

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 525

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ben D. Altamirano

AN ACT

RELATING TO NUTRITION; CREATING A NUTRITION COUNCIL; PROVIDING DUTIES; CREATING A FUND; REQUIRING NUTRITION AND HEALTH COURSES IN PUBLIC SCHOOLS; REQUIRING NUTRITION EDUCATION FOR CERTAIN LICENSED PRACTITIONERS; REQUIRING STUDIES; MAKING APPROPRIATIONS.

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

Section 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Nutrition Council Act".

Section 2. ~~[NEW MATERIAL]~~ FINDINGS AND PURPOSE.--

A. The legislature finds that federal authorities have not intended to or expressed an intention to occupy and preempt the areas of nutrition addressed in the Nutrition

underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
[bracketed material] = delete

1 Council Act and, therefore, the legislature may create a
2 nutrition council to make recommendations to protect and ensure
3 public health and safety for all New Mexicans.

4 B. The purpose of the Nutrition Council Act is to
5 improve the quality of food grown in, produced in or imported
6 into New Mexico or exported from New Mexico and to educate New
7 Mexico citizens in good nutritional choices.

8 Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the
9 Nutrition Council Act:

10 A. "council" means the nutrition council; and

11 B. "director" means the director of the council.

12 Section 4. [NEW MATERIAL] NUTRITION COUNCIL--CREATED--
13 MEMBERSHIP.--

14 A. The "nutrition council" is created, composed of
15 the following members:

16 (1) the assistant attorney general for
17 consumer protection or the assistant attorney general's
18 designee;

19 (2) the secretary of public education or the
20 secretary's designee;

21 (3) the secretary of health or the secretary's
22 designee; and

23 (4) the following members appointed by the
24 governor, who serves at the pleasure of the governor:

25 (a) one pediatrician;

.154789.1

underscored material = new
[bracketed material] = delete

- 1 (b) one internist or family
2 practitioner;
- 3 (c) one cardiologist;
4 (d) one toxicologist;
5 (e) one doctorate-level biochemist;
6 (f) one licensed nutritionist;
7 (g) one farmer;
8 (h) one rancher;
9 (i) one faculty member of the university
10 of New Mexico school of medicine;
11 (j) one dentist; and
12 (k) one public member who is appointed
13 on the basis of active involvement in the area of nutrition.

14 B. Members of the council who are not paid by
15 taxpayer funds may receive per diem and mileage expenses
16 pursuant to the Per Diem and Mileage Act, but shall receive no
17 other compensation, perquisite or allowance.

18 C. The council shall annually elect a chair and
19 vice chair. The council shall meet at the call of the chair, a
20 majority of the members or the director. The director shall
21 serve as staff to the council.

22 D. The council is administratively attached to the
23 department of health.

24 Section 5. [NEW MATERIAL] COUNCIL--DUTIES.--The council
25 shall:

.154789.1

underscoring material = new
[bracketed material] = delete

1 A. study ways to improve the operations of state
2 government relating to nutrition programs and to the provision
3 of nutrition services to the residents of the state;

4 B. recommend courses of instruction and practical
5 training for employees of departments and other persons
6 involved in the administration of state nutrition programs with
7 the objective of improving the operations and efficiency of the
8 administration;

9 C. develop nutrition education programs for food
10 stamp recipients;

11 D. in consultation with nutrition experts and the
12 appropriate state agencies, recommend nutrition programs,
13 public education programs and campaigns on health, nutrition
14 and ideal weight maintenance for all state institutions and
15 public schools, colleges and universities;

16 E. consult with the university of New Mexico school
17 of medicine to ensure that its nutrition curricula train
18 medical students in basic nutrition and how to prevent and
19 treat nutritional diseases;

20 F. recommend the development and implementation of
21 nutrition and food safety programs to ensure the nutritional
22 health of New Mexico residents and the safety of their food;

23 G. advise the appropriate departments, including
24 the office of the attorney general, on areas of concern such
25 as:

.154789.1

underscoring material = new
[bracketed material] = delete

1 (1) the effect of food additives, specifically
2 carcinogens and neurotoxins, on the health of all New Mexicans,
3 particularly on pregnant women, neonates and preschool-age
4 children;

5 (2) the incidence of diabetes on Indian
6 pueblos and reservations;

