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FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/06

SPONSOR Altamirano LAST UPDATED _____ HB _____

SHORT TITLE Nutrition Council Act SB 217

ANALYST Lewis

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	250.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Public Education Department (PED)
 Attorney General's Office (AGO)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 217 enacts the Nutrition Council Act for the purpose of:

- improving the quality of food grown in, produced in or imported into New Mexico or exported from New Mexico; and
- educating New Mexico residents in good nutritional choices.

The "Nutrition Council" is created, composed of 14 members, including the Assistant Attorney General for Consumer Protection, the Secretary of Public Education, the Secretary of Health, and 11 members appointed by the governor who shall serve at the pleasure of the governor. The council is administratively attached to the Department of Health.

The Nutrition Council shall:

- A. study ways to improve the operations of state government relating to nutrition programs and services;

- B. recommend courses of instruction and practical training for department employees and others involved in the administration of state nutrition programs;
- C. develop nutrition education programs for food stamp recipients;
- D. recommend nutrition programs, public education programs and campaigns on health, nutrition and ideal weight maintenance for all state institutions and public schools, colleges and universities;
- E. consult with the University of New Mexico School of Medicine to ensure that its nutrition curricula train medical students in basic nutrition and how to prevent and treat nutritional diseases;
- F. recommend the development and implementation of nutrition and food safety programs;
- G. advise the appropriate departments, including the Office of the Attorney General, on areas of concern such as the health effects of food additives, the incidence of diabetes on Indian pueblos and reservations, the effects of food-induced hyperactivity and attention deficit disorders in children, obesity in all age groups, and other areas deemed important;
- H. make recommendations on ways to improve nutrition in New Mexico;
- I. assist the appropriate agencies in developing educational materials on nutrition and on toxic or potentially toxic additives to foods;
- J. advise public school districts on the development of nutrition courses that are grade specific and that use texts in the field of nutrition, preventive cardiology, preventive oncology and preventive toxicology for New Mexico secondary school students;
- K. develop a nutrition questionnaire to be sent to students in New Mexico that will be used to build a statewide nutrition database;
- L. review the quality of public school lunch programs and make a recommendation to the Secretary of Public Education; and
- M. within available appropriations, hire an executive director and such other employees as are necessary to carry out the provisions of the Nutrition Council Act.

\$250,000 is appropriated from the general fund to the Nutrition Council for staff, equipment, furnishings and other expenses to implement the Nutrition Council Act.

FISCAL IMPLICATIONS

The appropriation of \$250,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

SIGNIFICANT ISSUES

According to the Department of Health (DOH), the Nutrition Council would address the need for a coordinated effort to promote a culture of healthier food choices at home, in schools, at work-sites and in communities, and could serve as an example of how the public and private sectors can work together to improve the health of New Mexicans.

The DOH notes that SB 217 would mandate the development of a nutrition database for students. Current sources of nutrition data for youth in New Mexico include the Youth Risk and Resiliency Survey for high school students, administered through the Public Education Department (PED) in collaboration with the DOH and the Women, Infants and Children's (WIC) Nutrition Program database on children birth to five years. SB 217 would mandate that the council advise state departments on obesity and diabetes and review the school lunch program. Currently, DOH

administers obesity and diabetes prevention and control programs with professional staff trained in nutrition and physical activity; and PED oversees the school lunch program to ensure U.S. Department of Agriculture (USDA) guidelines are followed in order to continue receiving school lunch funding from USDA.

DOH further notes that the act mandates that the council develop a nutrition questionnaire for students. Decisions regarding data collection should be guided by epidemiological expertise to develop appropriate tools and interpret the data. The validity and reliability of nutrition questions and self-reported height and weight on questionnaires have not been established for students younger than high school age (CDC Div. of Nutrition and Physical Activity, CDC Div. of Adolescent and School Health).

SB 217 is not included in the DOH Executive Budget Request.

According to the Public Education Department (PED), that department currently has the authority and responsibility for quality of public school lunch programs. Reviewers ensure that schools are using standardized recipes. Nutritional analysis is performed on menus. Over a week's time the lunch menus must meet $\frac{1}{4}$ of the RDAs for protein, vitamin A, vitamin C, iron, calcium and 30% or lower of total calories from fat and 10% or less from saturated fat. PED is in the process of adopting rules in both nutrition and wellness for local school districts, which align with the requirements in this bill. PED will be providing technical assistance to schools in the development, implementation, monitoring and evaluating these rules.

PERFORMANCE IMPLICATIONS

DOH states that the aims of SB 217 have a reference in the DOH Strategic Plan: Program Area 1 - Public Health Objective 5: Reduce child and adolescent obesity and diabetes in all populations.

PED notes that this bill could positively impact performance measures that relate to the governor's obesity prevention initiative. Obesity prevention initiatives, school attendance and graduation rates enhance student performance by helping to increase the number of students performing at grade level in math and reading as nutrition is positively linked to academic performance.

ADMINISTRATIVE IMPLICATIONS

The administrative cost to DOH to administer the Council is estimated at 1 FTE (@ \$50,000) plus approximately \$10,000 in start-up costs and initial administrative support.

PED estimates that this may take approximately 200 hours of PED staff time (Educator Administrator-A @\$25.595/hour X 200 hours = \$6,628.7, including benefits (30%)), and notes that there could be additional undetermined costs related to this bill depending on responsibilities of either schools or the PED as determined by the recommendations made by the council to improve the operation of state government and schools related to nutrition programs and recommendations on data collection of school children.

TECHNICAL ISSUES

According to the Attorney General's Office (AGO), section 2 of the bill states that federal law was not intended to preempt the areas of nutrition addressed in the Nutrition Council Act. The

AGO asserts, however, that any additional food labeling requirements would have to be analyzed in light of the preemption provisions of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 343-1.

ALTERNATIVES

DOH suggests that, instead of conducting a separate nutrition survey, additional nutrition questions could be included in the Behavioral Risk Factor Survey and the Youth Risk and Resiliency Survey conducted by the Department of Health.

ML/yr