

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 144a

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .183710.1

**Short Title:** Require School Free Breakfast Programs

**Sponsor(s):** Senators Cynthia Nava and Mary Jane M. García

**Analyst:** James Ball

**Date:** March 7, 2011 (Revised)

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**AS AMENDED**

**The Senate Education Committee amendment provides that if instruction occurs simultaneously with breakfast being served or consumed pursuant to a state or federal program, that time shall be deemed a part of the instructional day.**

**Original Bill Summary:**

Effective in school year 2011-2012, SB144 amends the *Public School Code* to:

- require all school districts and charter schools to establish a free breakfast program for all students attending elementary schools in which 85 percent or more of the students are eligible for the free or reduced lunch program during the prior school year under the *National School Lunch Act of 1946*;
- allow school districts or charter schools with elementary schools with fewer than 85 percent of students eligible for the free and reduced lunch program to establish a school breakfast program free to all students;
- require school breakfast service time to be deemed part of the instructional day;
- allow a school district or charter school to apply to the Public Education Department (PED) for a waiver of the required school breakfast program if the district or charter school can show the program would create an undue financial hardship;
- establish the rate of reimbursement for program costs to school districts and charter schools at the federal maximum rate set forth annually by the Secretary of the US Department of Agriculture;
- set forth a sequential order for reimbursement of school districts and charter schools beginning with those with the highest percentage of eligible students until appropriated funds are exhausted; and
- require PED to promulgate rules necessary to implement the program.

**Fiscal Impact:**

SB 144 does not contain an appropriation.

**Fiscal Issues (Revised):**

- In FY 11, the Breakfast for Elementary Students program was supported with an appropriation of approximately \$1.9 million to provide school breakfast free to all

children, regardless of income, at low-performing elementary schools not meeting the federal adequate yearly progress performance rating.

- For FY 12, \$1.9 million is included in the recommendation of the executive, the Legislative Finance Committee, and the Legislative Education Study Committee.

### **Substantive Issues:**

- SB 144 requires that reimbursement for the school breakfast program be paid to school districts and charter schools in sequential order from those with the highest percentage of eligible students to the lowest, until funds are exhausted. Under this requirement, a school district or charter school that establishes a program and provides the service, but that is low in the sequential order for reimbursement could receive little or no reimbursement.
- The PED analysis suggests districts be allowed to determine when to serve breakfast and whether that time shall be considered part of the instructional day.

### **Background:**

- According to the Department of Health (DOH):
  - healthy eating patterns are essential for students to achieve their full academic potential, optimal physical and mental development, and lifelong health and well-being. School nutrition programs positively influence students' eating habits and academic achievement. In addition, several studies indicate that children who eat breakfast are more likely to behave better in school, get along well with their peers, and are likely to have fewer absences and incidents of tardiness than those who do not;
  - New Mexico ranks first in the nation for its free-and-reduced-price breakfast at schools, according to the School Breakfast Report Card released by the Food Research and Action Center in 2009. The report notes that students from low-income families nationally are eating more free-and-reduced-price breakfasts at school. In 2008, nearly 16.7 million American children, or almost one in four, lived in food insecure households where their families faced a constant struggle against hunger; and
  - the new federal *Healthy, Hunger-Free Kids Act of 2010* contains key provisions regarding school breakfast programs. For example, such as any school in which 40 percent or more of students are directly certified for free school meals could agree to serve free school breakfasts and lunches to all students. Schools must cover any costs above the federal reimbursement received, but they are relieved of all administrative burdens relating to certifying individual children for free meals.

### **Related Bills:**

SB 63 *Government Food Purchasing Requirements*  
SB 123 *NM Grown Produce in School Lunches*