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FISCAL IMPACT REPORT

SPONSOR <u>SEC</u>	LAST UPDATED <u>3/3/23</u>
	ORIGINAL DATE <u>01/30/2023</u>
SHORT TITLE <u>Healthy Universal School Meals</u>	BILL NUMBER <u>CS/Senate Bill 4/SECS/aSFC</u>
	ANALYST <u>Helms/Chilton</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	\$29,200.0 - \$42,200.0	\$29,200.0 - \$42,200.0	\$58,400.0 - \$84,400.0	Recurring	Public School District Operating Budgets

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Regarding the Original Bill Received From

New Mexico Department of Agriculture (NMDA)
Indian Affairs Department (IAD)
Public Education Department (PED)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of SFC Amendment to SEC Substitute for Senate Bill 4

The Senate Finance Committee amendment to Senate Bill 4 strikes language regarding “making an appropriation” and strikes Section 6, which made a \$30 million appropriation to the Department of Finance and Administration. The bill no longer contains an appropriation.

Synopsis of SEC Substitute for Senate Bill 4

The Senate Education Committee substitute for Senate Bill 4 appropriates \$30 million from the general fund to the Department of Finance and Administration in collaboration with the Public Education Department for expenditure in FY24 and subsequent fiscal years to implement the newly renamed Healthy Hunger-Free Students’ Bill of Rights Act, currently in statute as Section 22-13C NMSA 1978. Senate Bill 4 strikes prior language on ensuring eligible students are enrolled in the federal free and reduced-price meals program (commonly called FRL for free and reduced-price lunch) and, in its stead, adds language for universal school meals. School food authorities (defined as school food authorities who already participate in the federal National School Lunch Program) would be required to offer one breakfast and one lunch at no cost to

students during each school day to any student, regardless of whether the student qualifies for the FRL program. Senate Bill 4 also encourages school nutrition programs to use locally produced food and offers an incentive program that is not funded within the bill.

Section 2. Section 2 defines “community eligibility provision,” “direct certification,” “eligible meals,” “federal free meal reimbursement,” “federal paid meal reimbursement rate” (the amount set annually by the U.S. Department of Agriculture for reimbursement for each meal), “paid meal rate” (that which a student not eligible for free- or reduced-price meals would have to pay for that meal), “school food authority” (the school district or school, public, private or Bureau of Indian Education [BIE] operating the food programs for breakfasts and lunches), “unprocessed and minimally-processed products,” and “value-added processed products.”

Section 3. Section 3 revises the title of the proposed program to be “Universal School Meals for Children” and states the new state-funded reimbursement rates are to be used toward meal quality improvements, which can include food, equipment, staffing, and training. PED would notify each school of the amount of money the school would receive before the beginning of each school year and would establish criteria for meal quality improvement. Meals would be required to be culturally relevant and would be subject to student and family input. Additional state funding would be offered to schools in the National School Lunch Program under the following alternatives:

- 1) For schools meeting high quality meal standards according to rules to be created by PED, the reimbursement rate would be the number of eligible meals served multiplied by the federal free meal reimbursement rate, minus the federal paid meal reimbursement rate for eligible meals served.
- 2) For schools that do not meet those requirements by 2025, the amount would equal the paid meal rate multiplied by the number of eligible meals.

Subsections F and G of Section 3 require schools to participate to the fullest extent possible in federal school meal programs, including by making an effort to adopt the community eligibility provision (CEP). The community eligibility provision can apply to any school food authority that contains a school or site where at least 40 percent of the student population is on a federal benefits program, defined as an “identified student percentage.” Schools not participating in CEP are required to make monthly efforts to directly certify students who can qualify for the FRL program, subject to protocol determined by PED.

Section 4. Section 4 authorizes incentive grants to schools that meet quality standards and for schools to purchase New Mexico-grown, -raised, or -processed products. Incentives would be disbursed to school food authorities at the rate of \$1,000 or 10 cents per school lunch provided, whichever is greater, to a school or school district for those students who qualify for free federal school meals. Section 4 also describes PED’s New Mexico Grown program.

