

SENATE BILL 744

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1999 Regular Session
(9lr2499)

ENROLLED BILL

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

Introduced by **Senators Conway, McFadden, and Sfikas Blount, Collins,
Dyson, Frosh, Hollinger, Pinsky, and Sfikas**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **Education - Maryland Meals for Achievement Pilot In-Classroom**
3 **~~In-Classroom~~ Breakfast 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~~
12 ~~Department of Education to adopt certain regulations; providing a termination~~
13 date for this Act; defining a certain term; and generally relating to school
14 breakfast programs in the State.

15 BY repealing and reenacting, without amendments,

1 Article - Education
2 Section 1-101(d) and (f) and 7-701 through 7-703
3 Annotated Code of Maryland
4 (1997 Replacement Volume and 1998 Supplement)

5 BY adding to
6 Article - Education
7 Section 7-704
8 Annotated Code of Maryland
9 (1997 Replacement Volume and 1998 Supplement)

10 ~~BY adding to~~
11 ~~Article - Tax - General~~
12 ~~Section 10-712~~
13 ~~Annotated Code of Maryland~~
14 ~~(1997 Replacement Volume and 1998 Supplement)~~

15 Preamble

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

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

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

- 25 1. A 50% decrease in disciplinary incidents;
26 2. A 75% decrease in tardiness; and
27 3. A 30% decrease in visits to the school nurse; and

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

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

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

1 **Article - Education**

2 1-101.

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

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

6 7-701.

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

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

12 7-702.

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

15 (1) (i) The school has made a breakfast program available for at least
16 3 consecutive months; and

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

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

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

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

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

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

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

31 (ii) This exemption shall continue from year to year without the
32 need for reapplication, until there is a 10 percent increase in the number of students
33 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)~~ (A) IN THIS SECTION, "PROGRAM" MEANS THE MARYLAND MEALS FOR
19 ACHIEVEMENT PILOT IN-CLASSROOM BREAKFAST PROGRAM.

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

23 (2) THE PROGRAM IS A JOINT EFFORT OF THE DEPARTMENT, AND THE
24 COUNTY BOARDS OR SPONSORING AGENCIES FOR ELIGIBLE NONPUBLIC SCHOOLS,
25 ~~AND BUSINESS ENTITIES IN THE STATE.~~

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

29 (2) THE FUNDING IS INTENDED TO COMPLEMENT THE FUNDING
30 RECEIVED BY A SCHOOL FROM THE FEDERAL GOVERNMENT FOR A SCHOOL
31 BREAKFAST PROGRAM.

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

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

34 ~~(D)~~ (E) FOR A SCHOOL THAT DESIRES TO PARTICIPATE IN THE
35 PROGRAM; ~~AND~~

1 ~~(H)~~ A BUSINESS ENTITY THAT DESIRES TO RECEIVE A STATE
2 INCOME TAX CREDIT FOR CONTRIBUTIONS TO THE PROGRAM;

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

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

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

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

15 ~~(6)~~ DISBURSE THE PROGRAM FUNDS TO THE COUNTY BOARD OR THE
16 SPONSORING AGENCY.

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

19 (1) APPLY TO THE DEPARTMENT FOR FUNDS FOR SCHOOLS WITHIN THE
20 JURISDICTION OF THE BOARD OR FOR SCHOOLS THAT ARE UNDER THE SPONSORING
21 AGENCY THAT:

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

23 (II) APPLY TO THE BOARD OR TO THE SPONSORING AGENCY TO
24 PARTICIPATE IN THE PROGRAM; AND

25 ~~(2) DISBURSE THE PROGRAM FUNDS TO THE SCHOOLS UNDER THE~~
26 ~~JURISDICTION OF THE BOARD OR THE SCHOOLS THAT ARE UNDER THE SPONSORING~~
27 ~~AGENCY THAT ARE PARTICIPANTS IN THE PROGRAM IN CONJUNCTION WITH~~
28 ~~FEDERAL REIMBURSEMENT FUNDS THROUGH THE FEDERAL SCHOOL BREAKFAST~~
29 ~~PROGRAM; AND~~

30 ~~(3)~~ (2) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT ON THE
31 PROGRAM, INCLUDING THE MANNER IN WHICH THE FUNDS HAVE BEEN EXPENDED.

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

33 (1) IMPLEMENT ~~AN IN-CLASSROOM~~ A AN IN-CLASSROOM BREAKFAST
34 PROGRAM IN WHICH ALL STUDENTS IN THE SCHOOL MAY PARTICIPATE REGARDLESS
35 OF FAMILY INCOME;

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

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

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

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

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

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

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

22 ~~(2) WERE MADE DURING THE TAXABLE YEAR OF THE BUSINESS~~
 23 ~~ENTITY.~~

24 ~~(2) (1) THE STATE INCOME TAX CREDIT ALLOWED TO A BUSINESS~~
 25 ~~ENTITY UNDER THIS SECTION MAY NOT EXCEED, FOR ANY TAXABLE YEAR OF THE~~
 26 ~~BUSINESS ENTITY, THE LESSER OF:~~

27 1. \$25,000; OR

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

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

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

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

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

5 ~~(2) EACH APPLICATION FOR APPROVAL OF A CONTRIBUTION SHALL~~
6 ~~CONTAIN:~~

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

10 ~~(II) THE AMOUNT OF THE CONTRIBUTION; AND~~

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

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

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

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

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

24 ~~(II) THE BUSINESS ENTITY HAS OVERSTATED THE VALUE OF ANY~~
25 ~~NONMONETARY CONTRIBUTION INCLUDED.~~

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

30 ~~(I) THE MARYLAND STATE DEPARTMENT OF EDUCATION AND THE OFFICE OF~~
31 ~~THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO IMPLEMENT THE~~
32 ~~PROVISIONS OF THIS SECTION.~~

33 ~~(I) (E) (G) THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE~~
34 ~~REPRESENTATIVE OF THE CERTIFICATED PUBLIC SCHOOL EMPLOYEES OF A~~
35 ~~COUNTY BOARD AND THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE~~
36 ~~REPRESENTATIVE OF THE NONCERTIFICATED EMPLOYEES OF A COUNTY BOARD~~
37 ~~AND THE COUNTY BOARD SHALL NEGOTIATE THE TERMS OF THE PARTICIPATION OF~~
38 ~~THE EMPLOYEES IN THE PROGRAM.~~

1

~~Article Tax General~~2 ~~10-712.~~

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 July 1, 1999. It shall remain effective for a period of 3 years and, at the end of June
9 30, 2002, with no further action required by the General Assembly, this Act shall be
10 abrogated and of no further force and effect.