

Regular Session, 2009

HOUSE BILL NO. 193

BY REPRESENTATIVE CHANEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS/FOOD PROGRAMS: Provides relative to school nutrition programs

1 AN ACT

2 To amend and reenact 17:191 through 197, 198, and 199, relative to school nutrition  
3 programs; to provide for rules and regulations relative to such programs; and to  
4 provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. 17:191 through 197, 198, and 199 are hereby amended and reenacted to  
7 read as follows:

8 SUBPART B. ~~FREE LUNCHES FOR SCHOOL CHILDREN~~ NUTRITION  
9 PROGRAMS

10 §191. Terms defined

11 As used in this Subpart:

12 (1) ~~"School board" means any parish or city school board.~~ "Governing  
13 authority of a nutrition program provider" means any authority which has executed  
14 an agreement or contract with the state Department of Education to participate in a  
15 nutrition program authorized by this Subpart.

16 (2) ~~"School lunch~~ "Nutrition program" means a program under which  
17 lunches meals or snacks are served by any school governing authority of a nutrition  
18 program provider in this state on a non-profit nonprofit basis to children individuals  
19 in attendance, including any such program under which a school nutrition program

1 provider receives assistance out of the funds appropriated by the Congress of the  
2 United States.

3 ~~(3) "School" means any school wherein children between the ages of 5 and~~  
4 ~~17, both inclusive, are in attendance.~~

5 §192. Lunches and breakfasts, duty to furnish

6 A. Lunches shall be furnished to the school children of the state under the  
7 supervision and regulation of the State Board of Elementary and Secondary  
8 Education, taking into consideration the nutritional needs of the children, the  
9 distance traveled from home to school, and ~~the attendance of the several schools.~~  
10 student enrollment.

11 B.(1) ~~A city or parish school board~~ The governing authority of each public  
12 elementary and secondary school shall participate in the national school breakfast  
13 program provided by the Child Nutrition Act of 1966, Section 4 (42 U.S.C. Section  
14 1773), by furnishing free or reduced-price breakfasts in accordance with such  
15 program to all eligible students in the schools under its jurisdiction if at least twenty-  
16 five percent of the students enrolled in one or more of the schools ~~in the school~~  
17 ~~system~~ under its jurisdiction are eligible for such program. The governing authority  
18 of each public elementary and secondary school board shall prescribe a method for  
19 determining the percent of students in each school under its jurisdiction eligible for  
20 the program for each school year and shall report the results of such determination  
21 to the state superintendent of education on an annual basis by no later than the  
22 beginning of each school year.

23 (2) In any school eligible to participate in the program provided in Paragraph  
24 (1) of this Subsection, if at least fifty percent of the eligible students refuse to  
25 participate in such program during any year as demonstrated by sufficient proof to  
26 the state Department of Education, the State Board of Elementary and Secondary  
27 Education may grant a waiver from the requirements of this Subsection to such  
28 school.



1 other entity for profit, regardless of any authority in federal or state law for  
 2 contracting with such a private supplier or provider of ~~school lunch~~ nutrition  
 3 programs, except in the Child and Adult Care Food Program, as provided in  
 4 regulations issued by the State Board of Elementary and Secondary Education.

5 C. The ~~State Board~~ state Department of Education may give technical advice  
 6 and assistance to any ~~school board~~ governing authority of a nutrition program  
 7 provider in connection with the establishment and operation of any ~~school lunch~~  
 8 nutrition program and may assist in training personnel engaged in the operation of  
 9 such program. The ~~State Board~~ state Department of Education and any ~~school board~~  
 10 governing authority of a nutrition program provider may accept any gift for use in  
 11 connection with any ~~school lunch~~ nutrition program.