Section 5. Section 5 promotes elimination of food waste, first by requiring students in kindergarten through sixth grade to have up to 20 minutes of seated time to eat (allowing them time to finish their meal), and second, by collecting unused food for use by food pantries, students, and other charitable organizations.

Section 6. Section 6 authorizes the \$30 million recurring, nonreverting appropriation to DFA to implement the provisions of the Healthy Hunger-Free Students Bill of Rights Act.

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

Senate Bill 4 as amended by SFC does not contain an appropriation.

As Senate Bill 4 stands, LFC analysis finds the provisions in Section 3 of the bill providing meals at no costs to students at participating schools could total \$27 million to \$40 million in recurring funding from the general fund, and the bill as written would provide those schools and school food authorities who have higher-income populations with the largest average allocations, should the bill find full funding. (See “Significant Issues” below.) An appropriation totaling \$3 million to \$6 million would more specifically target students with greatest demonstrated need. Additionally, LFC analysis estimates Section 4 of the bill, specifically providing reimbursements to schools for New Mexico-grown products, could cost up to \$2.2 million.

Additional school meal support in the HAFC substitute for House Bill 2, the General Appropriation Act, includes a nonrecurring \$7.5 million appropriation to DFA to distribute to PED and school food authorities for meal quality improvements. LFC’s proposed capital outlay framework includes a nonrecurring \$20 million appropriation for capital improvements at schools, which could include kitchen improvements and other meal quality improvements.

SIGNIFICANT ISSUES

Senate Bill 4 addresses several components of school meals: availability and access to free meals for students at any participating school food authority, requirements for school food authorities to maximally participate in potential federal meal reimbursements for qualifying students or qualifying school food authorities, incentives for New Mexico-grown food purchases, and efforts to reduce food waste.

While school meal provisions for students from low-income families, defined as earning less than 185 percent of the federal poverty level (about \$51.3 thousand a year for a family of four), will not change under the section of SB4—they already qualify for free meals—providing universal free school meals may change services for three groups of students:

- Students who currently pay a reduced price,
- Students not from low-income families or not enrolled in the free- reduced-price lunch program who currently pay full price for meals, and
- Students who do not currently seek a school-provided breakfast or lunch but may wish to when the meals are free.

According to updated 2022-2023 school year data from PED, 309,964 students at the 896 New Mexico schools participate in the National School Lunch Program (NSLP). While, according to PED data, only 55 percent of total students at NSLP-participating schools qualify for fully free or reduced-price lunch (FRL) based on either their family income levels or a school food authority’s community eligibility provision, data shows that, proportionately, the majority of school meals served go to those who are in greatest need and qualify for federal reimbursement: 84 percent of school breakfasts served go to students qualifying for FRL and 81 percent of school lunches served go to students qualifying for FRL.

Thus, only 16 percent of school breakfasts are for students who fully pay for meals, and only 19 percent of school lunches go to students who fully pay for meals, demonstrating free and reduced-price school lunches and breakfasts are reaching the students who need them most.

Schools that qualify for the community eligibility provision (CEP) have demonstrated, via qualifying for CEP, they are highest-need schools, and they receive an amplified percentage of the existing FRL federal reimbursement for school meals. At CEP schools, any students qualifying for FRL get all meals free; at non-CEP schools, students qualifying for FRL still pay a reduced price. LFC analysis shows schools not qualifying for CEP would receive the greatest influx in funds, even though they are not the state’s highest-need schools, as measured by either current FRL percentages or the percentage of the student population receiving the Temporary Assistance for Needy Families or Supplemental Nutrition Assistance Program public assistance.

