

HOUSE BILL 868

Unofficial Copy  
F1

1999 Regular Session  
(91r0509)

**ENROLLED BILL**

-- Ways and Means/Economic and Environmental Affairs --

Introduced by **Delegates Hixson, Taylor, Bobo, Bronrott, Brown, C. Davis, DeCarlo, Dobson, Dypski, Finifter, Franchot, Fulton, Glassman, Goldwater, Healey, Hecht, Heller, Howard, Hubbard, Kagan, Kirk, Kopp, Mandel, Marriott, McIntosh, Menes, Montague, Morhaim, Nathan-Pulliam, Palumbo, Patterson, Petzold, Phillips, Pitkin, Rawlings, Shriver, Slade, Swain, Turner, Valderrama, Hubers, Cane, Cryor, A. Jones, and ~~Grosfeld~~ Grosfeld, and Carlson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education - Maryland Meals for Achievement Pilot In-Classroom Breakfast**  
3 **Program**

4 FOR the purpose of establishing a pilot program for certain schools to provide a school  
5 breakfast for all students who attend the school, regardless of the economic  
6 status of the students; requiring the State Department of Education, the county  
7 boards of education or sponsoring agencies, and schools that ~~wish to~~ participate  
8 in the pilot program to perform certain duties; ~~setting a threshold level of~~  
9 ~~income for participation in certain schools; authorizing certain business entities~~  
10 ~~to receive a State income tax credit for certain contributions made to a school~~  
11 ~~under the pilot program; requiring the State Comptroller and the State~~

1 ~~Department of Education to adopt certain regulations; providing a termination~~  
 2 ~~date for this Act; defining certain terms a certain term; declaring the intent of~~  
 3 ~~the General Assembly; providing for the application of this Act; providing for a~~  
 4 ~~delayed effective date; and generally relating to school breakfast programs in~~  
 5 ~~the State.~~

6 BY repealing and reenacting, without amendments,  
 7 Article - Education  
 8 Section 1-101(d) and (f) and 7-701 through 7-703  
 9 Annotated Code of Maryland  
 10 (1997 Replacement Volume and 1998 Supplement)

11 BY adding to  
 12 Article - Education  
 13 Section 7-704  
 14 Annotated Code of Maryland  
 15 (1997 Replacement Volume and 1998 Supplement)

16 ~~BY adding to~~  
 17 ~~Article Tax General~~  
 18 ~~Section 10-712~~  
 19 ~~Annotated Code of Maryland~~  
 20 ~~(1997 Replacement Volume and 1998 Supplement)~~

21 Preamble

22 WHEREAS, During the last 5 years in the public schools the number of  
 23 students eligible to receive free and reduced price meals has increased by 25%, while  
 24 student enrollment has increased by only 11%; and

25 WHEREAS, Research indicates that most children either do not eat breakfast  
 26 or do not eat an adequately nutritious breakfast; and

27 WHEREAS, Studies by the Harvard University Medical School, the Abell  
 28 Foundation, and the University of Minnesota - Minnesota Department of Children,  
 29 Families, and Learning show that when an in-classroom breakfast program is  
 30 available to all children in a school, there is more time for instruction as there is:

- 31 1. A 50% decrease in disciplinary incidents;
- 32 2. A 75% decrease in tardiness; and
- 33 3. A 30% decrease in visits to the school nurse; and

34 WHEREAS, The Minnesota study also revealed that students who  
 35 participated in a breakfast program had increased percentile scores on standardized  
 36 tests in mathematics and reading; and

1 WHEREAS, It also has been shown that when all students, regardless of  
2 economic status, are eligible to participate in a school breakfast program, there is an  
3 increase in participation in the program, and that participation results in an  
4 improved learning environment for all children; now, therefore,

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article - Education**

8 1-101.

9 (d) "County board" means the board of education of a county and includes the  
10 New Baltimore City Board of School Commissioners.

11 (f) "Department" means the State Department of Education.

12 7-701.

13 (a) The State Board shall require each county board to provide in each  
14 elementary school a free and reduced price breakfast, unless the school is exempted  
15 under § 7-702 of this subtitle.

