

HOUSE BILL 868

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1999 Regular Session
9lr0509
CF 9lr2499

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**

Introduced and read first time: February 12, 1999
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 24, 1999

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 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
12 Department of Education to adopt certain regulations; providing a termination
13 date for this Act; defining certain terms; ~~declaring the intent of the General~~
14 Assembly; providing for the application of this Act; ~~providing for a delayed~~
15 effective date; and generally relating to school breakfast programs in the State.

16 BY repealing and reenacting, without amendments,
17 Article - Education
18 Section 1-101(d) and (f) and 7-701 through 7-703
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 1998 Supplement)

1 BY adding to
2 Article - Education
3 Section 7-704
4 Annotated Code of Maryland
5 (1997 Replacement Volume and 1998 Supplement)

6 BY adding to
7 Article - Tax - General
8 Section 10-712
9 Annotated Code of Maryland
10 (1997 Replacement Volume and 1998 Supplement)

11 Preamble

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

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

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

- 21 1. A 50% decrease in disciplinary incidents;
- 22 2. A 75% decrease in tardiness; and
- 23 3. A 30% decrease in visits to the school nurse; and

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

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

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

Article - Education

1-101.

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

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

7-701.

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

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

7-702.

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

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

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

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

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

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

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

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

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

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

1 7-703.

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

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

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

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

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

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

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

17 7-704.

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
19 INDICATED.

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

22 (3) "PROGRAM" MEANS THE MARYLAND MEALS FOR ACHIEVEMENT
23 PILOT IN-CLASSROOM BREAKFAST PROGRAM.

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

27 (2) THE PROGRAM IS A JOINT EFFORT OF THE DEPARTMENT, THE
28 COUNTY BOARDS OR SPONSORING AGENCIES FOR ELIGIBLE NONPUBLIC SCHOOLS,
29 AND BUSINESS ENTITIES IN THE STATE.

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

33 (2) THE FUNDING IS INTENDED TO COMPLEMENT THE FUNDING
34 RECEIVED BY A SCHOOL FROM THE FEDERAL GOVERNMENT FOR A SCHOOL
35 BREAKFAST PROGRAM.

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

2 (1) DEVELOP AN APPLICATION FORM FOR:

3 (I) A SCHOOL THAT DESIRES TO PARTICIPATE IN THE PROGRAM;
4 AND

5 (II) A BUSINESS ENTITY THAT DESIRES TO RECEIVE A STATE
6 INCOME TAX CREDIT FOR CONTRIBUTIONS TO THE PROGRAM;

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

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

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

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

19 (6) DISBURSE THE PROGRAM FUNDS TO THE COUNTY BOARD OR THE
20 SPONSORING AGENCY.

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

23 (1) APPLY TO THE DEPARTMENT FOR FUNDS FOR SCHOOLS WITHIN THE
24 JURISDICTION OF THE BOARD OR FOR SCHOOLS THAT ARE UNDER THE SPONSORING
25 AGENCY THAT:

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

27 (II) APPLY TO THE BOARD OR TO THE SPONSORING AGENCY TO
28 PARTICIPATE IN THE PROGRAM; AND

29 ~~(2) DISBURSE THE PROGRAM FUNDS TO THE SCHOOLS UNDER THE~~
30 ~~JURISDICTION OF THE BOARD OR THE SCHOOLS THAT ARE UNDER THE SPONSORING~~
31 ~~AGENCY THAT ARE PARTICIPANTS IN THE PROGRAM IN CONJUNCTION WITH~~
32 ~~FEDERAL REIMBURSEMENT FUNDS THROUGH THE FEDERAL SCHOOL BREAKFAST~~
33 ~~PROGRAM; AND~~

34 ~~(3)~~ (2) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT ON THE
35 PROGRAM, INCLUDING THE MANNER IN WHICH THE FUNDS HAVE BEEN EXPENDED.

