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SENATE BILL 4

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Michael Padilla and Leo Jaramillo

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE HEALTHY UNIVERSAL SCHOOL MEALS ACT; ENSURING FREE, HEALTHY SCHOOL MEALS FOR ALL STUDENTS; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Healthy Universal School Meals Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Healthy Universal School Meals Act:

A. "community eligibility provision" means the federal provision created pursuant to Subparagraph (F) of Paragraph (1) of Subsection (a) of 42 U.S.C. Section 1759a that allows school districts to choose to receive federal special assistance payments for school meals in exchange for providing free school meals to all students enrolled in all or selected

1 schools of the school district;

2 B. "department" means the public education
3 department;

4 C. "direct certification" means the process by
5 which eligible children are certified for free meals without
6 the need for a household application based on household
7 participation in one or more means-tested federal assistance
8 programs;

9 D. "eligible meals" means meals served to full-
10 price, paid students that qualify for reimbursement under the
11 national school lunch program and school breakfast program;

12 E. "federal free meal reimbursement" means the free
13 meal reimbursement paid by the United States department of
14 agriculture under 42 U.S.C. 1759a for meals that qualify for
15 reimbursement pursuant to the national school lunch program and
16 school breakfast program;

17 F. "federal paid meal reimbursement rate" means the
18 paid reimbursement rate as set annually by the United States
19 department of agriculture under 42 U.S.C. 1759a for meals that
20 qualify for reimbursement under the national school lunch
21 program and school breakfast program;

22 G. "identified student percentage" means the
23 percentage of a school food authority's student enrollment that
24 are certified as eligible for free meals based on a
25 documentation of benefit of receipt or categorical eligibility

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1 as described in 7 C.F.R. Section 245.6;

2 H. "meal application" means an application for free
3 or reduced-price meals pursuant to the national school lunch
4 program and school breakfast program;

5 I. "paid meal rate" means the paid student rate
6 reported by the department to the United States department of
7 agriculture based on the average paid meal rate charged by
8 school food authorities in the prior school year;

9 J. "participating school food authority" means a
10 school food authority that chooses to participate in the New
11 Mexico grown grant program;

12 K. "program" means the healthy universal school
13 meals program created pursuant to the Healthy Universal School
14 Meals Act;

15 L. "school food authority" means school districts,
16 charter schools, the United States department of the interior's
17 bureau of Indian education schools, tribally controlled schools
18 and private schools that operate the national school lunch
19 program and school breakfast program;

20 M. "unprocessed and minimally processed products"
21 means raw or frozen products, products that retain their
22 inherent character, such as shredded carrots or ground beef,
23 and dried products, such as beans, but does not include any
24 products that are heated, cooked or canned; and

25 N. "value-added processed products" means products

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1 that are altered from their unprocessed or minimally processed
2 state through preservation techniques, including cooking,
3 baking or canning.

4 SECTION 3. [NEW MATERIAL] REQUIREMENTS TO PROVIDE FREE,
5 HEALTHY MEALS TO ALL STUDENTS.--

6 A. Public school districts and charter schools
7 shall establish, and bureau of Indian education schools,
8 tribally controlled schools and private schools may establish,
9 a program to offer high-quality meals at no charge to all
10 students attending schools operating the national school lunch
11 program and school breakfast program. All participating school
12 food authorities shall offer one breakfast and one lunch at no
13 cost to students during each school day to any student who
14 requests a meal without consideration of the student's
15 eligibility for a federally funded free or reduced-price meal,
16 with a maximum of one free meal for each meal service period.

17 B. The department shall award funding to each
18 school food authority that establishes a program pursuant to
19 the provisions of Subsection E of this section as follows:

20 (1) for school food authorities that meet the
21 meal quality improvement requirements established pursuant to
22 Subsection E of this section, the department shall distribute
23 to each such school food authority an amount that is equal to
24 the federal free meal reimbursement rate multiplied by the
25 total number of eligible meals served during the applicable

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1 budget year, minus an amount equal to the federal paid meal
2 reimbursement for eligible meals served during the applicable
3 budget year; or

4 (2) for school food authorities that do not
5 meet the meal quality improvement requirements established
6 pursuant to Subsection E of this section, the department shall
7 distribute to each such school food authority an amount that is
8 equal to the paid meal rate multiplied by the total number of
9 eligible meals served during the applicable budget year.

10 C. School food authorities shall use the money
11 received pursuant to this section to purchase commodities
12 necessary to improve meal quality, including food and other
13 consumables, equipment, staffing, labor needs or training and
14 technical assistance.

