

SENATE BILL 744

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1999 Regular Session
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CF HB 868

By: **Senators Conway, McFadden, and Sfikas**
Introduced and read first time: February 26, 1999
Assigned to: Rules

A BILL ENTITLED

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; and generally relating to school breakfast programs in the
14 State.

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

20 BY adding to
21 Article - Education
22 Section 7-704
23 Annotated Code of Maryland
24 (1997 Replacement Volume and 1998 Supplement)

25 BY adding to
26 Article - Tax - General
27 Section 10-712
28 Annotated Code of Maryland
29 (1997 Replacement Volume and 1998 Supplement)

1 Preamble

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

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

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

- 11 1. A 50% decrease in disciplinary incidents;
- 12 2. A 75% decrease in tardiness; and
- 13 3. A 30% decrease in visits to the school nurse; and

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

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

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

23 **Article - Education**

24 1-101.

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

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

28 7-701.

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

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

1 7-702.

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

4 (1) (i) The school has made a breakfast program available for at least
5 3 consecutive months; and

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

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

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

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

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

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

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

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

23 7-703.

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

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

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

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

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

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

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

5 7-704.

6 (A) (1) THERE IS A PILOT SCHOOL BREAKFAST PROGRAM IN THE STATE,
7 KNOWN AS THE MARYLAND MEALS FOR ACHIEVEMENT PILOT IN-CLASSROOM
8 BREAKFAST PROGRAM.

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

12 (B) (1) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FUNDING FOR A
13 SCHOOL THAT MAKES AN IN-CLASSROOM BREAKFAST AVAILABLE TO ALL STUDENTS
14 IN THE SCHOOL.

15 (2) THE FUNDING IS INTENDED TO COMPLEMENT THE FUNDING
16 RECEIVED BY A SCHOOL FROM THE FEDERAL GOVERNMENT FOR A SCHOOL
17 BREAKFAST PROGRAM.

18 (C) THE DEPARTMENT SHALL:

19 (1) DEVELOP AN APPLICATION FORM FOR:

20 (I) A SCHOOL THAT DESIRES TO PARTICIPATE IN THE PROGRAM;
21 AND

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

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

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

29 (4) SELECT SCHOOLS TO PARTICIPATE IN THE PROGRAM, ENSURING
30 THAT AN EVALUATION OF THE PROGRAM IS CONDUCTED BY A PUBLIC INSTITUTION
31 OF HIGHER EDUCATION OR OTHER UNIT OF STATE GOVERNMENT THAT IS
32 INDEPENDENT OF THE DEPARTMENT; AND

33 (5) ANNUALLY REVIEW AND SET THE MEAL REIMBURSEMENT RATE FOR
34 SCHOOLS THAT PARTICIPATE IN THE PROGRAM TO COMPLEMENT THE FEDERAL
35 MEAL REIMBURSEMENT RATE.

1 (D) A COUNTY BOARD OR A SPONSORING AGENCY FOR AN ELIGIBLE
2 NONPUBLIC SCHOOL SHALL:

3 (1) APPLY TO THE DEPARTMENT FOR FUNDS FOR SCHOOLS WITHIN THE
4 JURISDICTION OF THE BOARD OR FOR SCHOOLS THAT ARE UNDER THE SPONSORING
5 AGENCY THAT:

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

7 (II) APPLY TO THE BOARD OR TO THE SPONSORING AGENCY TO
8 PARTICIPATE IN THE PROGRAM;

9 (2) DISBURSE THE PROGRAM FUNDS TO THE SCHOOLS UNDER THE
10 JURISDICTION OF THE BOARD OR THE SCHOOLS THAT ARE UNDER THE SPONSORING
11 AGENCY THAT ARE PARTICIPANTS IN THE PROGRAM IN CONJUNCTION WITH
12 FEDERAL REIMBURSEMENT FUNDS THROUGH THE FEDERAL SCHOOL BREAKFAST
13 PROGRAM; AND

14 (3) SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT ON THE
15 PROGRAM, INCLUDING THE MANNER IN WHICH THE FUNDS HAVE BEEN EXPENDED.

