

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 4

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC SCHOOLS; CHANGING THE NAME OF THE
HUNGER-FREE STUDENTS' BILL OF RIGHTS ACT TO THE HEALTHY
HUNGER-FREE STUDENTS' BILL OF RIGHTS ACT; AMENDING AND ENACTING
SECTIONS OF THE HEALTHY HUNGER-FREE STUDENTS' BILL OF RIGHTS
ACT; ENSURING FREE, HEALTHY SCHOOL MEALS FOR ALL STUDENTS;
PRESCRIBING DUTIES OF THE PUBLIC EDUCATION DEPARTMENT SFC→
~~MAKING AN APPROPRIATION~~←SFC .

.224541.1AIC March 3, 2023 (9:23am)

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SEC/SB 4

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

SECTION 1. Section 22-13C-1 NMSA 1978 (being Laws 2017, Chapter 117, Section 1) is amended to read:

"22-13C-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 13C NMSA 1978 may be cited as the "Healthy Hunger-Free Students' Bill of Rights Act"."

SECTION 2. Section 22-13C-2 NMSA 1978 (being Laws 2017, Chapter 117, Section 2) is amended to read:

"22-13C-2. DEFINITIONS.--As used in the Healthy Hunger-Free Students' Bill of Rights Act:

~~A. "meal application" means an application for free or reduced-fee meals pursuant to the national school lunch program and school breakfast program; and~~

~~B. "school" means a public school district, a public school, a private school or a religious school.]~~

A. "community eligibility provision" means the federal provision created pursuant to Subparagraph (F) of Paragraph (1) of Subsection (a) of 42 U.S.C. Section 1759a that allows school districts to choose to receive federal special assistance payments for school meals in exchange for providing free school meals to all students enrolled in all or selected schools of the school district;

B. "direct certification" means the process by which eligible children are certified for free meals without the need for a household application based on household

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participation in one or more means-tested federal assistance programs;

C. "eligible meals" means meals served to full price, paid students that qualify for reimbursement under the national school lunch program and the school breakfast program;

D. "federal free meal reimbursement" means the free meal reimbursement paid by the United States department of agriculture under 42 U.S.C. 1759a for meals that qualify for reimbursement pursuant to the national school lunch program and the school breakfast program;

E. "federal paid meal reimbursement rate" means the paid reimbursement rate as set annually by the United States department of agriculture under 42 U.S.C. 1759a for meals that qualify for reimbursement under the national school lunch program and the school breakfast program;

F. "identified student percentage" means the percentage of a school food authority's student enrollment that is certified as eligible for free meals based on a documentation of benefit of receipt or categorical eligibility as described in 7 C.F.R. Section 245.6;

G. "meal application" means an application for free or reduced-price meals pursuant to the national school lunch program and the school breakfast program;

H. "paid meal rate" means the paid student rate reported by the department to the United States department of

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agriculture based on the average paid meal rate charged by school food authorities in the prior school year;

I. "participating school food authority" means a school food authority that chooses to participate in the New Mexico grown grant program;

J. "program" means the healthy universal school meals program created pursuant to the Healthy Hunger-Free Students' Bill of Rights Act;

K. "school food authority" means school districts, charter schools, the United States department of the interior's bureau of Indian education schools, tribally controlled schools and private schools that operate the national school lunch program and the school breakfast program;

L. "unprocessed and minimally processed products" means raw or frozen products, products that retain their inherent character, such as shredded carrots or ground beef, and dried products, such as beans, but does not include any products that are heated, cooked or canned; and

M. "value-added processed products" means products that are altered from their unprocessed or minimally processed state through preservation techniques, including cooking, baking or canning."

SECTION 3. Section 22-13C-4 NMSA 1978 (being Laws 2017, Chapter 117, Section 4) is amended to read:

"22-13C-4. ~~[REQUIREMENT TO PROVIDE MEALS AND ENSURE THAT~~

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~~ELIGIBLE STUDENTS ARE ENROLLED]~~ UNIVERSAL SCHOOL MEALS FOR CHILDREN.--

~~[A. Regardless of whether or not a student has money to pay for a meal or owes money for earlier meals, a school:~~

~~(1) shall provide a United States department of agriculture reimbursable meal to a student who requests one, unless the student's parent or guardian has specifically provided written permission to the school to withhold a meal; and~~

~~(2) shall not require that a student throw away a meal after it has been served because of the student's inability to pay for the meal or because money is owed for earlier meals.~~

~~B. If a student owes money for five or more meals, a school shall:~~

~~(1) check the state list of students categorically eligible for free meals to determine if the student is categorically eligible;~~

~~(2) make at least two attempts, not including the application or instructions included in a school enrollment packet, to reach the student's parent or guardian and have the parent or guardian fill out a meal application; and~~

~~(3) require a principal, assistant principal or counselor to contact the parent or guardian to offer~~

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~~assistance with a meal application, determine if there are other issues within the household that have caused the child to have insufficient funds to purchase a school meal and offer any other assistance that is appropriate.]~~

A. Public school districts and charter schools operating the national school lunch program and the school breakfast program shall establish a program to offer high-quality meals at no charge to all students. Bureau of Indian education schools, tribally controlled schools and private schools operating the national school lunch and the school breakfast program may establish a program to offer high-quality meals at no charge to students. All participating school food authorities shall offer one breakfast and one lunch at no cost to students during each school day to any student who requests a meal without consideration of the student's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period.