12 §195. Operation of ~~lunch~~ nutrition program; general powers of ~~school boards;~~  
 13 governing authorities of nutrition program providers; forbidden acts;  
 14 penalties

15 A. The ~~school boards;~~ governing authority of each nutrition program  
 16 provider, in order to provide for the operation of ~~school lunch~~ nutrition programs in  
 17 schools and other programs under ~~their~~ its jurisdiction, may enter into contracts with  
 18 respect to food, services, supplies, equipment, and facilities for the operation of such  
 19 programs and may use therefor funds disbursed to ~~them~~ such governing authority  
 20 under the provisions of this ~~Sub-part~~ Subpart any federal funds, commodities, gifts,  
 21 and any other funds that may be received for ~~school lunches under this program.~~  
 22 nutrition programs. Each ~~parish school board and the principal of each school shall~~  
 23 ~~post in a prominent place the cost of the lunches and all persons partaking of such~~  
 24 ~~lunches who are able to pay for the same shall pay directly to the sponsor the cost~~  
 25 ~~thus posted. No student shall be requested to pay more than the actual cost of the~~  
 26 ~~lunch, less the amount of reimbursement paid to the sponsor from state and federal~~  
 27 ~~funds. No discrimination against any child~~ individual shall be made by the ~~sponsor~~  
 28 nutrition program provider because of his inability to pay, nor shall the ~~sponsor~~  
 29 nutrition program provider publish or permit to be published the names of any

1 ~~children individual~~ unable to pay for the ~~lunch~~ food. Whoever publishes or permits  
 2 the publication of the name of any ~~child individual~~ unable to pay for such ~~lunch food~~  
 3 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more  
 4 than one hundred dollars, or imprisoned for not more than ninety days or both.

5 B. State funds reimbursed to school boards governing authorities of nutrition  
 6 program providers shall be used for the purchase of food ~~only~~. ~~Provided, only,~~  
 7 provided that any surplus of funds, after the payment for food purchased, may be  
 8 used for preparation or serving the ~~school lunches~~ food. ~~School boards~~ The  
 9 governing authority of each nutrition program provider shall be required to purchase  
 10 food wholesale at the lowest prices quoted for good quality products or at prices no  
 11 greater than the wholesale rate for the same item.

12 §196. Rules and regulations; ~~board state Department of education's~~ Education's duty  
 13 to prescribe

14 A. The state board of education State Board of Elementary and Secondary  
 15 Education shall prescribe regulations for the keeping of accounts and records and the  
 16 making of reports by or under the supervision of ~~school boards~~ the governing  
 17 authority of each nutrition program provider. These accounts and records shall at all  
 18 times be available for inspection and audit by authorized officials and shall be  
 19 preserved for a period of time, not in excess of five years, as the ~~state board of~~  
 20 ~~education~~ State Board of Elementary and Secondary Education may prescribe. The  
 21 state ~~board~~ Department of ~~education~~ Education shall conduct or cause to be  
 22 conducted any audits, inspections, and administrative reviews of accounts, records,  
 23 and operations with respect to ~~school lunch~~ nutrition programs that may be necessary  
 24 to determine whether its agreements with ~~school boards~~ such governing authorities  
 25 and regulations made pursuant to this ~~Sub-part~~ Subpart are effectively administered.

26 B. The United States Department of Agriculture food programs administered  
 27 by the state Department of Education pursuant to rules and regulations promulgated  
 28 by the State Board of Elementary and Secondary Education are nutrition cost  
 29 reimbursement programs only.

1 §197. Studies regarding improvement and expansion of ~~lunch~~ nutrition program;  
2 ~~board state Department of education's~~ Education's duty to conduct

3 A. To the extent that funds are available for that purpose and in cooperation  
4 with other appropriate agencies and organizations, the state ~~board~~ Department of  
5 ~~education~~ Education may conduct studies regarding methods of improving and  
6 expanding ~~school lunch~~ nutrition programs and promoting nutritional education in  
7 the schools.

8 B. ~~It~~ The state Department of Education may also conduct appraisals of the  
9 nutritive benefits of ~~school lunch~~ nutrition programs, and report its findings and  
10 recommendations from time to time to the ~~Governor.~~ governor.

11 \* \* \*

12 §198. Additional funds

13 A. Should ~~parish school boards~~ the governing authority of any nutrition  
14 program provider in operating the program find that ~~they are~~ it is unable to operate  
15 satisfactorily on the rate of reimbursement according to this appropriation, then it  
16 becomes the responsibility of ~~the parish school board~~ such governing authority to  
17 secure the additional funds needed.

18 B. The state ~~board~~ Department of ~~education~~ Education is authorized to  
19 withdraw all amounts appropriated for the use and benefit of the ~~lunches~~ nutrition  
20 programs for school children from the state treasury in accordance with existing law  
21 and for expenditure for the purposes stated in this ~~Sub-part.~~ Subpart.