16 (E) A SCHOOL THAT PARTICIPATES IN THE PROGRAM SHALL:

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

19 (2) SERVE A BREAKFAST THAT MEETS THE GUIDELINES OF THE
20 DEPARTMENT AND THE NUTRITIONAL STANDARDS OF THE UNITED STATES
21 DEPARTMENT OF AGRICULTURE FOR SCHOOLS THAT PARTICIPATE IN THE FEDERAL
22 SCHOOL BREAKFAST PROGRAM;

23 (3) SERVE THE BREAKFAST IN THE CLASSROOM AT THE BEGINNING OF
24 THE INSTRUCTIONAL DAY;

25 (4) COLLECT THE DATA THAT THE COUNTY BOARD OR THE SPONSORING
26 AGENCY AND THE DEPARTMENT REQUIRE FROM PARTICIPANTS IN THE PROGRAM;
27 AND

28 (5) SUBMIT AN ANNUAL REPORT TO THE COUNTY BOARD OR THE
29 SPONSORING AGENCY.

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

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

1 (I) ARE APPROVED BY THE DEPARTMENT UNDER SUBSECTION (H)
2 OF THIS SECTION; AND

3 (II) WERE MADE DURING THE TAXABLE YEAR OF THE BUSINESS
4 ENTITY.

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

8 1. \$25,000; OR

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

11 (II) ANY EXCESS CREDIT THAT WOULD BE ALLOWED BUT FOR THE
12 LIMITATIONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY BE CARRIED
13 OVER AND APPLIED AS A STATE INCOME TAX CREDIT FOR SUCCEEDING TAXABLE
14 YEARS UNTIL THE EARLIER OF:

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

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

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

22 (2) EACH APPLICATION FOR APPROVAL OF A CONTRIBUTION SHALL
23 CONTAIN:

24 (I) THE NAME OF THE SCHOOL WITH A FREE IN-CLASSROOM
25 BREAKFAST PROGRAM FOR ALL STUDENTS AT WHICH THE CONTRIBUTION IS TO BE
26 MADE;

27 (II) THE AMOUNT OF THE CONTRIBUTION; AND

28 (III) A CERTIFICATION BY A COUNTY BOARD OR THE SPONSORING
29 AGENCY AND THE DEPARTMENT AS TO THE VALUE OF ANY NONMONETARY
30 CONTRIBUTION INCLUDED.

31 (3) THE DEPARTMENT MAY NOT APPROVE AN APPLICATION FOR
32 APPROVAL OF A CONTRIBUTION BY A BUSINESS ENTITY IF THE DEPARTMENT
33 DETERMINES THAT:

34 (I) THE MAXIMUM AMOUNT OF CONTRIBUTIONS MADE BY THE
35 BUSINESS ENTITY THAT ARE ELIGIBLE FOR THE STATE INCOME TAX CREDIT FOR
36 THE FISCAL YEAR WILL BE EXCEEDED BY THE SUM OF:

1 1. THE AMOUNT OF THE PROPOSED CONTRIBUTION; AND

2 2. THE TOTAL AMOUNT OF CONTRIBUTIONS TO THE
3 PROGRAM THAT WERE PREVIOUSLY APPROVED FOR THE BUSINESS ENTITY FOR THE
4 FISCAL YEAR; OR

5 (II) THE BUSINESS ENTITY HAS OVERSTATED THE VALUE OF ANY
6 NONMONETARY CONTRIBUTION INCLUDED.

7 (4) BY JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO
8 THE COMPTROLLER AND THE MARYLAND INSURANCE ADMINISTRATION THE
9 CONTRIBUTIONS THAT THE DEPARTMENT HAS APPROVED UNDER THIS SECTION IN
10 THE PRECEDING CALENDAR YEAR.

11 (I) THE MARYLAND STATE DEPARTMENT OF EDUCATION AND THE OFFICE OF
12 THE COMPTROLLER JOINTLY SHALL ADOPT REGULATIONS TO IMPLEMENT THE
13 PROVISIONS OF THIS SECTION.

14 (J) THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE
15 REPRESENTATIVE OF THE CERTIFICATED PUBLIC SCHOOL EMPLOYEES OF A
16 COUNTY BOARD AND THE EMPLOYEE ORGANIZATION THAT IS THE EXCLUSIVE
17 REPRESENTATIVE OF THE NONCERTIFICATED EMPLOYEES OF A COUNTY BOARD
18 AND THE COUNTY BOARD SHALL NEGOTIATE THE TERMS OF THE PARTICIPATION OF
19 THE EMPLOYEES IN THE PROGRAM.

20

Article - Tax - General

21 10-712.

22 A BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX
23 FOR CONTRIBUTIONS MADE BY THE ENTITY TO A SCHOOL FOR THE MARYLAND
24 MEALS FOR ACHIEVEMENT PILOT IN-CLASSROOM BREAKFAST PROGRAM UNDER §
25 7-104 OF THE EDUCATION ARTICLE.

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