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

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

3 (2) SERVE A BREAKFAST THAT MEETS THE GUIDELINES OF THE
4 DEPARTMENT AND THE NUTRITIONAL STANDARDS OF THE UNITED STATES
5 DEPARTMENT OF AGRICULTURE FOR SCHOOLS THAT PARTICIPATE IN THE FEDERAL
6 SCHOOL BREAKFAST PROGRAM;

7 (3) SERVE THE BREAKFAST IN THE CLASSROOM AT THE BEGINNING OF
8 THE INSTRUCTIONAL DAY;

9 (4) COLLECT THE DATA THAT THE COUNTY BOARD OR THE SPONSORING
10 AGENCY AND THE DEPARTMENT REQUIRE FROM PARTICIPANTS IN THE PROGRAM;
11 AND

12 (5) SUBMIT AN ANNUAL REPORT TO THE COUNTY BOARD OR THE
13 SPONSORING AGENCY.

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

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

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

23 (II) WERE MADE DURING THE TAXABLE YEAR OF THE BUSINESS
24 ENTITY.

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

28 1. \$25,000; OR

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

31 (II) ANY EXCESS CREDIT THAT WOULD BE ALLOWED BUT FOR THE
32 LIMITATIONS UNDER SUBPARAGRAPH ~~(I)~~ (J) OF THIS PARAGRAPH MAY BE CARRIED
33 OVER AND APPLIED AS A STATE INCOME TAX CREDIT FOR SUCCEEDING TAXABLE
34 YEARS UNTIL THE EARLIER OF:

35 1. THE FULL AMOUNT OF THE EXCESS IS USED; OR

1 2. THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER
2 THE TAXABLE YEAR IN WHICH THE CONTRIBUTION WAS MADE.

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

7 (2) EACH APPLICATION FOR APPROVAL OF A CONTRIBUTION SHALL
8 CONTAIN:

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

12 (II) THE AMOUNT OF THE CONTRIBUTION; AND

13 (III) A CERTIFICATION BY A COUNTY BOARD OR ~~THE~~ A SPONSORING
14 AGENCY AND THE DEPARTMENT AS TO THE VALUE OF ANY NONMONETARY
15 CONTRIBUTION INCLUDED.

16 (3) THE DEPARTMENT MAY NOT APPROVE AN APPLICATION FOR
17 APPROVAL OF A CONTRIBUTION BY A BUSINESS ENTITY IF THE DEPARTMENT
18 DETERMINES THAT:

19 ~~(H)~~ ~~THE MAXIMUM AMOUNT OF CONTRIBUTIONS MADE BY THE~~
20 ~~BUSINESS ENTITY THAT ARE ELIGIBLE FOR THE STATE INCOME TAX CREDIT FOR~~
21 ~~THE FISCAL YEAR WILL BE EXCEEDED BY THE SUM OF:~~

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

23 2. ~~THE TOTAL AMOUNT OF CONTRIBUTIONS TO THE~~
24 ~~PROGRAM THAT WERE PREVIOUSLY APPROVED FOR THE BUSINESS ENTITY FOR THE~~
25 ~~FISCAL YEAR; OR~~

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

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

32 ~~(H)~~ (J) THE ~~MARYLAND STATE DEPARTMENT OF EDUCATION AND THE~~
33 ~~OFFICE OF~~ THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO
34 IMPLEMENT THE PROVISIONS OF THIS SECTION.

35 ~~(H)~~ (K) THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE
36 REPRESENTATIVE OF THE CERTIFICATED PUBLIC SCHOOL EMPLOYEES OF A
37 COUNTY BOARD AND THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE

1 REPRESENTATIVE OF THE NONCERTIFICATED EMPLOYEES OF A COUNTY BOARD
 2 AND THE COUNTY BOARD SHALL NEGOTIATE THE TERMS OF THE PARTICIPATION OF
 3 THE EMPLOYEES IN THE PROGRAM.

4 **Article - Tax - General**

5 10-712.

6 A BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX
 7 FOR CONTRIBUTIONS MADE BY THE ENTITY TO A SCHOOL FOR THE MARYLAND
 8 MEALS FOR ACHIEVEMENT PILOT IN-CLASSROOM BREAKFAST PROGRAM UNDER §
 9 ~~7-104~~ 7-704 OF THE EDUCATION ARTICLE.

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

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

16 (a) This Act shall be applicable to all taxable years beginning after December
 17 31, ~~2000~~ 1999 but before January 1, ~~2004~~ 2003; and

18 (b) Any excess credits may be carried forward and, subject to the limitations of
 19 § 7-704 of the Education Article, may be applied as a credit for taxable years
 20 beginning on or after January 1, ~~2004~~ 2003.

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