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AN ACT  
RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE  
TO CLARIFY PROVISIONS OF THE BREAKFAST AFTER THE BELL  
PROGRAM.

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, as amended) is amended to read:

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

A. School districts and charter schools shall  
establish a "breakfast after the bell program" to provide  
free breakfast, after the instructional day has begun, to all  
students attending a public school in which eighty-five  
percent or more of the enrolled students were eligible for  
free or reduced-price lunch under the National School Lunch  
Act during the prior school year.

B. A school district or charter school that  
includes a public school in which fewer than eighty-five  
percent of the enrolled students were eligible for free or  
reduced-price lunch during the prior school year under the  
National School Lunch Act may establish a breakfast after the  
bell program to provide free breakfast, after the  
instructional day has begun, to all students attending that  
public school; provided that the program complies with all

1 applicable department rules relating to the breakfast after  
2 the bell program authorized by this section.

3 C. Nothing in this section shall be interpreted to  
4 prohibit a school that establishes a breakfast after the bell  
5 program under the provisions of Subsection A or B of this  
6 section from beginning breakfast service before the start of  
7 the instructional day; provided that the school also serves  
8 breakfast after the beginning of the instructional day in the  
9 location of its choice, including the cafeteria, classroom,  
10 on the bus, or by providing a hand-carried breakfast.

11 D. The school district or charter school may apply  
12 to the department for a waiver of the breakfast after the  
13 bell program required under the provisions of Subsection A of  
14 this section if the school district or charter school can  
15 demonstrate that providing the program will result in undue  
16 financial hardship for the school district or charter school.

17 E. The department shall award funding to each  
18 school district or charter school that establishes a  
19 breakfast after the bell program under the provisions of this  
20 section for providing free breakfast to students on a  
21 per-meal basis at the federal maximum rate of reimbursement  
22 as set forth annually by the federal secretary of agriculture  
23 for educational grants awarded under the authority of the  
24 secretary. School districts and charter schools do not need  
25 to demonstrate their expenses to receive funding pursuant to

1 this section.

2 F. Disbursements for the breakfast after the bell  
3 program shall be paid in sequential order, until the state  
4 breakfast after the bell funds are exhausted. School  
5 districts and charter schools whose public schools have the  
6 highest percentage of enrolled students eligible for free or  
7 reduced-price lunch under the National School Lunch Act shall  
8 be paid first. School districts and charter schools whose  
9 public schools have the lowest percentage of enrolled  
10 students eligible for free or reduced-price lunch under the  
11 National School Lunch Act shall be paid last.

12 G. By June 15 of each year, each school district  
13 and charter school seeking state breakfast after the bell  
14 funds shall submit to the department the following  
15 information:

16 (1) the number of breakfasts served at no  
17 charge by each of its public schools during the previous  
18 school year; and

19 (2) the federal reimbursement rate for each  
20 breakfast served.

21 H. When calculating the amount of breakfast after  
22 the bell program funding that is due a public school, the  
23 department shall assume that student participation will  
24 remain at the same level as the previous year. If a school  
25 district or charter school has not previously received state

1 breakfast after the bell funding, the department shall assume  
2 that ninety percent of the student population of an eligible  
3 public school will participate in the breakfast after the  
4 bell program and shall fund the public school's program  
5 accordingly.

6 I. By August 1 of each year, the department shall  
7 inform eligible school districts and charter schools of the  
8 amount of breakfast after the bell funding they will receive  
9 during the upcoming school year.

10 J. The department shall promulgate rules necessary  
11 for implementation of this section, including:

12 (1) standards for breakfast after the bell  
13 programs that meet federal school breakfast program  
14 standards;

15 (2) procedures for waiver requests and the  
16 award of waivers as provided for in Subsection D of this  
17 section, including what constitutes financial hardship; and

18 (3) procedures for funding school districts  
19 and charter schools.

20 K. The provisions of this section apply to the  
21 2014-2015 and succeeding school years; provided, however, that  
22 the breakfast after the bell program for middle and high  
23 school students shall begin the first school year after the  
24 legislature provides funding for that portion of the  
25 program."

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