16 (b) The free and reduced price breakfast required to be provided under this  
17 section shall meet the standards of the United States Department of Agriculture.

18 7-702.

19 The State Superintendent shall exempt any elementary school from the  
20 requirements of this subtitle if:

21 (1) (i) The school has made a breakfast program available for at least  
22 3 consecutive months; and

23 (ii) The participation is less than 25 percent of the number of  
24 students eligible for free and reduced price meals in each month;

25 (2) (i) The county board approves an alternative nutrition program  
26 that the school has instituted;

27 (ii) The school regularly conducts an assessment of the alternative  
28 program that provides evidence of success in achieving program objectives; and

29 (iii) The school submits an annual report of the assessment to the  
30 county board and the State;

31 (3) (i) The school requests an exemption for reasons of a compelling  
32 nature to the county board; and

33 (ii) After review and approval, the county board submits the  
34 request for exemption to the State Superintendent; or

1 (4) (i) The school has less than 15 percent of its enrollment approved  
2 for free and reduced price meals.

3 (ii) This exemption shall continue from year to year without the  
4 need for reapplication, until there is a 10 percent increase in the number of students  
5 approved for free and reduced price meals.

6 7-703.

7 (a) The free and reduced price breakfast program under this subtitle shall be  
8 suspended if the per meal reimbursement that the federal government provides for  
9 the breakfast program is:

10 (1) Reduced below the rate prescribed on July 1, 1979; or

11 (2) Adjusted by the Secretary of the United States Department of  
12 Agriculture, as of the most recent July 1 under the national Child Nutrition Act, and  
13 the per meal reimbursement is below the adjusted rate.

14 (b) The reimbursement for each meal under subsection (a) of this section shall  
15 be determined as follows:

16 (1) Multiply the number of reduced price breakfasts served statewide  
17 times the federal reimbursement rate for those breakfasts;

18 (2) Multiply the number of free breakfasts served statewide times the  
19 federal reimbursement rate for those breakfasts; and

20 (3) Divide the total of paragraphs (1) and (2) of this subsection by the  
21 total number of free and reduced price breakfasts.

22 7-704.

23 (A) ~~(1)~~ IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED:

25 ~~(2)~~ "BUSINESS ENTITY" MEANS A PERSON CONDUCTING OR OPERATING  
26 A TRADE OR BUSINESS IN MARYLAND WHO IS SUBJECT TO THE STATE INCOME TAX.

27 ~~(3)~~ ,"PROGRAM" MEANS THE MARYLAND MEALS FOR ACHIEVEMENT  
28 PILOT IN-CLASSROOM BREAKFAST PROGRAM.

29 ~~(A)~~ (B) (1) THERE IS A PILOT SCHOOL BREAKFAST PROGRAM IN THE  
30 STATE, KNOWN AS THE MARYLAND MEALS FOR ACHIEVEMENT PILOT IN-CLASSROOM  
31 BREAKFAST PROGRAM.

32 (2) THE PROGRAM IS A JOINT EFFORT OF THE DEPARTMENT; AND THE  
33 COUNTY BOARDS OR SPONSORING AGENCIES FOR ELIGIBLE NONPUBLIC SCHOOLS;  
34 ~~AND BUSINESS ENTITIES IN THE STATE.~~

1 ~~(B)~~ (C) (1) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FUNDING FOR  
2 A SCHOOL THAT MAKES AN IN-CLASSROOM BREAKFAST AVAILABLE TO ALL  
3 STUDENTS IN THE SCHOOL.

4 (2) THE FUNDING IS INTENDED TO COMPLEMENT THE FUNDING  
5 RECEIVED BY A SCHOOL FROM THE FEDERAL GOVERNMENT FOR A SCHOOL  
6 BREAKFAST PROGRAM.

