

1 SENATE BILL 144

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Gay G. Kernan

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8 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

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10 AN ACT

11 RELATING TO PUBLIC SCHOOLS; RENAMING THE "BREAKFAST AFTER THE  
12 BELL PROGRAM"; ALLOWING SCHOOLS THE OPTION OF PROVIDING  
13 BREAKFAST BEFORE OR AFTER THE BEGINNING OF THE INSTRUCTIONAL  
14 DAY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 22-13-13.2 NMSA 1978 (being Laws 2011,  
18 Chapter 35, Section 5, as amended) is amended to read:

19 "22-13-13.2. BREAKFAST PROGRAM REQUIRED--WAIVER--  
20 DISTRIBUTION OF FUNDS.--

21 A. School districts and charter schools shall  
22 establish a "school breakfast [~~after the bell~~] program" to  
23 provide free breakfast, before or after the instructional day  
24 has begun, to all students attending a public school in which  
25 eighty-five percent or more of the enrolled students were

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1 eligible for free or reduced-price lunch under the National  
2 School Lunch Act during the prior school year.

3 B. A school district or charter school that  
4 includes a public school in which fewer than eighty-five  
5 percent of the enrolled students were eligible for free or  
6 reduced-price lunch during the prior school year under the  
7 National School Lunch Act may establish a school breakfast  
8 [~~after the bell~~] program to provide free breakfast, before or  
9 after the instructional day has begun, to all students  
10 attending that public school; provided that the program  
11 complies with all applicable department rules relating to the  
12 school breakfast [~~after the bell~~] program authorized by this  
13 section.

14 C. The school district or charter school may apply  
15 to the department for a waiver of the school breakfast [~~after~~  
16 ~~the bell~~] program required under the provisions of Subsection A  
17 of this section if the school district or charter school can  
18 demonstrate that providing the program will result in undue  
19 financial hardship for the school district or charter school.

20 D. The department shall award funding to each  
21 school district or charter school that establishes a school  
22 breakfast [~~after the bell~~] program under the provisions of this  
23 section for providing free breakfast to students on a per-meal  
24 basis at the federal maximum rate of reimbursement as set forth  
25 annually by the federal secretary of agriculture for

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1 educational grants awarded under the authority of the federal  
2 secretary of agriculture. School districts and charter schools  
3 do not need to demonstrate their expenses to receive funding  
4 pursuant to this section.

5 E. Disbursements for the school breakfast [~~after~~  
6 ~~the bell~~] program shall be paid in sequential order, until the  
7 state school breakfast [~~after the bell~~] program funds are  
8 exhausted. School districts and charter schools whose public  
9 schools have the highest percentage of enrolled students  
10 eligible for free or reduced-price lunch under the National  
11 School Lunch Act shall be paid first. School districts and  
12 charter schools whose public schools have the lowest percentage  
13 of enrolled students eligible for free or reduced-price lunch  
14 under the National School Lunch Act shall be paid last.

15 F. By June 15 of each year, each school district  
16 and charter school seeking state school breakfast [~~after the~~  
17 ~~bell~~] program funds shall submit to the department the  
18 following information:

19 (1) the number of breakfasts served at no  
20 charge by each of its public schools during the previous school  
21 year; and

22 (2) the federal reimbursement rate for each  
23 breakfast served.

24 G. When calculating the amount of school breakfast  
25 [~~after the bell~~] program funding that is due a public school,

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1 the department shall assume that student participation will  
2 remain at the same level as the previous year. If a school  
3 district or charter school has not previously received state  
4 school breakfast [~~after the bell~~] program funding, the  
5 department shall assume that ninety percent of the student  
6 population of an eligible public school will participate in the  
7 school breakfast [~~after the bell~~] program and shall fund the  
8 public school's program accordingly.

9 H. By August 1 of each year, the department shall  
10 inform eligible school districts and charter schools of the  
11 amount of school breakfast [~~after the bell~~] program funding  
12 they will receive during the upcoming school year.

13 I. The department shall promulgate rules necessary  
14 for implementation of this section, including:

15 (1) standards for school breakfast [~~after the~~  
16 ~~bell~~] programs that meet federal school breakfast program  
17 standards;

18 (2) procedures for waiver requests and the  
19 award of waivers as provided for in Subsection C of this  
20 section, including what constitutes financial hardship; and

21 (3) procedures for funding school districts  
22 and charter schools.

23 J. The provisions of this section apply to the  
24 [~~2014-2015~~] 2016-2017 and succeeding school years; provided,  
25 however, that the school breakfast [~~after the bell~~] program

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1 for middle and high school students shall begin the first  
2 school year after the legislature provides funding for that  
3 portion of the program."

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