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HOUSE BILL 315

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Patricio Ruiloba

AN ACT

RELATING TO PUBLIC EDUCATION; CHANGING DEFINITIONS IN THE HUNGER-FREE STUDENTS' BILL OF RIGHTS ACT; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO PROMULGATE RULES REGARDING GRANTS TO SCHOOL DISTRICTS TO PROVIDE FREE BREAKFAST AND LUNCH TO ALL STUDENTS.

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 "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]~~ DEFINITION.--As used in the .215994.1

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1 Hunger-Free Students' Bill of Rights Act, [~~A.~~] "meal
2 application" means an application for free or reduced-fee meals
3 pursuant to the national school lunch program and the federal
4 school breakfast program [~~and~~

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

7 SECTION 3. Section 22-13C-7 NMSA 1978 (being Laws 2017,
8 Chapter 117, Section 7) is amended to read:

9 "22-13C-7. APPLICABILITY.--The Hunger-Free Students' Bill
10 of Rights Act applies to [~~a public~~] school [~~district, a public~~
11 ~~school, a private school or a religious school~~] districts and
12 charter schools that [~~participates~~] participate in the national
13 school lunch program or the federal school breakfast program."

14 SECTION 4. Section 22-13-13 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 187) is recompiled as Section 22-13C-8 NMSA
16 1978 and is amended to read:

17 "22-13C-8. SCHOOL LUNCH PROGRAM.--

18 A. The [~~state board~~] department shall prescribe
19 standards and [~~regulations~~] rules for the establishment and
20 operation of school lunch programs [~~in the state~~] that provide
21 meals on a nonprofit basis. The department [~~of education~~]
22 shall provide technical advice and assistance to any school
23 district or charter school in connection with the establishment
24 or operation of a school lunch program.

25 B. A local school board or governing body of a

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1 charter school may accept gifts or grants for use in connection
2 with a school lunch program in the school district or charter
3 school.

4 ~~[G. A "school lunch program" means a program under~~
5 ~~which lunches are served by a public school in the state on a~~
6 ~~nonprofit basis to students attending the school.]"~~

7 SECTION 5. Section 22-13-13.2 NMSA 1978 (being Laws 2011,
8 Chapter 35, Section 5, as amended) is recompiled as Section
9 22-13C-9 NMSA 1978 and is amended to read:

10 "22-13C-9. BREAKFAST PROGRAM REQUIRED--WAIVER--
11 DISTRIBUTION OF FUNDS.--

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

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

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1 provided that the program complies with all applicable
2 department rules relating to the breakfast after the bell
3 program authorized by this section.

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

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

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

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1 to receive funding pursuant to 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 districts
5 and charter schools whose public schools have the highest
6 percentage of enrolled students eligible for free or reduced-
7 price lunch under the National School Lunch Act shall be paid
8 first. School districts and charter schools whose public
9 schools have the lowest percentage of enrolled students
10 eligible for free or reduced-price lunch under the National
11 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 funds
14 shall submit to the department the following information:

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

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

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

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1 percent of the student population of an eligible public school
2 will participate in the breakfast after the bell program and
3 shall fund the public school's program accordingly.

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

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

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

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

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

17 K. The provisions of this section apply to the
18 2014-2015 and succeeding school years; provided, however, that
19 the breakfast after the bell program for middle and high school
20 students shall begin the first school year after the
21 legislature provides funding for that portion of the program."

22 SECTION 6. A new section of the Hunger-Free Students'
23 Bill of Rights Act is enacted to read:

24 "[NEW MATERIAL] GRANT AWARDS.--

25 A. On or after July 1 of each year, the department

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1 shall receive and review applications for grants and make
2 grants to school districts and charter schools for the purpose
3 of providing free breakfast and lunch to all students attending
4 a public school or charter school.

5 B. In awarding a grant, the department shall
6 consider whether the school district or charter school has
7 applied for funding pursuant to the national school lunch
8 program and the federal school breakfast program.

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

- 11 (1) standards for awarding grants; and
12 (2) procedures for accepting and reviewing
13 grant applications."

14 SECTION 7. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2021.