7 ~~(C)~~ (D) THE DEPARTMENT SHALL:

8 (1) DEVELOP AN APPLICATION FORM ~~FOR:~~

9 ~~(A)~~ (A) FOR A SCHOOL THAT DESIRES TO PARTICIPATE IN THE  
10 PROGRAM; ~~AND~~

11 ~~(B)~~ (B) A BUSINESS ENTITY THAT DESIRES TO RECEIVE A STATE  
12 INCOME TAX CREDIT FOR CONTRIBUTIONS TO THE PROGRAM;

13 (2) ENSURE THAT THE SCHOOLS THAT PARTICIPATE IN THE PROGRAM  
14 REPRESENT GEOGRAPHIC AND SOCIOECONOMIC BALANCE STATEWIDE;

15 (3) ENSURE THAT A SCHOOL THAT PARTICIPATES IN THE PROGRAM IS A  
16 SCHOOL AT WHICH AT LEAST 40% OF THE REGISTERED STUDENTS ARE ELIGIBLE FOR  
17 THE FEDERAL FREE OR REDUCED PRICE MEAL PROGRAM;

18 (4) SELECT SCHOOLS TO PARTICIPATE IN THE PROGRAM, ENSURING  
19 THAT AN EVALUATION OF THE PROGRAM IS CONDUCTED BY ~~A PUBLIC~~ AN  
20 INSTITUTION OF HIGHER EDUCATION OR OTHER UNIT OF STATE GOVERNMENT THAT  
21 IS INDEPENDENT OF THE DEPARTMENT; ~~AND~~

22 (5) ANNUALLY REVIEW AND SET THE MEAL REIMBURSEMENT RATE FOR  
23 SCHOOLS THAT PARTICIPATE IN THE PROGRAM TO COMPLEMENT THE FEDERAL  
24 MEAL REIMBURSEMENT RATE DETERMINED UNDER § 7-703 OF THIS SUBTITLE; AND

25 ~~(6)~~ (6) DISBURSE THE PROGRAM FUNDS TO THE COUNTY BOARD OR THE  
26 SPONSORING AGENCY.

27 ~~(D)~~ (E) A COUNTY BOARD OR A SPONSORING AGENCY FOR AN ELIGIBLE  
28 NONPUBLIC SCHOOL SHALL:

29 (1) APPLY TO THE DEPARTMENT FOR FUNDS FOR SCHOOLS WITHIN THE  
30 JURISDICTION OF THE BOARD OR FOR SCHOOLS THAT ARE UNDER THE SPONSORING  
31 AGENCY THAT:

32 (I) ARE ELIGIBLE TO PARTICIPATE IN THE PROGRAM; AND

33 (II) APPLY TO THE BOARD OR TO THE SPONSORING AGENCY TO  
34 PARTICIPATE IN THE PROGRAM; AND

35 ~~(2)~~ (2) DISBURSE THE PROGRAM FUNDS TO THE SCHOOLS UNDER THE  
36 JURISDICTION OF THE BOARD OR THE SCHOOLS THAT ARE UNDER THE SPONSORING

1 AGENCY THAT ARE PARTICIPANTS IN THE PROGRAM IN CONJUNCTION WITH  
 2 FEDERAL REIMBURSEMENT FUNDS THROUGH THE FEDERAL SCHOOL BREAKFAST  
 3 PROGRAM; AND

4 ~~(3)~~ (2) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT ON THE  
 5 PROGRAM, INCLUDING THE MANNER IN WHICH THE FUNDS HAVE BEEN EXPENDED.

6 ~~(E)~~ (F) A SCHOOL THAT PARTICIPATES IN THE PROGRAM SHALL:

7 (1) IMPLEMENT AN IN-CLASSROOM BREAKFAST PROGRAM IN WHICH  
 8 ALL STUDENTS IN THE SCHOOL MAY PARTICIPATE REGARDLESS OF FAMILY INCOME;

9 (2) SERVE A BREAKFAST THAT MEETS THE GUIDELINES OF THE  
 10 DEPARTMENT AND THE NUTRITIONAL STANDARDS OF THE UNITED STATES  
 11 DEPARTMENT OF AGRICULTURE FOR SCHOOLS THAT PARTICIPATE IN THE FEDERAL  
 12 SCHOOL BREAKFAST PROGRAM;

13 (3) SERVE THE BREAKFAST IN THE CLASSROOM AT THE BEGINNING OF  
 14 ~~THE INSTRUCTIONAL DAY~~ UPON THE ARRIVAL OF STUDENTS TO THE SCHOOL;

15 (4) COLLECT THE DATA THAT THE COUNTY BOARD OR THE SPONSORING  
 16 AGENCY AND THE DEPARTMENT REQUIRE FROM PARTICIPANTS IN THE PROGRAM;  
 17 AND

18 (5) SUBMIT AN ANNUAL REPORT TO THE COUNTY BOARD OR THE  
 19 SPONSORING AGENCY.

