

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 144

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

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO
CLARIFY PROVISIONS OF THE BREAKFAST AFTER THE BELL PROGRAM.

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

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

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

A. School districts and charter schools shall
establish a "breakfast after the bell program" to provide free
breakfast, after the instructional day has begun, to all
students attending a public school in which eighty-five percent
or more of the enrolled students were eligible for free or
reduced-price lunch under the National School Lunch Act during
the prior school year.

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

11 C. Nothing in this section shall be interpreted to
12 prohibit a school that establishes a breakfast after the bell
13 program under the provisions of Subsection A or B of this
14 section from beginning breakfast service before the start of
15 the instructional day; provided that the school also serves
16 breakfast after the beginning of the instructional day in the
17 location of its choice, including the cafeteria or classroom,
18 or by providing a hand-carried breakfast.

19 [~~G.~~] D. The school district or charter school may
20 apply to the department for a waiver of the breakfast after the
21 bell program required under the provisions of Subsection A of
22 this section if the school district or charter school can
23 demonstrate that providing the program will result in undue
24 financial hardship for the school district or charter school.

25 [~~D.~~] E. The department shall award funding to each

1 school district or charter school that establishes a breakfast
2 after the bell program under the provisions of this section for
3 providing free breakfast to students on a per-meal basis at the
4 federal maximum rate of reimbursement as set forth annually by
5 the federal secretary of agriculture for educational grants
6 awarded under the authority of the secretary. School districts
7 and charter schools do not need to demonstrate their expenses
8 to receive funding pursuant to this section.

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

19 ~~[F.]~~ G. By June 15 of each year, each school
20 district and charter school seeking state breakfast after the
21 bell funds shall submit to the department the following
22 information:

23 (1) the number of breakfasts served at no
24 charge by each of its public schools during the previous school
25 year; and

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

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

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

16 [~~I.~~] J. The department shall promulgate rules
17 necessary for implementation of this section, including:

18 (1) standards for breakfast after the bell
19 programs that meet federal school breakfast program standards;

20 (2) procedures for waiver requests and the
21 award of waivers as provided for in Subsection [~~G.~~] D. of this
22 section, including what constitutes financial hardship; and

23 (3) procedures for funding school districts
24 and charter schools.

25 [~~J.~~] K. The provisions of this section apply to

1 the 2014-2015 and succeeding school years; provided, however,
2 that the breakfast after the bell program for middle and high
3 school students shall begin the first school year after the
4 legislature provides funding for that portion of the program."

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