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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>SB346</u>	Sponsor	<u>Stefanics</u>
Tracking Number	<u>.205725.1</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>Charter School Free & Reduced Meals</u>		
Analyst	<u>Bedeaux</u>	Original Date	<u>2/16/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 346 (SB346) would require state- and locally chartered charter schools to determine their eligibility for school-wide participation in the National School Lunch Program (NSLP). Those schools that meet eligibility guidelines would be required to provide both breakfast and lunch to those students who wish to participate.

FISCAL IMPACT

SB346 does not contain an appropriation.

The NSLP does not include “guidelines for school-wide participation” as defined in the bill. In essence, every public school with the capacity for lunch service meets the guidelines for NSLP participation. Eligibility for NSLP is best understood on a student-by-student basis. Based on their level of need, some children are eligible for free lunch, some for lunch at a reduced cost, and others for lunch at full price.

Conversely, a provision within the 2010 Healthy and Hunger Free Kids Act known as the Community Eligibility Provision (CEP) does have specific eligibility requirements, and requires that breakfast and lunch be served school-wide at no cost to the students. Since the bill refers to “school-wide participation” requirements, and requires serving breakfast and lunch, this analysis assumes the “guidelines” referenced are those establishing eligibility for CEP.

A school is eligible for CEP if it meets an Identified Student Percentage (ISP) of 40 percent. Identified students are students indicating need based on their inclusion in other needs-based programs like Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), or the Food Distribution Program on Indian Reservations (FDPIR).

The U.S. Department of Agriculture (USDA) provides reimbursement for at least a portion of the funds expended on meals. The percentage of meals reimbursed at the USDA free rate (\$3.18 per meal in FY16) is equal to the ISP times 1.6. This means that schools with an ISP above 62.5

percent are fully reimbursed at the paid rate. For schools with an ISP below 62.5 percent, the remaining percentage of the meals would be reimbursed at the significantly reduced USDA paid rate, \$0.32 per meal in FY16.

Of the 38 state and local charter schools with an ISP above 40 percent in FY16, 17 did not participate in CEP. Only two of those schools met the 62.5 percent threshold for full reimbursement. Fifteen charter schools would require additional funding to offset the cost of the meals that are not fully reimbursed. Charter schools are not allowed to charge students for meals under CEP. It is further possible that schools without CEP are providing lunch in some other way, either by contract or under the traditional NSLP free and reduced-fee arrangement.

FY16 State and Local Charter Schools Meeting CEP Eligibility but Not Participating

	Charter School Name	District/State	ISP	Percent of Meals Reimbursed (based on ISP)		
				Free Rate	Paid Rate	
1	TECHNOLOGY LEADERSHIP	State Charter	66.2%	100.0%	0.0%	1
2	NUESTROS VALORES CHARTER	Albuquerque	65.2%	100.0%	0.0%	2
3	TAOS INTERNATIONAL SCHOOL	State Charter	61.4%	98.2%	1.8%	3
4	LA JICARITA COMMUNITY SCHOOL	State Charter	60.0%	96.0%	4.0%	4
5	GILBERT SENA CHARTER HIGH SCHOOL	State Charter	56.8%	90.9%	9.1%	5
6	ROBERT F. KENNEDY CHARTER	Albuquerque	53.2%	85.1%	14.9%	6
7	TAOS INTEGRATED SCHOOL OF THE ARTS	State Charter	49.7%	79.5%	20.5%	7
8	NATIVE AMERICAN COMM ACADEMY	Albuquerque	49.3%	78.9%	21.1%	8
9	ANTHONY CHARTER SCHOOL	State Charter	49.3%	78.9%	21.1%	9
10	RED RIVER VALLEY CHARTER SCHOOL	State Charter	48.8%	78.0%	22.0%	10
11	ABQ CHARTER ACADEMY	Albuquerque	46.2%	74.0%	26.0%	11
12	ALMA D'ARTE CHARTER	State Charter	46.2%	73.8%	26.2%	12
13	DREAM DINE	State Charter	45.5%	72.7%	27.3%	13
14	SOUTH VALLEY PREP	State Charter	45.0%	72.0%	28.0%	14
15	SOUTH VALLEY ACADEMY	Albuquerque	42.9%	68.6%	31.4%	15
16	ALBUQUERQUE SIGN LANGUAGE ACADEMY	State Charter	41.8%	66.9%	33.1%	16
17	MCCURDY CHARTER SCHOOL	State Charter	41.1%	65.8%	34.2%	17