15 D. By August 1 of each year, the department shall
16 inform eligible school food authorities of the amount of
17 program funding they will receive during the upcoming school
18 year. When calculating the amount of program funding that is
19 due to a school food authority, the department shall assume
20 that student participation will remain at the same level as the
21 previous school year.

22 E. The department shall promulgate rules necessary
23 for implementation of this section, including rules providing
24 for:

25 (1) meal quality improvement requirements for

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1 the program, including purchasing New Mexico-produced food,
2 freshly preparing scratch-cooked foods, providing culturally
3 relevant meals and engaging student and family voices and
4 choices in menu development; and

5 (2) procedures for annual certification.

6 SECTION 4. ~~[NEW MATERIAL]~~ ACCESS TO FEDERAL FUNDS.--

7 A. School food authorities shall maximize access to
8 federal funds for the cost of school breakfast and lunch
9 programs by adopting the United States department of
10 agriculture's community eligibility provision or any other
11 federal provision that, in the opinion of the department,
12 results in the most possible federal funding for meals served
13 in that program. Each school food authority that has a school
14 or site with an identified student percentage of at least forty
15 percent, or an identified student percentage of less than forty
16 percent if authorized by federal law, as determined annually by
17 the deadline set by the United States department of
18 agriculture, shall participate in the federal community
19 eligibility provision in the subsequent school year and
20 throughout the duration of the community eligibility
21 provision's four-year cycle. School food authorities, to the
22 extent practicable, shall group public schools for purposes of
23 maximizing the number of schools eligible to participate in the
24 community eligibility provision.

25 B. If a school food authority does not elect the

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1 community eligibility provision or any other federal provision
2 that, in the opinion of the department, results in the most
3 possible federal funding for meals served in that program,
4 school meal applications shall be collected and direct
5 certification shall be used to identify students receiving
6 free, reduced-price and paid meals based on United States
7 department of agriculture guidance.

8 C. School food authorities shall take steps to
9 maximize federal revenues and minimize debt on families by, at
10 least monthly, taking steps to directly certify students for
11 free school meal status pursuant to protocol determined by the
12 department.

13 SECTION 5. [NEW MATERIAL] INCENTIVIZE NEW MEXICO-GROWN
14 FOODS.--

15 A. School food authorities are eligible to receive
16 an incentive grant pursuant to this section to purchase New
17 Mexico-grown, -raised or -processed products. A participating
18 school food authority may use the amount received pursuant to
19 this section to support implementation of program requirements
20 described in Subsection E of Section 3 of the Healthy Universal
21 School Meals Act.

22 B. School food authorities shall use the money
23 received pursuant to this section to purchase New Mexico-grown,
24 -raised or -processed products. A minimum of seventy-five
25 percent of funds shall be used to purchase minimally processed

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1 products. Up to twenty-five percent of funds may be used for
2 value-added processed products.

3 C. By August 1 of each year, subject to available
4 appropriations, the department shall distribute to each
5 participating school food authority the greater of one thousand
6 dollars (\$1,000) or an amount equal to ten cents (\$.10)
7 multiplied by the number of lunches that qualified for federal
8 reimbursement that the participating school food authority
9 served to students in the preceding school year. When
10 calculating the amount of program funding that is due to a
11 school food authority, the department shall assume that student
12 participation will remain at the same level as the previous
13 year.

14 SECTION 6. [NEW MATERIAL] FOOD WASTE.--A school food
15 authority shall seek to achieve the lowest level of food waste,
16 which shall include all of the following:

17 A. students in grades kindergarten through five
18 shall have at least twenty minutes of seated lunch time each
19 school day to provide sufficient lunch periods that are long
20 enough to give all students adequate time to eat. To the
21 extent possible, recess should be conducted before seated lunch
22 time in grades kindergarten through five;

23 B. share tables shall be provided where food
24 service staff, students and parents may return appropriate
25 food. Allowable food placed on the share tables that is not

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1 taken by a student during the course of a regular school meal
2 period shall be donated to students, food banks or other
3 nonprofit charitable organizations; and

4 C. excess and rescued allowable food shall be
5 redistributed to students, food banks or other nonprofit
6 charitable organizations free of charge.

7 SECTION 7. APPROPRIATION.--Thirty million dollars
8 (\$30,000,000) is appropriated from the general fund to the
9 department of finance and administration in collaboration with
10 the public education department for expenditure in fiscal year
11 2024 and subsequent fiscal years to implement the provisions of
12 the Healthy Universal School Meals Act. Any unexpended or
13 unencumbered balance remaining at the end of a fiscal year
14 shall not revert to the general fund.

15 SECTION 8. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2023.