B. The department shall award funding to each school food authority that establishes a program pursuant to the provisions of Subsection E of this section as follows:

(1) for school food authorities that meet the meal quality improvement requirements established pursuant to Subsection E of this section, the department shall distribute to each such school food authority an amount that is equal to the federal free meal reimbursement rate multiplied by the

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total number of eligible meals served during the applicable budget year, minus an amount equal to the federal paid meal reimbursement for eligible meals served during the applicable budget year; or

(2) for school food authorities that do not meet by July 1, 2025 the meal quality improvement requirements established pursuant to Subsection E of this section, the department shall distribute to each such school food authority an amount that is equal to the paid meal rate multiplied by the total number of eligible meals served during the applicable budget year.

C. School food authorities shall use the money received pursuant to this section to purchase commodities necessary to improve meal quality, including food and other consumables, equipment, staffing, labor needs or training and technical assistance.

D. By August 1 of each year, the department shall inform eligible school food authorities of the amount of program funding they will receive during the upcoming school year. When calculating the amount of program funding that is due to a school food authority, the department shall assume that student participation will remain at the same level as the previous school year.

E. The department shall promulgate rules necessary for implementation of this section, including rules providing

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for:

(1) meal quality improvement requirements for the program, which may include purchasing New Mexico-produced food, freshly preparing scratch-cooked foods, providing culturally relevant meals and engaging student and family voices and choices in menu development; and

(2) procedures for annual certification.

F. School food authorities shall maximize access to federal funds for the cost of school breakfast and lunch programs by adopting the United States department of agriculture's community eligibility provision or any other federal provision that, in the opinion of the department, results in the most possible federal funding for meals served in that program. Each school food authority that has a school or site with an identified student percentage of at least forty percent, or an identified student percentage of less than forty percent if authorized by federal law, as determined annually by the deadline set by the United States department of agriculture, shall participate in the federal community eligibility provision in the subsequent school year and throughout the duration of the community eligibility provision's four-year cycle. School food authorities, to the extent practicable, shall group public schools for purposes of maximizing the number of schools eligible to participate in the community eligibility provision.

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G. If a school food authority does not elect the community eligibility provision or any other federal provision that, in the opinion of the department, results in the most possible federal funding for meals served in that program, school meal applications shall be collected and direct certification shall be used to identify students receiving free, reduced-price and paid meals based on United States department of agriculture guidance.

H. School food authorities shall take steps to maximize federal revenues and minimize debt on families by, at least monthly, taking steps to directly certify students for free school meal status pursuant to protocol determined by the department."

SECTION 4. A new section of the Healthy Hunger-Free Students' Bill of Rights Act is enacted to read:

"[NEW MATERIAL] INCENTIVIZE NEW MEXICO-GROWN FOODS.--

A. School food authorities are eligible to receive an incentive grant pursuant to this section to purchase New Mexico-grown, -raised or -processed products. A participating school food authority may use the amount received pursuant to this section to support implementation of program requirements described in Subsection E of Section 3 of the Healthy Hunger-Free Students' Bill of Rights Act.

B. School food authorities shall use the money received pursuant to this section to purchase New Mexico-grown,

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-raised or -processed products. A minimum of seventy-five percent of funds shall be used to purchase unprocessed and minimally processed products. Up to twenty-five percent of funds may be used for value-added processed products.

C. By August 1 of each year, subject to available appropriations, the department shall distribute to each participating school food authority the greater of one thousand dollars (\$1,000) or an amount equal to ten cents (\$.10) multiplied by the number of lunches that qualified for federal free meal reimbursement that the participating school food authority served to students in the preceding school year. When calculating the amount of program funding that is due to a school food authority, the department shall assume that student participation will remain at the same level as the previous year."

SECTION 5. A new section of the Healthy Hunger-Free Students' Bill of Rights Act is enacted to read:

"[NEW MATERIAL] ADDRESSING FOOD WASTE.--By no later than July 1, 2025, a school food authority shall seek to achieve the lowest level of food waste, which shall include all of the following:

A. students in grades kindergarten through five shall be allowed to have up to twenty minutes of seated lunch time each school day to provide sufficient lunch periods that are long enough to give all students adequate time to eat; and

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B. share tables shall be provided where food service staff, students and parents may return allowable food. Allowable food placed on the share tables that is not taken by a student during the course of a regular school meal period shall be donated to students, food banks or other nonprofit charitable organizations."

~~SFC→SECTION 6. APPROPRIATION.--Thirty million dollars (\$30,000,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2024 and subsequent fiscal years to implement the provisions of the Healthy Hunger-Free Students' Bill of Rights Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~←SFC

SECTION SFC→7.←SFC SFC→6.←SFC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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