7 (3) the effects of food-induced hyperactivity
8 and attention deficit disorders in children resulting from
9 their ingestion of monosodium glutamate and excitotoxins;

10 (4) obesity in all age groups; and

11 (5) other areas deemed important by the
12 council;

13 H. make recommendations on ways to improve
14 nutrition in New Mexico;

15 I. assist the appropriate agencies in developing
16 educational materials on nutrition and on toxic or potentially
17 toxic additives to foods and processes that result in food
18 toxicity;

19 J. through the public education department, advise
20 public school districts on the development of nutrition courses
21 that are grade specific and that use texts in the field of
22 nutrition, preventive cardiology, preventive oncology and
23 preventive toxicology for New Mexico secondary school students;

24 K. develop a nutrition questionnaire to be sent to
25 every student in New Mexico that will be used to build a

.154789.1

underscoring material = new
[bracketed material] = delete

1 statewide nutrition database;

2 L. review the quality of public school lunch
3 programs and make recommendation to the secretary of public
4 education to improve the sources of food for the school lunch
5 program; and

6 M. within available appropriations, hire an
7 executive director and such other employees as are necessary to
8 carry out the provisions of the Nutrition Council Act.

9 Section 6. [NEW MATERIAL] DIRECTOR OF COUNCIL--DUTIES.--

10 A. The director shall, at the direction of the
11 council:

12 (1) review and report on state agency efforts
13 to improve nutrition and food safety; and

14 (2) serve as a liaison with other state
15 agencies, including the department of health, the children,
16 youth and families department and the public education
17 department, in recommending the development and implementation
18 of nutrition and food safety programs.

19 B. The director shall recommend to the council a
20 list of foods, food additives or food processes that the
21 council should consider to determine if additional labeling
22 should be required because of carcinogens, neurotoxins or other
23 deleterious compounds. If the council determines additional
24 labeling should be required, it shall recommend the appropriate
25 labeling and recommend that such labeling be reflected in the

.154789.1

underscored material = new
[bracketed material] = delete

1 nutrition and food safety standards.

2 C. The director shall recommend to the council the
3 appointment and compensation of such employees as may be
4 necessary to carry out the provisions of the Nutrition Council
5 Act within the appropriations made by the legislature.

6 Section 7. [NEW MATERIAL] FUND CREATED.--The "nutrition
7 fund" is created in the state treasury. The fund shall consist
8 of appropriations, gifts, grants, donations and bequests.
9 Money in the fund shall not be transferred to any other fund at
10 the end of a fiscal year. Money in the fund is appropriated to
11 the board of regents of the university of New Mexico for the
12 school of medicine for nutrition and health-related research
13 and education. Expenditures shall be made on warrant of the
14 secretary of finance and administration on vouchers signed by
15 the dean of the university of New Mexico school of medicine.

16 Section 8. A new section of the Public School Code is
17 enacted to read:

18 "[NEW MATERIAL] NUTRITION AND HEALTH COURSES.--The
19 secretary shall adopt and promulgate minimum standards and
20 benchmarks for grade-specific nutrition and health courses."

21 Section 9. Section 22-13-1 NMSA 1978 (being Laws 2003,
22 Chapter 153, Section 57) is amended to read:

23 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
24 REQUIRED--ACCREDITATION.--

25 A. The [~~state board~~] department shall require

.154789.1

underscored material = new
[bracketed material] = delete

1 public schools to address [~~state board approved~~] department-
2 approved academic content and performance standards when
3 instructing in specific [~~state board required~~] department-
4 required subject areas as provided in this section. A public
5 school or school district failing to meet these minimum
6 requirements shall not be accredited by the [~~state board~~]
7 department.

8 B. All first, second and third grade classes shall
9 provide daily instruction in reading and language arts skills,
10 including phonemic awareness, phonics and comprehension, and in
11 mathematics.

12 C. All first, second and third grade classes shall
13 provide instruction in art, music and a language other than
14 English.

15 D. In fourth through eighth grades, instruction
16 that meets academic content and performance standards shall be
17 provided in the following subject areas:

18 (1) reading and language arts skills, with an
19 emphasis on writing and editing for at least one year and an
20 emphasis on grammar and writing for at least one year;

21 (2) mathematics;

22 (3) language other than English;

23 (4) communication skills;

24 (5) science;

25 (6) art;

.154789.1

underscored material = new
[bracketed material] = delete

- 1 (7) music;
- 2 (8) social studies;
- 3 (9) New Mexico history;
- 4 (10) United States history;
- 5 (11) geography; ~~and~~
- 6 (12) physical fitness; and
- 7 (13) nutrition and health.