20 ~~(F)~~ (G) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A BUSINESS  
 21 ENTITY MAY CLAIM A TAX CREDIT APPLICABLE TO THE STATE INCOME TAX OF THE  
 22 ENTITY IN THE AMOUNT DETERMINED UNDER SUBSECTION (G) ~~(H)~~ OF THIS SECTION  
 23 FOR CONTRIBUTIONS MADE BY THE ENTITY TO A SCHOOL FOR THE PROGRAM.

24 ~~(G)~~ (H) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
 25 THE STATE INCOME TAX CREDIT ALLOWED UNDER THIS SECTION SHALL EQUAL 50%  
 26 OF THE AMOUNT OF THE CONTRIBUTIONS THAT:

27 (I) ARE APPROVED BY THE DEPARTMENT UNDER SUBSECTION (H)  
 28 ~~(I)~~ OF THIS SECTION; AND

29 (II) WERE MADE DURING THE TAXABLE YEAR OF THE BUSINESS  
 30 ENTITY.

31 (2) (I) THE STATE INCOME TAX CREDIT ALLOWED TO A BUSINESS  
 32 ENTITY UNDER THIS SECTION MAY NOT EXCEED, FOR ANY TAXABLE YEAR OF THE  
 33 BUSINESS ENTITY, THE LESSER OF:

34 1. \$25,000; OR

35 2. THE TOTAL AMOUNT OF STATE INCOME TAX OTHERWISE  
 36 PAYABLE BY THE BUSINESS ENTITY FOR THE TAXABLE YEAR.

1                   ~~(H) ANY EXCESS CREDIT THAT WOULD BE ALLOWED BUT FOR THE~~  
2 ~~LIMITATIONS UNDER SUBPARAGRAPH (I) (J) OF THIS PARAGRAPH MAY BE CARRIED~~  
3 ~~OVER AND APPLIED AS A STATE INCOME TAX CREDIT FOR SUCCEEDING TAXABLE~~  
4 ~~YEARS UNTIL THE EARLIER OF:~~

5                               1.     ~~THE FULL AMOUNT OF THE EXCESS IS USED; OR~~

6                               2.     ~~THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER~~  
7 ~~THE TAXABLE YEAR IN WHICH THE CONTRIBUTION WAS MADE.~~

8     ~~(H) (I) (1) THE STATE INCOME TAX CREDIT ALLOWED UNDER THIS~~  
9 ~~SECTION MAY NOT BE ALLOWED UNLESS THE BUSINESS ENTITY HAS APPLIED FOR~~  
10 ~~AND RECEIVED APPROVAL UNDER THIS SUBSECTION FROM THE DEPARTMENT FOR~~  
11 ~~EACH CONTRIBUTION TO THE PROGRAM FOR WHICH THE CREDIT IS CLAIMED.~~

12                   (2)     ~~EACH APPLICATION FOR APPROVAL OF A CONTRIBUTION SHALL~~  
13 ~~CONTAIN:~~

14                               (I)     ~~THE NAME OF THE SCHOOL WITH A FREE IN-CLASSROOM~~  
15 ~~BREAKFAST PROGRAM FOR ALL STUDENTS PARTICIPATING IN THE PROGRAM AT~~  
16 ~~WHICH THE CONTRIBUTION IS TO BE MADE;~~

17                               (H)     ~~THE AMOUNT OF THE CONTRIBUTION; AND~~

18                               (HH)    ~~A CERTIFICATION BY A COUNTY BOARD OR THE A SPONSORING~~  
19 ~~AGENCY AND THE DEPARTMENT AS TO THE VALUE OF ANY NONMONETARY~~  
20 ~~CONTRIBUTION INCLUDED.~~

21                   (3)     ~~THE DEPARTMENT MAY NOT APPROVE AN APPLICATION FOR~~  
22 ~~APPROVAL OF A CONTRIBUTION BY A BUSINESS ENTITY IF THE DEPARTMENT~~  
23 ~~DETERMINES THAT:~~

