

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/07

SPONSOR Harrison LAST UPDATED _____ HB 392

SHORT TITLE Nutrition Council Act SB _____

ANALYST Hanika Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$250.0	recurring	General fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		*\$.1			Recurring	General fund

(Parenthesis () Indicate Expenditure Decreases)

*see narrative

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)
 Public Education Department (PED)
 Attorney General's Office (AGO)
 Health Policy Commission (HPC)
 Environment Department (ED)

SUMMARY

Synopsis of Bill

House Bill 392 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. The council is administratively attached to the DOH.

The Nutrition Council shall:

- A. study ways to improve the operations of state government nutrition programs and services;
- B. recommend courses of instruction and practical training for those 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 agencies 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 in developing educational materials on nutrition and on toxic or potentially toxic additives to foods;
- J. advise PED on development of nutrition courses that are grade specific and use texts in the field of nutrition, preventive cardiology, preventive oncology and preventive toxicology for New Mexico secondary school students;
- K. develop a student nutrition questionnaire to be used to build a statewide nutrition database;
- L. review the quality of public school lunch programs and make recommendations to the PED;
- M. hire an executive director and other employees as necessary to carry out the provisions of the Nutrition Council Act, and
- N. defines duties of director to include reporting requirements; and recommendations regarding appropriate labeling due to carcinogens, neurotoxins or other deleterious compounds in foods, food additives or food processes.

The bill also appropriates \$250 thousand from the general fund to the Nutrition Council, administratively attached to DOH, for staff, equipment, furnishings and other expenses to implement the Nutrition Council Act.

FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY08 shall revert to the general fund.

SB 217 is not included in the DOH Executive Budget Request for FY08.

There will be additional costs to DOH to administer the Council; and to Agencies determined by the implementation of any recommendations made by the Nutrition Council.

SIGNIFICANT ISSUES

DOH reports the Nutrition Council will address the need for a coordinated effort to promote a culture of healthier food choices at home, in schools, at worksites and in communities, and can serve as an example of how the public and private sectors can work together to improve the health of New Mexicans.

DOH notes the bill mandates 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 PED in collaboration with the DOH and the Women, Infants and Children's (WIC) Nutrition Program database on children birth to five years. The bill mandates 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.

DOH further notes that the act mandates 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.

PED reports the 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 the bill 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

DOH will need additional staff to administer the council effectively.

TECHNICAL ISSUES

Section 2 of the bill states that federal authorities have not intended to preempt the areas of nutrition addressed in the Nutrition Council Act. The AGO asserts that any additional food

labeling requirements will 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.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Concerned New Mexico citizens or citizen groups will continue to be welcome to petition the Environmental Improvement Board to enact new food safety regulations or to change existing regulations.

AMENDMENTS

DOH recommends on page 2, line 25, (f) delete the word, “licensed” and replace with the words “public health”.

AHO/csd