

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 550

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

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

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

April 14, 2021

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.



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 ~~serving food.~~ Child the operation of the school nutrition program. School nutrition personnel
11 shall be paid from the funds of ~~food services~~ school nutrition services only for services rendered
12 in behalf of the ~~child~~ school nutrition program. ~~Any cost incurred in the provisions and~~
13 ~~maintenance of school food services over and beyond the cost of operation shall be included in~~
14 ~~the budget request filed annually by local boards of education with boards of county~~
15 ~~commissioners.~~ Public schools school units are not required to comply with G.S. 115C-522(a) in
16 the purchase of supplies and food for such school ~~food~~ nutrition services."

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

19 **"§ 115C-218.4. Charter school nutrition.**

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

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

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

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

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

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

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

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

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

1 National School Lunch Program for the laboratory school in
2 accordance with G.S. 115C-264."

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

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

6 **"§ 115C-266. North Carolina School Breakfast and Lunch Fund established; source of**
7 **funding.**

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

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

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

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

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

24 **"§ 115C-267. Administration of the Fund.**

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

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

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

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

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

45 **"§ 105-159.3. Designation of tax to North Carolina School Breakfast and Lunch Fund.**

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

1 of this section. In the case of a married couple filing a joint return, each individual must have the
2 option of agreeing or objecting to the allocation. The amounts allocated under this subsection to
3 the Fund must be credited to it on a monthly basis.

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

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

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

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

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

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