

# HOUSE BILL 1145

F1, Q4  
HB 964/15 – W&M

0lr3047

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By: **Delegates M. Jackson, B. Barnes, Chang, and Washington**

Introduced and read first time: February 6, 2020

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

### 2 **Maryland Meals for Achievement Fund – Establishment**

3 FOR the purpose of requiring the Comptroller to distribute certain sales and use tax  
4 revenues from snack foods to the Maryland Meals for Achievement Fund;  
5 establishing the Maryland Meals for Achievement Fund as a special, nonlapsing  
6 fund; specifying the purpose of the Fund; requiring the Department of Education to  
7 administer the Fund; requiring the State Treasurer to hold the Fund and the  
8 Comptroller to account for the Fund; specifying the contents of the Fund; specifying  
9 the purpose for which the Fund may be used; providing for the investment of money  
10 in and expenditures from the Fund; specifying that a certain exemption from the  
11 sales and use tax does not apply to certain snack food; repealing a certain exemption  
12 from the sales and use tax for certain snack food; providing that the sales and use  
13 tax does not apply to the sale of a certain product through vending machines;  
14 requiring the Comptroller to distribute certain sales and use tax revenues from  
15 snack foods to the Fund; defining certain terms; and generally relating to the  
16 establishment, use of, and funding for the Maryland Meals for Achievement Fund.

17 BY repealing and reenacting, with amendments,  
18 Article – Education  
19 Section 7–602  
20 Annotated Code of Maryland  
21 (2018 Replacement Volume and 2019 Supplement)

22 BY adding to  
23 Article – Education  
24 Section 7–606  
25 Annotated Code of Maryland  
26 (2018 Replacement Volume and 2019 Supplement)

27 BY repealing and reenacting, without amendments,  
28 Article – Education

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 7–704(b), (c), and (j)  
Annotated Code of Maryland  
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,  
Article – State Finance and Procurement  
Section 6–226(a)(2)(i)  
Annotated Code of Maryland  
(2015 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 6–226(a)(2)(ii)121. and 122.  
Annotated Code of Maryland  
(2015 Replacement Volume and 2019 Supplement)

BY adding to  
Article – State Finance and Procurement  
Section 6–226(a)(2)(ii)123.  
Annotated Code of Maryland  
(2015 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 2–1303 and 11–206  
Annotated Code of Maryland  
(2016 Replacement Volume and 2019 Supplement)

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

### Article – Education

7–602.

(a) There is a State Free Feeding Program.

(b) (1) Each year the State Superintendent shall determine the amount of  
State money required to provide the Program in accordance with the standards adopted by  
the State Board under this subtitle.

(2) The amount included for this Program in the annual State budget,  
including any federal funds **AND FUNDS FROM THE MARYLAND MEALS FOR  
ACHIEVEMENT FUND UNDER § 7–606 OF THIS SUBTITLE**, and as submitted to and  
appropriated by the General Assembly, shall be distributed to the county boards and  
participating nonpublic schools in the same manner as the process established under §  
5–212 of this article.

(c) (1) A nonpublic school in the State that participates in the federal School Breakfast Program or the National School Lunch Program may participate in the State free feeding program.

(2) If a nonpublic school participates in the State free feeding program, the State shall be responsible for reimbursing the participating nonpublic school under subsection (d) of this section.

(d) The State shall be responsible for reimbursing a county board or a participating nonpublic school for the student share of the costs of:

(1) Breakfasts provided to all students eligible for a reduced price breakfast under the federal School Breakfast Program according to the following schedule:

(i) For fiscal year 2020, 10 cents per student;

(ii) For fiscal year 2021, 20 cents per student; and

(iii) For fiscal year 2022 and each fiscal year thereafter, the greater of 30 cents per student or the required federal per meal charge to students; and

(2) Lunches provided to all students eligible for a reduced price lunch under the National School Lunch Program according to the following schedule:

(i) For fiscal year 2020, 10 cents per student;

(ii) For fiscal year 2021, 20 cents per student;

(iii) For fiscal year 2022, 30 cents per student; and

(iv) For fiscal year 2023 and each fiscal year thereafter, the greater of 40 cents per student or the required federal per meal charge to students.

(e) (1) Beginning in fiscal year 2022, a county board or participating nonpublic school may not charge a student who is eligible for a reduced price breakfast for any portion of the cost of the meal.

(2) Beginning in fiscal year 2023, a county board or participating nonpublic school may not charge a student who is eligible for a reduced price lunch for any portion of the cost of the meal.