8 E. In fourth through eighth grades, school
9 districts shall offer electives that contribute to academic
10 growth and skill development and provide career and technical
11 education."

12 Section 10. Section 22-13-1.1 NMSA 1978 (being Laws 1986,
13 Chapter 33, Section 5, as amended) is amended to read:

14 "22-13-1.1. GRADUATION REQUIREMENTS.--

15 A. At the end of grades eight through eleven, each
16 student shall prepare an interim next-step plan that sets forth
17 the coursework for the grades remaining until high school
18 graduation. Each year's plan shall explain any differences
19 from previous interim next-step plans, shall be filed with the
20 principal of the student's high school and shall be signed by
21 the student, the student's parent ~~[or guardian]~~ and the
22 student's guidance counselor or other school official charged
23 with coursework planning for the student.

24 B. Each student must complete a final next-step
25 plan during the senior year and prior to graduation. The plan

underscored material = new
[bracketed material] = delete

1 shall be filed with the principal of the student's high school
2 and shall be signed by the student, the student's parent [~~or~~
3 ~~guardian~~] and the student's guidance counselor or other school
4 official charged with coursework planning for the student.

5 C. An individualized education program that meets
6 the requirements of Subsections A and B of this section and
7 that meets all applicable transition and procedural
8 requirements of the federal Individuals with Disabilities
9 Education Act for a student with a disability shall satisfy the
10 next-step plan requirements of this section for that student.

11 D. A local school board shall ensure that each high
12 school student has the opportunity to develop a next-step plan
13 and is reasonably informed about:

- 14 (1) curricular and course options;
15 (2) opportunities available that lead to
16 different post-high-school options; and
17 (3) alternative opportunities available if the
18 student does not finish a planned curriculum.

19 E. The secretary [~~of public education~~] shall:
20 (1) establish specific accountability
21 standards for administrators, counselors, teachers and school
22 district staff to ensure that every student has the opportunity
23 to develop a next-step plan;

24 (2) promulgate rules for accredited private
25 schools in order to ensure substantial compliance with the

.154789.1

underscored material = new
[bracketed material] = delete

1 provisions of this section;

2 (3) monitor compliance with the requirements
3 of this section; and

4 (4) compile such information as is necessary
5 to evaluate the success of next-step plans and report annually,
6 by December 15, to the legislative education study committee
7 and the governor.

8 F. Successful completion of a minimum of [~~twenty-~~
9 ~~three~~] twenty-four units aligned to the state academic content
10 and performance standards shall be required for graduation.

11 These units shall be as follows:

12 (1) four units in English, with major emphasis
13 on grammar and literature;

14 (2) three units in mathematics, at least one
15 of which is equivalent to the algebra 1 level or higher;

16 (3) two units in science, one of which shall
17 have a laboratory component; provided, however, that with
18 students entering the ninth grade beginning in the 2005-2006
19 school year, three units in science shall be required, one of
20 which shall have a laboratory component;

21 (4) three units in social science, which shall
22 include United States history and geography, world history and
23 geography and government and economics;

24 (5) one unit in physical education or other
25 physical activity;

.154789.1

underscored material = new
[bracketed material] = delete

1 (6) one unit in communication skills or
2 business education, with a major emphasis on writing and
3 speaking and that may include a language other than English;
4 [~~and~~]

5 (7) one unit in nutrition and health; and
6 [~~(7)~~] (8) nine elective units and eight
7 elective units for students entering the ninth grade in the
8 2005-2006 school year that meet [~~state board~~] department
9 content and performance standards. Student service learning
10 shall be offered as an elective.

11 G. The department shall establish a procedure for
12 students to be awarded credit through completion of specified
13 career technical education courses for certain graduation
14 requirements.

