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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/02/11  
**LAST UPDATED** 02/16/11    **HB** \_\_\_\_\_

**SPONSOR**    Nava

**SHORT TITLE**    Require School Free Breakfast Programs    **SB** 144/aSEC

**ANALYST**    Gudgel

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 3 and SB 257. HB 3 and SB 257 both contain an appropriation for elementary school breakfast.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Department of Health (DOH)

### SUMMARY

#### Synopsis of Senate Education Committee Amendment

Senate Education Committee Amendment to Senate Bill 144 clarifies that time when breakfast is served or consumed pursuant to a state or federal program shall be deemed to be time in a school-directed program and is part of the instructional day so long as instruction occurs simultaneously.

#### Synopsis of Original Bill

Senate Bill 144 amends the Public School Code establish a school breakfast program to provide free breakfast to elementary students after school begins. The bill clarifies that time used to serve students breakfast under a state or federal program shall be deemed to be time in a school directed program and is part of the instructional day. The bill provides for a waiver from the requirements of a breakfast program, and establishes priorities to reimburse districts.

The bill repeals Section 22-9-1 NMSA 1978.

## **FISCAL IMPLICATIONS**

Senate Bill 144 does not make an appropriation. It establishes that between FY08 and FY11, \$9,032.1 in general fund appropriations have been made for the elementary breakfast program. State funded breakfast in the classroom has the potential to bring in significant federal dollars to New Mexico by increasing the number of federally reimbursable meals served. According to an analysis prepared by New Mexico Appleseed, a \$1.9 million state investment will leverage \$15.5 million in federal funds and feed approximately 55,000 children under the proposed funding formula.

According to the USDA, the current (July 1, 2010 through June 30, 2011) basic cash reimbursement rates for non-severe need are: free breakfasts \$1.48; reduced-price breakfasts \$1.18; and paid breakfasts \$0.26.

## **SIGNIFICANT ISSUES**

Senate Bill 144 mandates that school districts and charter schools must establish a free school breakfast program for all students attending an elementary school if 85 percent or more of the enrolled students are free or reduced price lunch eligible. School districts and charter schools with fewer than 85 percent or more of the students are free or reduced price lunch eligible may establish a school breakfast program if the program complies with department rules. Schools required to have a free breakfast program may apply to the department for a waiver if they can demonstrate financial hardship.

The bill allows time used to serve students breakfast under a state or federal breakfast program to count as instructional time.

The department will be required to establish reimbursement rules on a per-meal basis at the federal maximum rate of reimbursement, to be paid in sequential order, until all funds are exhausted. School districts and charter schools with the highest percentage of enrolled students eligible for free or reduced price lunch will be paid first.

The requirements of the bill would apply to the 2011-2012 school year.

The bill also grants PED sole administrative and supervisory authority over state and federal funds received for school breakfast programs.

The bill repeals Section 22-9-1, which reads, “The state board [department], the state superintendent [secretary] and the department of education [public education department] are authorized to accept any gifts or grants from the federal government in aid of education, school construction or school lunch programs in the state.”

## **PERFORMANCE IMPLICATIONS**

PED reports SB144 relates to the PED strategic goal to keep students ready to learn by providing access to healthcare, health foods and physical fitness.

## **ADMINISTRATIVE IMPLICATIONS**

PED will be required to promulgate rules including standards for school breakfast programs that meet federal school breakfast program standards; waiver procedures, including what constitutes financial hardship; and procedures for reimbursement.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB 3 and SB 257. HB 3 and SB 257 both make an appropriation for elementary breakfast.

## **TECHNICAL ISSUES**

The bill does not limit the amount of time used to serve breakfast that can count toward instructional time.

## **OTHER SUBSTANTIVE ISSUES**

School districts and independent schools that choose to take part in the federal breakfast program receive cash subsidies from the U.S. Department of Agriculture (USDA) for each meal they serve. In return, they must serve breakfasts that meet federal requirements, and they must offer free or reduced price breakfasts to eligible children.

Currently, New Mexico appropriates state funds to support universal breakfast to low performing elementary schools (schools not meeting adequate yearly progress). Studies indicate that children who eat breakfast are more likely to evidence good behavior, and perform better in the classroom, including having fewer absences and incidents of tardiness, while studies show similar results for students who eat breakfast in the classroom.

New Mexico ranked #1 in the nation for its free and reduced-price breakfast at schools according to the School Breakfast Report Card released by the Food Research Action Center in 2009.

RSG/mew