**7-606.**

**(A) IN THIS SECTION, “FUND” MEANS THE MARYLAND MEALS FOR ACHIEVEMENT FUND.**

**(B) THERE IS A MARYLAND MEALS FOR ACHIEVEMENT FUND.**

**(C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING FOR:**

**(1) THE STATE FREE FEEDING PROGRAM; AND**

**(2) THE MARYLAND MEALS FOR ACHIEVEMENT IN-CLASSROOM  
BREAKFAST PROGRAM UNDER § 7-704 OF THIS TITLE.**

**(D) THE DEPARTMENT SHALL ADMINISTER THE FUND.**

**(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

**(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,  
AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

**(F) THE FUND CONSISTS OF:**

**(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1303 OF THE  
TAX – GENERAL ARTICLE;**

**(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

**(3) INTEREST EARNINGS; AND**

**(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR  
THE BENEFIT OF THE FUND.**

**(G) THE FUND MAY BE USED ONLY TO INCREASE THE NUMBER OF STUDENTS  
WHO RECEIVE HEALTHY MEALS UNDER THE STATE FREE FEEDING PROGRAM AND  
THE MARYLAND MEALS FOR ACHIEVEMENT IN-CLASSROOM BREAKFAST  
PROGRAM.**

**(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND  
IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

**(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO  
THE SPECIAL FUND.**

**(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE  
WITH THE STATE BUDGET.**

**(J) MONEY EXPENDED FROM THE FUND FOR THE STATE FREE FEEDING PROGRAM AND THE MARYLAND MEALS FOR ACHIEVEMENT IN-CLASSROOM BREAKFAST PROGRAM IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE PROGRAMS.**

7-704.

(b) (1) There is a school breakfast program in the State, known as the Maryland Meals for Achievement In-Classroom Breakfast Program.

(2) The Program is a joint effort of the Department and the county boards or sponsoring agencies for eligible nonpublic schools.

(c) (1) The purpose of the Program is to provide funding for a school that makes an in-classroom breakfast available to all students in the school.

(2) The funding is intended to complement the funding received by a school from the federal government for a school breakfast program.

(j) The Governor shall include in the annual budget bill an appropriation of \$7,550,000 to the Program.

#### **Article – State Finance and Procurement**

6-226.

(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.

(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:

121. the Markell Hendricks Youth Crime Prevention and Diversion Parole Fund; [and]

122. the Federal Government Shutdown Employee Assistance Loan Fund; AND

**123. THE MARYLAND MEALS FOR ACHIEVEMENT FUND.**

#### **Article – Tax – General**

2–1303.

(a) After making the distributions required under §§ 2–1301 through 2–1302.1 of this subtitle, the Comptroller shall pay:

(1) revenues from the hotel surcharge into the Dorchester County Economic Development Fund established under § 10–130 of the Economic Development Article;

(2) subject to subsection (b) of this section, to The Blueprint for Maryland’s Future Fund established under § 5–219 of the Education Article, revenues collected and remitted by:

(i) a marketplace facilitator; or

(ii) a person that engages in the business of an out-of-state vendor and that is required to collect and remit sales and use tax as specified in COMAR 03.06.01.33B(5); [and]

**(3) REVENUES FROM SALES AND USE TAXES COLLECTED ON SNACK FOOD, AS DEFINED IN § 11–206 OF THIS ARTICLE, TO THE MARYLAND MEALS FOR ACHIEVEMENT FUND ESTABLISHED UNDER § 7–606 OF THE EDUCATION ARTICLE; AND**

**(4)** the remaining sales and use tax revenue into the General Fund of the State.

(b) For each fiscal year, the Comptroller shall pay into the General Fund of the State the first \$100,000,000 of revenues collected and remitted by:

(1) a marketplace facilitator; or

(2) a person that engages in the business of an out-of-state vendor and that is required to collect and remit sales and use tax as specified in COMAR 03.06.01.33B(5).

11–206.

(a) (1) In this section the following words have the meanings indicated.

(2) “Facility for food consumption” does not include parking spaces for vehicles as the sole accommodation.

(3) (i) “Food” means food for human consumption.

(ii) “Food” includes the following foods and their products:

1. beverages, including coffee, coffee substitutes, cocoa, fruit juices, and tea;
2. condiments;
3. eggs;
4. fish, meat, and poultry;
5. fruit, grain, and vegetables;
6. milk, including ice cream; and
7. sugar.

(iii) “Food” does not include:

1. an alcoholic beverage as defined in § 5–101 of this article;
2. a soft drink or carbonated beverage; or
3. candy or confectionery.

