

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 230

**52nd Legislature, 1st Session, 2015**

**Tracking Number:** .198023.1

**Short Title:** Breakfast After the Bell Name & Changes

**Sponsor(s):** Senator Gay G. Kernan

**Analyst:** Travis Dulany

**Date:** February 12, 2015

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**FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**Bill Summary:**

SB 230 amends provisions in the *Public School Code* to rename the “Breakfast after the Bell Program” to the “School Breakfast Program” and allows the program to be administered in public schools before or after the instructional day has begun.

**Fiscal Impact:**

SB 230 does not contain an appropriation.

**Fiscal Issues:**

According to the Fiscal Impact Report from the Legislative Finance Committee, the Executive budget recommendation for FY 16 includes \$2.9 million to implement the program statewide in middle schools and high schools (see “Substantive Issues,” below); the current program only serves elementary schools.

**Substantive Issues:**

According to the Public Education Department (PED):

- feeding as many students as possible is the goal of the department’s School Nutrition Program;
- in order to feed more students, multiple opportunities should be considered; and
- providing breakfast either before or after the bell will ensure that the maximum number of students have the opportunity to eat breakfast under the program.

PED also notes that amending this section of statute would help to better align state and federal statutes relating to the implementation of school breakfast programs.

Provisions in current statute require school districts and charter schools to establish a program to provide free breakfast, *after the instructional day has begun*, to students attending any public school in which at least 85 percent of students were eligible for free or reduced-price lunch under

the *National School Lunch Act* during the prior school year.<sup>1</sup> PED rule further requires, “Each school district and charter school that implements a breakfast after the bell program shall ensure that instruction occurs simultaneously when breakfast is served or consumed.”

Testimony to the Legislative Education Study Committee, as well as committee discussion, has underscored the difficulty in providing meaningful instruction to students while they are distracted by food and associated refuse. SB 230 will help to address this issue and ensure that districts have the flexibility to provide breakfast under this program in a way that best suits each district’s needs.

Providing flexibility in implementing the school breakfast program may become more important if middle schools and high schools receive funding for the program in FY 16 (see “Background,” below). As PED points out, the number of contact hours in middle schools and high schools is significant; meanwhile, school district bus schedules are developed to deliver elementary students first, then middle and high school students. As a result, requiring that breakfast be served and consumed after the instructional day has begun may strain schools in implementing the program.

### **Background:**

#### ***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.

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<sup>1</sup> Schools in which fewer than 85 percent of students are eligible for free or reduced-price lunch may establish such a program but are not required to do so.

Among its other provisions, the federal HFFKA 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 and must be reassessed every 10 years or sooner;
- water must be available 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 the 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 the 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 approximately \$1.92 million for this program in FY 15.
  - Legislation enacted during the 2014 legislative session allows middle schools and high schools to participate in the Breakfast After the Bell program, contingent upon funding from the Legislature. The FY 16 Executive budget recommendation includes an additional \$1.0 million over FY 15 funding levels to fund the program in middle schools and high schools.
- New Mexico Produce in Schools
  - In FY 15, the Legislature appropriated just under \$240,000 for the purchase of New Mexico-grown fresh fruits and vegetables in public schools.
  - The appropriation is not tied to any nutritional standards.

**Committee Referrals:**

SEC/SPAC

**Related Bills:**

SM 32 *“School Nutrition Day”*

HJM 7 *“New Mexico Hunger Week”*