

1 AN ACT

2 RELATING TO PUBLIC SCHOOLS; ENACTING A NEW SECTION OF THE
3 PUBLIC SCHOOL CODE REQUIRING SCHOOL DISTRICTS AND CHARTER
4 SCHOOLS TO ESTABLISH FREE BREAKFAST PROGRAMS; AMENDING THE
5 PUBLIC SCHOOL CODE TO ALLOW SCHOOL BREAKFAST SERVICE DURING
6 INSTRUCTIONAL TIME.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. Section 22-2-8.1 NMSA 1978 (being Laws 1986,
10 Chapter 33, Section 2, as amended) is amended to read:

11 "22-2-8.1. SCHOOL YEAR--LENGTH OF SCHOOL DAY--
12 MINIMUM.--

13 A. A school year consists of at least one hundred
14 eighty full instructional days for a regular school year
15 calendar, exclusive of any release time for in-service
16 training. A school year consists of at least one hundred
17 fifty full instructional days for a variable school year
18 calendar, exclusive of any release time for in-service
19 training. Except as provided in Subsections D and G of this
20 section, days or parts of days that are lost to weather, in-
21 service training or other events that are not school-directed
22 programs shall be made up so that students are given a full
23 instructional school year.

24 B. Except as otherwise provided in this
25 section, regular students shall be in school-directed

1 programs, exclusive of lunch, for a minimum of the following:

2 (1) kindergarten, for half-day programs, two
3 and one-half hours per day or, for full-day programs, five
4 and one-half hours per day;

5 (2) grades one through six, five and
6 one-half hours per day; and

7 (3) grades seven through twelve, six hours
8 per day.

9 C. The department shall provide for the length and
10 number of school days for variable school year calendars in
11 accordance with the Variable School Calendar Act.

12 D. Up to thirty-three hours of the full-day
13 kindergarten program may be used for home visits by the
14 teacher or for parent-teacher conferences. Up to twenty-two
15 hours of grades one through six programs may be used for home
16 visits by the teacher or for parent-teacher conferences. Up
17 to twelve hours of grades seven through twelve programs may
18 be used to consult with parents to develop next step plans
19 for students and for parent-teacher conferences.

20 E. Nothing in this section precludes a local
21 school board from setting a school year or the length of
22 school days in excess of the minimum requirements established
23 by Subsections A and B of this section.

24 F. The secretary may waive the minimum length or
25 number of school days in those school districts where such

1 minimums would create undue hardships as defined by the
2 department as long as the school year is adjusted to ensure
3 that students in those school districts receive the same
4 total instructional time as other students in the state.

5 G. Notwithstanding any other provision of this
6 section, provided that instruction occurs simultaneously,
7 time when breakfast is served or consumed pursuant to a state
8 or federal program shall be deemed to be time in a school-
9 directed program and is part of the instructional day."

10 SECTION 2. Section 22-9-2 NMSA 1978 (being Laws 1967,
11 Chapter 16, Section 102, as amended) is amended to read:

12 "22-9-2. FEDERAL AID TO EDUCATION--STATE EDUCATIONAL
13 AGENCY.--The department shall be the sole educational agency
14 of the state for the administration or for the supervision of
15 the administration of any state plan established or funds
16 received by the state by virtue of any federal statute
17 relating to aid for education, school construction or school
18 breakfast or lunch programs, except as is provided in Section
19 21-1-26 NMSA 1978 and as may otherwise be provided by law."

20 SECTION 3. Section 22-9-4 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 104) is amended to read:

22 "22-9-4. LIMITATION ON ACCEPTING GRANTS AND GIFTS.--
23 Federal funds, gifts or grants relating to aid for education,
24 school construction or school breakfast or lunch programs may
25 be accepted by the state only if supervision and control of

1 courses of instruction and the personnel of public schools is
2 reserved to the state or its local subdivisions."

3 SECTION 4. Section 22-9-5 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 105) is amended to read:

5 "22-9-5. CUSTODY OF FUNDS--BUDGETS--DISBURSEMENTS.--

6 A. The state treasurer shall be the custodian of
7 all funds received by the state by virtue of a federal
8 statute, gift or grant relating to aid for education, school
9 construction or school breakfast or lunch programs. The
10 state treasurer shall hold these funds in separate accounts
11 according to the purpose of the grant or gift.

12 B. All federal funds, gifts or grants administered
13 by the department shall be budgeted, accounted for and
14 disbursed as provided by law and by the rules of the
15 department of finance and administration."

16 SECTION 5. A new section of Chapter 22, Article 13 NMSA
17 1978 is enacted to read:

18 "BREAKFAST PROGRAM REQUIRED--WAIVER--DISTRIBUTION OF
19 FUNDS.--

20 A. School districts and charter schools shall
21 establish a school breakfast program providing free
22 breakfast, after the instructional day has begun, to all
23 students attending an elementary school in that school
24 district in which eighty-five percent or more of the enrolled
25 students at the elementary school were eligible for free or

1 reduced-price lunch under the National School Lunch Act of
2 1946 during the prior school year.

3 B. A school district or charter school that
4 includes an elementary school in which fewer than eighty-five
5 percent of the enrolled students were eligible for free or
6 reduced-price lunch during the prior school year under the
7 National School Lunch Act of 1946 may establish a school
8 breakfast program providing free breakfast, after the
9 instructional day has begun, to all students attending that
10 elementary school; provided that the program complies with
11 all applicable department rules relating to the school
12 breakfast program authorized by this section.

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

19 D. The department shall reimburse each school
20 district or charter school that establishes a school
21 breakfast program under the provisions of this section for
22 costs associated with providing free breakfast to students on
23 a per-meal basis at the federal maximum rate of reimbursement
24 as set forth annually by the federal secretary of agriculture
25 for educational grants awarded under the authority of the

1 secretary. Reimbursement for the school breakfast program
2 shall be paid in sequential order, until the state school
3 breakfast funds are exhausted. School districts or charter
4 schools whose elementary schools have the highest percentage
5 of enrolled students eligible for free or reduced-price lunch
6 under the National School Lunch Act of 1946 shall be paid
7 first. School districts or charter schools whose elementary
8 schools have the lowest percentage of enrolled students
9 eligible for free or reduced-price lunch under the National
10 School Lunch Act of 1946 shall be paid last.

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

13 (1) standards for school breakfast programs
14 that meet federal school breakfast program standards;

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

18 (3) procedures for reimbursement.

19 F. The provisions of this section shall not apply
20 until the 2011-2012 school year."

21 SECTION 6. REPEAL.--Section 22-9-1 NMSA 1978 (being
22 Laws 1967, Chapter 16, Section 101) is repealed. _____

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