Source: PED

Requiring these schools to provide lunch would incur costs in excess of the cost of meals. Charter schools without lunch programs would be required to facilitate the effective administration of a lunch program. For some charter schools, this could mean hiring a food service director and other food service personnel. Other charter schools may not have a full kitchen, which would either require capital outlay expenses to build a kitchen that meets state requirements, or would require the school to enter into a food service contract with a Public Education Department (PED)-approved food service management company.

An important qualification here is that, based on current language, SB346 may not require eligible schools to participate in CEP. The requirement is that CEP-eligible schools “provide breakfast and lunch to students all students who choose to participate.” It is unclear whether “provide” means lunch will be *given* to students at no charge, or that lunch will be *made available* for students under standard free and reduced-fee procedures. This means that charter schools may be able to satisfy the conditions of the bill by providing NSLP alongside the School Breakfast Program (SBP) without electing a CEP arrangement.

SUBSTANTIVE ISSUES

In January 2017, Monte del Sol Charter School in Santa Fe elected to discontinue NSLP. In an article by the Santa Fe New Mexican, the school's Head Learner Robert Jessen is quoted stating the school can no longer afford to contribute \$40 thousand from its budget to offset the cost of providing lunch. Jessen explained "we receive \$3 from the federal government for each free lunch that we serve. However, it costs more to serve that lunch." Other charter schools, like the Academy for Technology and the Classics (ATC), have contracts with food service providers. ATC makes lunch available for \$5 per student, \$2 for low-income students. This option allows ATC to offset some of the cost associated with providing lunch.

Research shows that student performance is directly tied to nutrition. Students who are hungry are less active, have trouble concentrating, and are more likely to be sick or hospitalized. Studies cited by the New Mexico No Kid Hungry campaign indicate 137 thousand children in the state are at risk of going hungry, 30 percent of children live in poverty, and 28 percent of families struggle to afford enough food to sustain themselves.

An important function of NSLP is to reduce student hunger by making lunch available for all students, but providing it at free or reduced cost to those who demonstrate need. NSLP determines need on a student-by-student basis, rather than on a school-wide basis. The CEP is a provision of the 2010 Healthy and Hunger-Free Kids Act that exists as an option for schools with high rates of poverty. Schools eligible for CEP can opt to have school lunches reimbursed on a school-wide formula basis, rather than on a student-by-student basis.

Because the NSLP and the CEP are voluntary programs nationwide, PED analysis on SB346 notes that creating a requirement for charter schools that does not exist for other schools may be a violation of federal guidelines. USDA cautions schools and local education agencies to make sure that the program is right for them by estimating the financial impacts of CEP versus a traditional free and reduced-fee program. SB346 may prevent charter schools from deciding what is right for them by requiring them to provide CEP or NSLP, depending on what is meant by the word "provide."

ADMINISTRATIVE IMPLICATIONS

Although there are significant administrative implications required if charter schools were required to build a school lunch program from the ground up, the CEP is designed to remove some of the administrative burdens associated with the NSLP. For instance, CEP does not require the collection and processing of applications from individual students.

PED analysis on SB346 explains that charter schools would need to enter into a written agreement with PED to finance nonprofit school food service operations. If the schools do not have the capacity to operate a food service program, they would need to publish a Request for Proposals to contract with a PED-approved food service management company.

ALTERNATIVES

The Legislature may want to consider amending the bill to clarify language in the bill to refer specifically to CEP or NSLP. This will also help clarify the meaning of "provide," since in the context of CEP, provide means to *give at no cost* to students, but under NSLP, provide means to *make available* for free for some students or at a reduced cost for others.

RELATED BILLS

HB208, NM-Grown Produce in School Meals, and SB379, NM-Grown Fresh Produce in School Meals, which allocate funding to PED for the procurement and distribution of NM-grown fruits and vegetables for school meals.

SOURCES OF INFORMATION

- LESC Files
- PED
- USDA
- New Mexico No Kid Hungry campaign.

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