15 H. Final examinations shall be administered to all
16 students in all classes offered for credit.

17 I. A student shall not receive a high school
18 diploma who has not passed a state graduation examination in
19 the subject areas of reading, English, [~~math~~] mathematics,
20 writing, science and social science. The state graduation
21 examination on social science shall include a section on the
22 constitution of the United States and the constitution of New
23 Mexico. If a student exits from the school system at the end
24 of grade twelve without having passed a state graduation
25 examination, [~~he~~] the student shall receive an appropriate

.154789.1

1 state certificate indicating the number of credits earned and
2 the grade completed. If within five years after a student
3 exits from the school system [~~he~~] the student takes and passes
4 the state graduation examination, [~~he~~] the student may receive
5 a high school diploma.

6 J. As used in this section:

7 (1) "final next-step plan" means a next-step
8 plan that shows that the student has committed or intends to
9 commit in the near future to a four-year college or university,
10 a two-year college, a trade or vocational program, an
11 internship or apprenticeship, military service or a job;

12 (2) "interim next-step plan" means an annual
13 next-step plan in which the student specifies post-high-school
14 goals and sets forth the coursework that will allow the student
15 to achieve those goals; and

16 (3) "next-step plan" means an annual personal
17 written plan of studies developed by a student in a public
18 school or other state-supported school or institution in
19 consultation with the student's parent [~~or guardian~~] and school
20 counselor or other school official charged with coursework
21 planning for the student.

22 K. The secretary [~~of public education~~] may
23 establish a policy to provide for administrative
24 interpretations to clarify curricular and testing provisions of
25 the Public School Code."

underscored material = new
[bracketed material] = delete

1 Section 11. A new section of the Nursing Practice Act is
2 enacted to read:

3 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
4 shall establish by rule requirements for mandatory nutrition
5 education for certified nurse practitioners and clinical nurse
6 specialists."

7 Section 12. A new section of the Dental Health Care Act
8 is enacted to read:

9 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
10 shall establish by rule requirements for mandatory nutrition
11 education for dentists."

12 Section 13. A new section of the Medical Practice Act is
13 enacted to read:

14 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
15 shall establish by rule requirements for mandatory nutrition
16 education for physicians and physician assistants."

17 Section 14. A new section of the Professional
18 Psychologist Act is enacted to read:

19 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
20 shall establish by rule requirements for mandatory nutrition
21 education for psychologists."

22 Section 15. A new section of the Counseling and Therapy
23 Practice Act is enacted to read:

24 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
25 shall establish by rule requirements for mandatory nutrition

.154789.1

underscored material = new
[bracketed material] = delete

1 education for counselors and therapists."

2 Section 16. A new section of Chapter 61, Article 10 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] NUTRITION EDUCATION MANDATORY.--The board
5 of osteopathic medical examiners shall establish by rule
6 requirements for mandatory nutrition education for osteopathic
7 physicians."

8 Section 17. TEMPORARY PROVISION--UNIVERSITY OF NEW MEXICO
9 SCHOOL OF MEDICINE FOOD ADDITIVES AND PESTICIDES STUDIES.--The
10 obstetrics, neonatology and pediatrics departments of the
11 university of New Mexico school of medicine shall conduct a
12 study on the precise medical effects of food additives on
13 pregnant women, fetuses and children under the age of five and
14 a study on the medical effects of living near or working in
15 fields of farms spraying pesticides, herbicides and
16 insecticides.

17 Section 18. APPROPRIATIONS.--

18 A. Two hundred fifty thousand dollars (\$250,000) is
19 appropriated from the general fund to the nutrition council for
20 expenditure in fiscal year 2006 for staff, equipment,
21 furnishings and other expenses to implement the Nutrition
22 Council Act. Any unexpended or unencumbered balance remaining
23 at the end of fiscal year 2006 shall revert to the nutrition
24 fund.

25 B. Three hundred thousand dollars (\$300,000) is

.154789.1

underscoring material = new
[bracketed material] = delete

1 appropriated from the general fund to the public education
2 department for expenditure in fiscal years 2006 and 2007 to
3 employ nutritionists to assist school districts in the public
4 schools and to carry out the provisions of this act. Any
5 unexpended or unencumbered balance remaining at the end of
6 fiscal year 2007 shall revert to the nutrition fund.

7 C. Two hundred thousand dollars (\$200,000) is
8 appropriated from the general fund to the board of regents of
9 the university of New Mexico for expenditure in fiscal years
10 2006 through 2008 to perform the studies provided for in
11 Section 17 of this act. Any unexpended or unencumbered balance
12 remaining at the end of fiscal year 2008 shall revert to the
13 nutrition fund.