

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 63

50th Legislature, 1st Session, 2011

Tracking Number: .182901.5

Short Title: Government Food Purchasing Requirements

Sponsor(s): Senator Timothy M. Keller

Analyst: James Ball

Date: March 5, 2011

Bill Summary:

SB 63 adds a new section and amends the *Procurement Code* to require the Purchasing Division of the General Services Department (GSD) to establish a requirement ensuring that:

- food purchased by state agencies and local public bodies is produced in New Mexico;
- the total dollar amount of food purchased meet minimal percentage requirements, as follows:
 - 2.0 percent by July 1, 2012;
 - 5.0 percent by July 1, 2014; and
 - 10.0 percent by July 1, 2016; and
- the requirement is binding on all competitive bids submitted.

SB 63 also requires the New Mexico Department of Agriculture (NMDA) to report progress toward meeting the above stated requirement to the Legislative Finance Committee and appropriate interim legislative committees by December 1, 2011 and in subsequent years.

Fiscal Impact:

SB 63 makes no appropriation.

Fiscal Issues:

According to the bill analyses of the Department of Health, GSD, the Municipal League, and the Department of Corrections, potential increases could occur in the price of food procured by public entities, such as detention centers, senior citizen centers, and school cafeterias as a result of the proposed requirement.

Substantive Issues:

The Public Education Department states in its analysis of SB 63 that:

- the Student Nutrition Bureau oversees the National School Lunch Program, administered on the federal level by the Food and Nutrition Service, an agency of the US Department of Agriculture and that local school districts use allocated funding to purchase foods and produce that must meet federal nutrient standards. Additional administrative time might be required by local school districts to reconcile the proposed procurement requirement with federal nutritional requirements;
- the Department of Defense Fresh Fruit program over the years has been buying New Mexico apples into that commodity program; and
- in 2007, funds were appropriated to provide New Mexico grown foods to the North Valley section of Albuquerque Public Schools.

Among concerns, the GSD bill analysis states that:

- it is undetermined whether there are sufficient producers and processors with a principal place of business in New Mexico to meet the thresholds;
- the bill assumes that the quality and price of foods and produce in New Mexico are equal to those available from out-of-state sources, which they might not be;
- validation of suppliers would require establishing a new process to establish a database of qualifying vendors;
- targeting required spending on New Mexico producers and processors could be difficult in that total food expenditures vary each year; and
- due to reciprocity laws adopted by other states, New Mexico producers/processors might be penalized.

Background:

According to a 2008 article in the *Seattle Times*:

- legislation has been proposed in several states, including Washington, to require more farm-fresh, locally grown food be used in school lunches as well as at other public institutions.
- Farm-to-school efforts are multiplying as parents worry about food safety, states look to cut greenhouse gases, and environmentalists try to preserve land by bolstering farm economies;
- the Washington legislation may allow school nutrition directors and state agencies to buy meat, dairy products, and produce in-state without having to accept the lowest bid.

The federal *Farm Bill of 2008* now allows schools to use federal funds to buy locally grown farm products to the maximum extent possible through a geographic preference provision, even if the local producer is not the lowest bidder.

Related Bills:

SB 123 *NM Grown Produce in School Lunches*

SB 144 *Require School Free Breakfast Programs*