2023-2024 fiscal year but shall remain available until  
49 expended.  
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1           **SECTION 5.2.** Report. – Any community college that does not have a publicly  
2 available child care program shall report to the State Board of Community Colleges on the  
3 feasibility and advisability of implementing a publicly available child care program at that  
4 community college, including recommendations for implementing such a child care program,  
5 estimated costs, and barriers to implementation. The State Board shall aggregate that information  
6 and report it to the Joint Legislative Education Oversight Committee no later than March 31,  
7 2024.

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9 **PART VI. REPORT ON HIGH SCHOOL CHILD CARE APPRENTICESHIP**  
10 **PROGRAM**

11           **SECTION 6.1.** No later than December 31, 2024, the Department of Public  
12 Instruction, in consultation with each partner agency, shall report to the Joint Legislative  
13 Education Oversight Committee on the feasibility and advisability of implementing a child care  
14 apprenticeship program in public high schools. The report shall include at least the following  
15 information:

- 16           (1) Estimated costs and a time line for implementing a statewide or regional child  
17 care apprenticeship program.  
18           (2) Expected student and community impacts of a child care apprenticeship  
19 program, including impacts on student performance, attrition, well-being, and  
20 any other factor the Department deems relevant to the report.

21           **SECTION 6.2.** No later than February 28, 2025, the Joint Legislative Education  
22 Oversight Committee shall hold a committee meeting and receive an in-person presentation from  
23 the Department, in partnership with each partner agency, on the report provided pursuant to  
24 Section 6.1 of this act.

25           **SECTION 6.3.** For purposes of this section, the term "partner agency" shall refer to  
26 the Department of Health and Human Services, the Board of Governors of The University of  
27 North Carolina, and the State Board of Community Colleges.

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29 **PART VII. EFFECTIVE DATE**

30           **SECTION 7.1.** Part I of this act is effective for taxable years beginning on or after  
31 January 1, 2024. The remainder of this act becomes effective July 1, 2023.