Notably:

- 658 schools enrolled in NSLP already receive a CEP-amplified federal reimbursement, which multiplies the percentage of students qualifying for federal benefits by a multiplier. Of those 658 schools, the schools that would receive state reimbursements under Senate Bill 4 ranging from \$76 to \$291 thousand, totaling \$15.89 million in reimbursements and averaging \$24,140 per school.
- 233 schools in NSLP representing 98,650 students currently do not have the CEP provision, though roughly 20 thousand students are in school districts or charter schools that could qualify for CEP. Under SB4, non-CEP schools would receive an estimated \$11 million in state reimbursements averaging \$47,614 per school, showing districts and charter schools with relatively higher incomes would receive the highest average allotment per school.
- For the 233 non-CEP schools, which are the only NSLP schools where students who qualify for FRL still pay for their lunch, \$295,775 would be the state reimbursement for those reduced-price meals to be fully free for students.
- SB4 includes any entities that can qualify for federal NSLP funds. Fifteen private schools that currently participate in NSLP would receive an estimated total of \$406,874 in state reimbursements, averaging over \$27 thousand per school. Of federal Bureau of Indian Education schools that participate in NSLP, four schools would total \$123,671 at an average of \$30,917 per school.
- PED data estimates \$1.7 million in state reimbursements, or an average of \$17,124 per school, would go toward making any paid or reduced-cost meals free to those students who are at schools that have already demonstrated the highest poverty levels in the state and qualify for support under the family income index, which measures the concentration of poverty at a school.

Senate Bill 4 Projected Costs				
NSLP Type	LEAs	Students	Total Projected Reimbursement	Average Reimbursement per LEA
Local Education Agencies in Community Eligibility Provision Programs				
CEP Totals	658	212,243	\$ 15,884,044.00	\$ 24,140.00
CEP High Family Income Index Disbursement	87	23,289	\$ 1,586,393.00	\$ 18,234.00
Local Education Agencies in Standard (Non-CEP) Programs				
Non-CEP Totals	233	96,850	\$ 11,094,226.00	\$ 47,614.00
Non-CEP High Family Income Index Disbursement	10	907	\$ 91,779.00	\$ 9,177.00
Total	891	309,093	\$ 26,978,270.00	\$ 30,278.64

While school lunch data from the 2020-2021 and 2021-2022 school years has pandemic-related irregularities in both federal funding and numbers of breakfasts and lunches served, compared with the 2019-2020 school year, New Mexico schools will offer 395,260 more free school lunches in 2022-2023 school year, even with declining school enrollment.

LFC analysis shows the state could potentially have greater impact per dollar with other options. Fully supplementing any students who pay for reduced-price meals would cost \$250 thousand a year, and fully covering meals at a certain family income index threshold could cost a few million, rather than tens of millions. A threshold of at least 0.4 would cost, under Senate Bill 4, \$2.25 million. An additional \$2 million to \$3 million could target schools with the highest at-risk populations where additional nutritional support would most benefit students.

LFC analysis notes it is possible there could be additional costs to SB4 from schools that join the National School Lunch Program (NSLP) or from more students choosing to have breakfast or lunch at schools where it is free. If more private schools or Bureau of Indian Education schools joined NSLP programs, those programs would create additional costs to reimburse schools for any meals from students who have paid or reduced-price meals, which is a likely cost with any schools where students already pay tuition.

Given the community eligibility provision already targets schools with highest needs, Section 3 of Senate Bill 4 as written could inadvertently supplement families with sufficient or more-than-sufficient funds to pay for school meals. Comparison with the family income index or with school and district at-risk populations could best focus state funds on students who might struggle to have enough food.

Senate Bill 4 addresses important provisions of student health. Analysis from the Indian Affairs Department quotes from a study ([Ending Childhood Food Insecurity in New Mexico¹](#)) on food insecurity among children as follows:

All children need access to nutritious food in order to be healthy. Food security—having reliable access to adequate amounts of nutritious food—is a social determinant for both physical and mental health, and children with consistent access to fresh produce perform better in school and are better equipped to meet developmental milestones, helping them build a strong foundation for future success. Unfortunately, the high rates of food insecurity in New Mexico prevent many children from reaching their full potential. The COVID-19 pandemic has worsened child food insecurity, making it more urgent than ever to take immediate action on this issue.