22 §199. Retention of reimbursement funds by ~~local school boards, etc.~~ governing  
23 authorities of nutrition program providers

24 A. Any state funds received by any ~~local school board~~ governing authority  
25 of a nutrition program provider or other agency or person for the operation of a  
26 ~~school lunch~~ nutrition program pursuant to the provisions of this ~~Sub-part~~ Subpart  
27 shall constitute reimbursement to the ~~school board,~~ governing authority, agency or  
28 person receiving such funds for expenditures made or obligations incurred prior to  
29 the receipt of such state funds. State funds shall be deemed to have been expended

1 by the state ~~department~~ Department of ~~education~~ Education at the time of  
 2 disbursement by said ~~board~~ governing authority to the ~~sponsor~~ nutrition program  
 3 provider of the ~~school-lunch~~ nutrition program and shall be deemed to be  
 4 encumbered by the state ~~board~~ Department of ~~education~~ Education as of the date  
 5 upon which the report of meals served during any reporting period fixed by the ~~board~~  
 6 governing authority is received by the state ~~department~~ Department of ~~education~~:  
 7 Education.

8 B. Should any state funds be received by the operator of a ~~school-lunch~~  
 9 nutrition program after the close of the school year or the termination of the ~~school~~  
 10 ~~lunch~~ nutrition program for the school year, or should any funds previously received  
 11 as reimbursement funds remain in the hands of any ~~local-school board~~ governing  
 12 authority of a nutrition program provider or other agency or person charged with  
 13 responsibility for the operation of a ~~school-lunch~~ nutrition program at the close of  
 14 any fiscal year, such funds shall remain the property of the ~~local-school board~~, such  
 15 governing authority, agency agency, or person, and no portion thereof which may  
 16 remain unexpended or unencumbered at the close of any fiscal year shall revert to  
 17 the state, its general fund or to the state ~~board~~ Department of ~~education~~: Education.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Chaney

HB No. 193

**Abstract:** Provides relative to rules and regulations for school nutrition programs.

Present law provides for school meal programs for students. Proposed law adds that BESE shall promulgate rules and regulations to implement U.S. Dept. of Agriculture (USDA) nutrition programs and that the state Dept. of Education (DOE) shall implement the programs pursuant to such rules and regulations.

Present law provides that no state funds shall be disbursed for school lunch programs used by any private person or entity for profit, regardless of any authority in federal or state law for contracting with such a private entity. Proposed law excepts the Child and Adult Care Food Program as provided in BESE regulations.

Present law defines "school" as "any school wherein children between the ages of five and 17, both inclusive, are in attendance". Proposed law deletes present law.

Present law requires each parish school board and school principal to post in a prominent place the cost of lunches. Further requires all persons partaking of such lunches who are able to pay for the same to pay directly to the sponsor such posted cost. Provides that no student shall be requested to pay more than the actual cost of the lunch, less the amount of reimbursement paid to the sponsor from state and federal funds. Proposed law deletes present law.

Proposed law adds that USDA food programs administered by the state DOE are nutrition cost reimbursement programs and provides for several changes to terms or phrases when appropriate, including the following:

- (1) Replaces "school lunch program" with "nutrition program" and refers to "meals or snacks", "food", or "nutrition" rather than "lunch(es)".
- (2) Refers to a "governing authority of a public elementary and secondary school" or "governing authority of a nutrition program provider" instead of "school board".
- (3) Updates obsolete language by changing "state board of education" to BESE or the state DOE.
- (4) Refers to "individual(s)" instead of "child(ren)".
- (5) Refers to a "nutrition program provider" instead of a "sponsor".

(Amends R.S. 17:191-197, 198, and 199)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Deletes present law definition of "school" as "any school wherein children between the ages of five and 17, both inclusive, are in attendance".
2. Deletes the following present law provisions:
  - (a) The requirement that each parish school board and school principal post in a prominent place the cost of lunches.
  - (b) The requirement that all persons partaking of such lunches who are able to pay for the same pay directly to the sponsor such posted cost.
  - (c) The provision that no students shall be requested to pay more than the actual cost of the lunch, less the amount of reimbursement paid to the sponsor from state and federal funds.
3. Deletes proposed law provision that the state, the state DOE, and BESE would not be held liable for any health and safety issues, personal injury, or injury to property resulting from the operation of nutrition cost reimbursement programs.
4. Makes technical changes.