

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 23

**51st Legislature, 2nd Session, 2014**

**Tracking Number:** .195341.2

**Short Title:** K-12 Breakfast After the Bell Program

**Sponsor(s):** Senator Pete Campos

**Analyst:** Travis Dulany

**Date:** February 6, 2014

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**Bill Summary:**

SB 23 amends the *Public School Code* to establish a “Breakfast After the Bell” program for students in grades K-12; and establishes funding and reporting guidelines.

Among its provisions, SB 23:

- renames the “Breakfast Program” in current law to the “Breakfast After the Bell Program”;
- extends the program to middle and high schools in which 85 percent or more of the students were eligible for free or reduced-price lunch under the *National School Lunch Act* during a prior school year; and
- changes the funding mechanism of the program from a reimbursement to a disbursement process whereby:
  - each school district and charter school seeking funding under the program submits to the Public Education Department (PED) by June 15 of each year:
    - the number of breakfasts served at no charge by each of its public schools during the previous school year; and
    - the federal reimbursement rate for each breakfasts served;
  - when calculating the amount of program funding that is due to a school, PED is to assume that student participation will remain the same as the previous year; if a school district or charter school has not previously received state breakfast after the bell funding, PED is to assume that 90 percent of the student population of an eligible public school will participate in the program and fund the school’s program accordingly;
  - PED is to inform eligible school districts and charter schools of the amount of program funding they will receive for the next school year by August 1 of each year; and
  - if a public school receives program funding above the amount necessary to pay actual costs of meals served, the leftover funding may be used to fund other breakfast programs at other public schools within the school district (see “Technical Issues,” below).

Finally, SB 23 specifies that the amended program applies to school year 2014-2015 and succeeding school years.

**Fiscal Impact:**

SB 23 does not contain an appropriation; however, CS/HB 2a, et al., *General Appropriation Act of 2014*, includes a \$1.92 million appropriation for “Breakfast for Elementary Students.”

**Fiscal Issues:**

The PED analysis states that, if SB 23 is enacted:

- expanding the program to include middle and high schools without an increase in funding would result in a reduction in the number of elementary school students participating in the program;
- disbursements would be made in sequential order with priority given to schools with the highest percentage of free and reduced-price lunch eligible students; and
- the change from a reimbursement to a disbursement process will eliminate the need for monthly expenditure reporting by schools, but could result in districts and charter schools receiving more funding that is needed to feed their students.

The Fiscal Impact Report from the Legislative Finance Committee points out that federal reimbursement rates would increase as the program expands to eligible middle and high schools, but would not be sufficient to cover the costs of all students as outlined in SB 23.

**Technical Issues:**

Page 4, lines 13 through 17, provides a process to redistribute excess program funding at a public school by distributing the unexpended amount to other eligible schools within that public school’s district; however, it does not include a process for state-chartered charter schools with funding above the amount necessary to pay actual costs of delivering the program.

**Substantive Issues:**

The PED bill analysis reports that a total of 218 elementary schools were awarded Elementary School Breakfast Program funds for school year 2013-2014. The number of middle and high schools that would become eligible under the provisions of SB 23 was not available at the time this analysis was finalized.

According to information cited by the Department of Health:

- New Mexico has been ranked highest in the country for childhood hunger and food insecurity;
- new evidence has documented the link between eating breakfast and learning, indicating that skipping breakfast is relatively common among children in the US and is associated with quantifiable negative consequences for academic, cognitive, health, and mental health functioning;
- students who participate in school meal programs have been found to consume more milk, fruits, and vegetables and have better nutrient intake than those who do not participate; and

- students who participated more often in school breakfast programs showed increases in test scores and significant decreases in absences and tardiness compared with those whose school breakfast participation remained the same or decreased.

## **Background:**

### ***State and Federal School Nutrition Programs***

#### *Federal Nutrition Programs*

According to the PED Student Nutrition Bureau website, the federal government funds and oversees the following school nutrition programs through the US Department of Agriculture (USDA), which are then administered by PED in accordance with USDA regulations and guidance on these programs for the state-level administrator to follow. These programs include:

- the National School Lunch Program, which includes:
  - the Afterschool Snack Program; and
  - the Seamless Summer Program;
- the School Breakfast Program; and
- the Fresh Fruit and Vegetable Program.

#### *Federal Nutrition Guidelines*

The federal *Healthy, Hunger-Free Kids Act of 2010* (HHFKA):

- reauthorized the USDA's school nutrition programs through the federal *Child Nutrition Act*;
- allocated \$4.5 billion over 10 years nationwide in order to:
  - increase the number of low-income children who are eligible for free or reduced-price school meals; and
  - expand a program that provided after-school meals to at-risk children.

Among its other provisions, the federal HHFKA introduced certain changes to the *Child Nutrition Act* related to student nutrition and childhood obesity, among them that:

- the USDA has the authority to establish national nutrition standards for all food products sold on school grounds – vending machines, lunch lines, and school stores;
- the USDA must develop new meal patterns and nutrition standards for meals and snacks in schools, which must be consistent with recommendations of authoritative agencies and current nutrition science and standards must be reassessed every 10 years or sooner;
- water must be available and free of charge during school meals;
- schools will be eligible for performance-based incentives – an increase of the federal reimbursement for school meals, of six cents per meal – for supplying breakfast and lunches that meet nutrition standards outlined in bill;
- federal funds are to be allocated for school gardens and farm to school programs in which schools partner with local farms to provide nutritious, local foods for meals;

- funding will be available for state agencies and local community organizations to promote nutrition education and obesity prevention including education on healthy food choices and physical fitness programs, with participating programs receiving consultation from nutrition education professionals, academic and research experts, and community organizations that serve low-income populations; and
- the USDA and federal Health and Human Services Department must establish programs to promote healthy eating and reduce childhood obesity, with a focus on using the principles of behavioral economics research to influence healthy choices from a young age.

### *State Nutrition Programs*

In addition to administering the federal nutrition programs listed above, the state has modified the core, federal school breakfast program and provides for locally sourced produce in school lunches:

- Breakfast After the Bell
  - Legislative appropriations provide funding for schools to serve breakfast to students in accordance with the federal School Breakfast Program.
  - Statute requires that food service occur after the instructional day has begun, but PED rules further require “that instruction occurs simultaneously when breakfast is served or consumed.”
  - The Legislature appropriated about \$1.92 million for this program in FY 14, and has provided over \$19.6 million in funding since FY 06.
- New Mexico Produce in Schools
  - The Legislature appropriated \$100,000 for the purchase of New Mexico-grown fresh fruits and vegetables for school meal programs.
  - The appropriation is not tied to any nutritional standards.

### **Committee Referrals:**

SCC/SEC/SFC

### **Related Bills:**

SB 143 *NM Grown Produce in School Meals*  
 SB 272 *Increase Minimum School Instructional Hours*  
 SM 48 *“School Nutrition Day”* (Identical to HM 50)  
 HB 81 *NM Grown Fresh Produce for School Meals*  
 HB 86 *School Enrichment Programs*  
 HB 220 *New Mexico Grown Produce in School Lunches*  
 HB 271 *K-12 Breakfast After the Bell Programs*  
 HJM 10 *“New Mexico Hunger Week”*  
 HM 50 *“School Nutrition Day”* (Identical to SM 48)