24                               (I)     ~~THE MAXIMUM AMOUNT OF CONTRIBUTIONS MADE BY THE~~  
25 ~~BUSINESS ENTITY THAT ARE ELIGIBLE FOR THE STATE INCOME TAX CREDIT FOR~~  
26 ~~THE FISCAL YEAR WILL BE EXCEEDED BY THE SUM OF:~~

27                               1.     ~~THE AMOUNT OF THE PROPOSED CONTRIBUTION; AND~~

28                               2.     ~~THE TOTAL AMOUNT OF CONTRIBUTIONS TO THE~~  
29 ~~PROGRAM THAT WERE PREVIOUSLY APPROVED FOR THE BUSINESS ENTITY FOR THE~~  
30 ~~FISCAL YEAR; OR~~

31                               (H)     ~~THE BUSINESS ENTITY HAS OVERSTATED THE VALUE OF ANY~~  
32 ~~NONMONETARY CONTRIBUTION INCLUDED.~~

33                   (4)     ~~BY JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO~~  
34 ~~THE COMPTROLLER AND THE MARYLAND INSURANCE ADMINISTRATION THE~~  
35 ~~CONTRIBUTIONS THAT THE DEPARTMENT HAS APPROVED UNDER THIS SECTION IN~~  
36 ~~THE PRECEDING CALENDAR YEAR.~~

1 ~~(F) (J) THE MARYLAND STATE DEPARTMENT OF EDUCATION AND THE~~  
 2 ~~OFFICE OF THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO~~  
 3 ~~IMPLEMENT THE PROVISIONS OF THIS SECTION.~~

4 ~~(J) (K) (G) THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE~~  
 5 ~~REPRESENTATIVE OF THE CERTIFICATED PUBLIC SCHOOL EMPLOYEES OF A~~  
 6 ~~COUNTY BOARD AND THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE~~  
 7 ~~REPRESENTATIVE OF THE NONCERTIFICATED EMPLOYEES OF A COUNTY BOARD~~  
 8 ~~AND THE COUNTY BOARD SHALL NEGOTIATE THE TERMS OF THE PARTICIPATION OF~~  
 9 ~~THE EMPLOYEES IN THE PROGRAM.~~

10 ~~Article – Tax – General~~

11 ~~10-712.~~

12 ~~A BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX~~  
 13 ~~FOR CONTRIBUTIONS MADE BY THE ENTITY TO A SCHOOL FOR THE MARYLAND~~  
 14 ~~MEALS FOR ACHIEVEMENT PILOT IN CLASSROOM BREAKFAST PROGRAM UNDER §~~  
 15 ~~7-104-7-704 OF THE EDUCATION ARTICLE.~~

16 ~~SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the~~  
 17 ~~General Assembly that funding for this Act for the fiscal year beginning July 1, 2000~~  
 18 ~~be provided from revenues generated through the enactment of Section 2 of Chapter~~  
 19 ~~— (H.B. 190) of the Acts of the General Assembly of 1999, including the revenues~~  
 20 ~~attributable to the "floor tax" requirement under Section 5 of that Act.~~

21 ~~SECTION 3. 2. AND BE IT FURTHER ENACTED, That:~~

22 ~~(a) This Act shall be applicable to all taxable years beginning after December~~  
 23 ~~31, 2000 1999 but before January 1, 2004 2003; and~~

24 ~~(b) Any excess credits may be carried forward and, subject to the limitations of~~  
 25 ~~§ 7-704 of the Education Article, may be applied as a credit for taxable years~~  
 26 ~~beginning on or after January 1, 2004 2003.~~

27 ~~SECTION 2. 4. 3. 2. AND BE IT FURTHER ENACTED, That this Act shall take~~  
 28 ~~effect July 1, 1999 2000 1999. It Subject to Section 3-2 of this Act, it shall remain effect~~  
 29 ~~July 1, 1999. It shall remain~~ effective for a period of 3 years and, at the end of June  
 30 30, 2002, with no further action required by the General Assembly, this Act shall be  
 31 abrogated and of no further force and effect.



