

AN ACT

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

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 "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

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

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

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

E. Disbursements for the breakfast after the bell program shall be paid in sequential order, until the state breakfast after the bell funds are exhausted. School districts and charter schools whose public schools have the highest percentage of enrolled students eligible for free or reduced-price lunch under the National School Lunch Act shall be paid first. School districts and charter schools whose

public schools have the lowest percentage of enrolled students eligible for free or reduced-price lunch under the National School Lunch Act shall be paid last.

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

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

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

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

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

during the upcoming school year.

I. The department shall promulgate rules necessary for implementation of this section, including:

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

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

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

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