(4) “Food for immediate consumption” means:

- (i) food obtained from a salad, soup, or dessert bar;
- (ii) party platters;
- (iii) heated food;
- (iv) sandwiches suitable for immediate consumption; or
- (v) ice cream, frozen yogurt, and other frozen desserts, sold in containers of less than 1 pint.

(5) “Premises” includes any building, grounds, parking lot, or other area that:

- (i) a food vendor owns or controls; or
- (ii) another person makes available primarily for the use of the patrons of 1 or more food vendors.

(6) “SNACK FOOD” MEANS:

(I) POTATO CHIPS AND STICKS;

(II) CORN CHIPS;

(III) PRETZELS;

(IV) CHEESE PUFFS AND CURLS;

(V) PORK RINDS;

(VI) EXTRUDED PRETZELS AND CHIPS;

(VII) POPPED POPCORN; OR

(VIII) SNACK MIXTURES THAT CONTAIN ANY ONE OR MORE OF THE  
FOODS LISTED IN ITEMS (I) THROUGH (VII) OF THIS PARAGRAPH.

~~[(6)]~~ (7) “Substantial grocery or market business” means a business at which at least 10% of all sales of food are sales of grocery or market food items, not including food normally consumed on the premises even though it is packaged to carry out.

(b) The sales and use tax does not apply to a sale of food stamp eligible food, as defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7 U.S.C. § 2016.

(c) (1) Except as provided in paragraph (2) of this subsection, the sales and use tax does not apply to a sale of food for consumption off the premises by a food vendor who operates a substantial grocery or market business at the same location where the food is sold.

(2) The exemption under paragraph (1) of this subsection does not apply to:

(i) food that the vendor serves for consumption on the premises of the buyer or of a third party; [or]

(ii) food for immediate consumption; OR

(III) SNACK FOOD.

(d) The sales and use tax does not apply to:

(1) a sale of food:

(i) to patients in a hospital when the food charge is included in the



1 regular room rate;

2 (ii) by a church or religious organization;

3 (iii) by a school other than an institution of postsecondary education,  
4 including sales at a school by a food concessionaire that is under contract with the school  
5 or with its designated contract agent, but not including sales at events that are not  
6 sponsored by the school or are not educationally related;

7 (iv) to students at an institution of postsecondary education if the  
8 food charge is for a meal plan or is included in the regular charge for room and board; or

9 (v) by a nonprofit food vendor if there are no facilities for food  
10 consumption on the premises, unless the food is sold within an enclosure for which a charge  
11 is made for admission;

12 (2) if the proceeds of the sale are used to support a bona fide nationally  
13 organized and recognized organization of veterans of the armed forces of the United States  
14 or auxiliary of the organization or 1 of its units, a sale of food or meals for consumption only  
15 on the premises, served by the organization or auxiliary;

16 (3) if the proceeds of the sale are used to support a volunteer fire company  
17 or department or its auxiliary or a volunteer ambulance company or rescue squad or its  
18 auxiliary, a sale of food served by the company, department, squad, or auxiliary; or

19 (4) a sale of food, bottled water, soft drink or carbonated beverage, or candy  
20 or confectionery by a nonprofit food vendor at a youth sporting event or 4-H youth event  
21 for individuals under the age of 18 years if there are no facilities for food consumption on  
22 the premises, unless the sale is within an enclosure for which a charge is made for  
23 admission.

24 (e) The sales and use tax does not apply to a sale of food or any beverage in a  
25 vehicle that is being operated in the State while in the course of interstate commerce.

26 (f) The sales and use tax does not apply to a sale for consumption off the premises  
27 of:

28 (1) crabs; or

29 (2) seafood that is not prepared for immediate consumption.

30 [(g) (1) In this subsection, “snack food” means:

31 (i) potato chips and sticks;

32 (ii) corn chips;

- 1 (iii) pretzels;
- 2 (iv) cheese puffs and curls;
- 3 (v) pork rinds;
- 4 (vi) extruded pretzels and chips;
- 5 (vii) popped popcorn;
- 6 (viii) nuts and edible seeds; or
- 7 (ix) snack mixtures that contain any one or more of the foods listed
- 8 in items (i) through (viii) of this paragraph.

9 (2) The sales and use tax does not apply to the sale of snack food through  
10 a vending machine.]

11 [(h)] (G) The sales and use tax does not apply to the sale through a vending  
12 machine of milk, fresh fruit, fresh vegetables, **NUTS AND EDIBLE SEEDS**, or yogurt.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
14 1, 2020.