IAD comments further:

IAD conducted a tribal child hunger survey with 21 of the 23 tribal nations in New Mexico responding. Shared challenges to overcome child hunger included transportation to and from meal service locations, lack of funding, insufficient infrastructure, limited workforce, chronic diseases like diabetes, behavioral health challenges, misuse of government food assistance programs, lack of healthy cooking and eating knowledge, and high exposure to unhealthy foods. The 23 tribal nations have been supported by a variety of grants from CYFD [Children, Youth and Families Department], tribal grants, USDA [U.S. Department of Agriculture], and state grants, but not all tribes receive these grants.

¹ <https://www.nmvoices.org/archives/15258>

According to [ih.gov](https://www.ih.gov)², Native Americans and Alaska Native people have experienced a much lower health ranking than most other races in the United States. Lower life expectancy, food insecurity, diabetes, and other diseases are due largely to inadequate education, poverty, lack of quality medical care, limited healthcare services, and cultural differences.

PED states it is committed to fostering healthy school environments and increasing market access for New Mexico growers through the New Mexico Grown Farm to School Program.

Specifically, farm to school includes procurement, school gardens and outdoor classrooms, and food education. PED works to strengthen K-12 public, private, BIE, and tribally-controlled schools and school districts' connection to fresh, healthy food and the local food producers by changing purchasing and education practices across New Mexico ... In 2020, the governor permanently eliminated student co-pays for reduced-price breakfast and lunch and increased access to free meals for an additional 63,421 students. Still, one in three students are paying full price for meals.

NMAD comments on the opportunity for New Mexico farmers and ranchers to expand their sales to schools:

Hunger and food access programs that support local agriculture cumulatively add up to significant and reliable economic opportunities for New Mexico producers, keeping farming families, land and water in production while supporting our local economies. Through the state's investment in New Mexico Grown, more than 168 farmers, ranchers, and food businesses sell hundreds of local produced products to schools in 19 counties across the state. SB4 will increase demand for a wide diversity of products will support the long-term financial success of New Mexico agriculture.

ADMINISTRATIVE IMPLICATIONS

SB4 would create a series of new administrative tasks for the Public Education Department, including promulgating rules that specify criteria for healthy school meals, determining which school food authorities meet or do not meet the meal quality requirements set forth by the department, making grants to each school or school district, and notifying each at the beginning of a school year of the intended amount of the grant. In addition, while the bill is not clear on PED's responsibility to certify that school food authorities maximize federal reimbursement possibilities, PED would likely be tasked with certifying each school food authority is making a monthly effort to directly enroll eligible students in federally reimbursed meals.

PED may also be required to ensure schools are reducing waste and meeting requirements for seated lunch periods and making tables available to share allowable food. LFC analysis estimates technical assistance and coordination with schools to realistically meet the level of coordination required could necessitate significant administrative effort for PED and could surpass PED's estimated of 1 additional FTE to meet the requirements in SB4.

Requirements to share allowable food with the community or donate allowable food may create additional work for nutritional staff and other staff at each participating school

² <https://www.ih.gov/newsroom/factsheets/disparities/>

TECHNICAL ISSUES

In Sections 3(B) and 3(E), SB4 does not clarify when PED would need to promulgate rules and provide technical assistance to schools. In Section 5, SB4 is unclear on PED's oversight over food waste, what qualifies as "allowable food" that can be returned if uneaten, and does not indicate how schools will share food with students, food banks, or other nonprofits.

PED recommends the following:

The provisions of SB4 may conflict with the provisions of other, current sections of law that address student meals and issues of student hunger. Section 22-13-13.2 NMSA 1978 establishes the "Breakfast after the Bell" program to provide free breakfast after the bell to all students in a public school where at least 85 percent of students were eligible for free or reduced-price lunch under the National School Lunch Act. While portions of this section address scheduling and logistics, the majority of the law deals with fiscal issues and disbursements no longer required if SB4 is enacted.

The sponsor may wish to consider reviewing this area of school law to determine if the provisions of SB4 would require amendment or permit repeal of the Breakfast after the Bell program.

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