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HOUSE BILL 271

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO PUBLIC EDUCATION; PROVIDING FOR BREAKFAST AFTER THE BELL PROGRAMS FOR STUDENTS IN KINDERGARTEN THROUGH TWELFTH GRADE; MAKING AN APPROPRIATION.

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

SECTION 1. Section 22-13-13.2 NMSA 1978 (being Laws 2011, Chapter 35, Section 5) is amended to read:

"22-13-13.2. BREAKFAST PROGRAM REQUIRED--WAIVER--  
DISTRIBUTION OF FUNDS.--

A. School districts and charter schools shall establish a ~~[school]~~ "breakfast after the bell program" ~~[providing]~~ to provide free breakfast, after the instructional day has begun, to all students attending ~~[an elementary]~~ a public school ~~[in that school district]~~ in which eighty-five percent or more of the enrolled students ~~[at the elementary~~

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1 ~~school~~] were eligible for free or reduced-price lunch under the  
2 National School Lunch Act [~~of 1946~~] during the prior school  
3 year.

4 B. A school district or charter school that  
5 includes [~~an elementary~~] a public school in which fewer than  
6 eighty-five percent of the enrolled students were eligible for  
7 free or reduced-price lunch during the prior school year under  
8 the National School Lunch Act [~~of 1946~~] may establish a  
9 [~~school~~] breakfast after the bell program [~~providing~~] to  
10 provide free breakfast, after the instructional day has begun,  
11 to all students attending that [~~elementary~~] public school;  
12 provided that the program complies with all applicable  
13 department rules relating to the [~~school~~] breakfast after the  
14 bell program authorized by this section.

15 C. The school district or charter school may apply  
16 to the department for a waiver of the [~~school~~] breakfast after  
17 the bell program required under the provisions of Subsection A  
18 of this section if the school district or charter school can  
19 demonstrate that providing the program will result in undue  
20 financial hardship for the school district or charter school.

21 D. The department shall [~~reimburse~~] fund each  
22 school district or charter school that establishes a [~~school~~]  
23 breakfast after the bell program under the provisions of this  
24 section for [~~costs associated with~~] providing free breakfast to  
25 students on a per-meal basis at the federal maximum rate of

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1 reimbursement as set forth annually by the federal secretary of  
2 agriculture for educational grants awarded under the authority  
3 of the secretary. ~~[Reimbursement]~~ School districts and charter  
4 schools do not need to demonstrate their expenses to receive  
5 funding pursuant to this section.

6 E. Disbursements for the ~~[school]~~ breakfast after  
7 the bell program shall be paid in sequential order, until the  
8 state ~~[school]~~ breakfast after the bell funds are exhausted.  
9 School districts ~~[or]~~ and charter schools whose ~~[elementary]~~  
10 public schools have the highest percentage of enrolled students  
11 eligible for free or reduced-price lunch under the National  
12 School Lunch Act ~~[of 1946]~~ shall be paid first. School  
13 districts ~~[or]~~ and charter schools whose ~~[elementary]~~ public  
14 schools have the lowest percentage of enrolled students  
15 eligible for free or reduced-price lunch under the National  
16 School Lunch Act ~~[of 1946]~~ shall be paid last.

17 F. By June 15 of each year, each school district  
18 and charter school seeking state breakfast after the bell funds  
19 shall submit to the department the following information:

20 (1) the number of breakfasts served at no  
21 charge by each of its public schools during the previous school  
22 year; and

23 (2) the federal reimbursement rate for each  
24 breakfast served.

25 G. When calculating the amount of breakfast after

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1 the bell program funding that is due a public school, the  
2 department shall assume that student participation will remain  
3 at the same level as the previous year. If a school district  
4 or charter school has not previously received state breakfast  
5 after the bell funding, the department shall assume that ninety  
6 percent of the student population of an eligible public school  
7 will participate in the breakfast after the bell program and  
8 shall fund the public school's program accordingly.

9 H. By August 1 of each year, the department shall  
10 inform eligible school districts and charter schools of the  
11 amount of breakfast after the bell funding they will receive  
12 during the upcoming school year.

13 I. If a public school receives breakfast after the  
14 bell funding above the amount necessary to pay actual costs of  
15 meals served, the leftover funding may be used to fund other  
16 breakfast programs at other public schools within the school  
17 district.

18 ~~[E.]~~ J. The department shall promulgate rules  
19 necessary for implementation of this section, including:

20 (1) standards for ~~[school]~~ breakfast after the  
21 bell programs that meet federal school breakfast program  
22 standards;

23 (2) procedures for waiver requests and the  
24 award of waivers as provided for in Subsection C of this  
25 section, including what constitutes financial hardship; and

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1 (3) procedures for ~~[reimbursement]~~ funding  
2 school districts and charter schools.

3 ~~[F.]~~ K. The provisions of this section ~~[shall not]~~  
4 apply ~~[until the 2011-2012]~~ to the 2014-2015 and succeeding  
5 school ~~[year]~~ years."

6 SECTION 2. APPROPRIATION.--Six hundred eighty thousand  
7 dollars (\$680,000) is appropriated from the general fund to the  
8 public education department for expenditure in fiscal year 2015  
9 to combine with the appropriation for breakfast for elementary  
10 students in the General Appropriation Act of 2014 to provide  
11 breakfast for all students pursuant to the breakfast after the  
12 bell program. Any unexpended or unencumbered balance remaining  
13 at the end of fiscal year 2015 shall revert to the general  
14 fund.