

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**LFC@NMLEGIS.GOV**

*and*

**DFA@STATE.NM.US**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply: Date 1/30/17  
**Original**     **Amendment**        **Bill No:** HB208  
**Correction**     **Substitute**   

**Sponsor:** Representative Jimmie C. Hall    **Agency Code:** 924  
Representative Brian Egolf  
**Short Title:** NM-GROWN PRODUCE IN    **Person Writing** Aguilar/Hopper  
SCHOOL MEALS    **Phone:** 827-6519    **Email** PaulJ.Aguilar@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
NFI	\$1,440.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriations contained in the General Appropriation Act

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

#### **Synopsis:**

House Bill 208 (HB208) appropriates \$1,440.0 for the purchase of New Mexico-grown produce to be served in school meals programs, inclusive of juvenile detention centers.

### **FISCAL IMPLICATIONS**

The appropriations contained in this bill are not a part of the Governor's budget recommendation.

The appropriation contained in this bill is a recurring expense to the General Fund.

The appropriation of \$1,440.0 would not revert at the end of fiscal year 2018. Any unexpended balance would remain available for expenditure in future fiscal years.

The bill provides for the addition of a full-time employee (FTE) at the Public Education Department (PED) to administer and promote this program.

For FY15, funding appropriated was distributed to all School Food Authorities participating in the National School Lunch Program on a per pupil basis and more than **half went unspent**. This trend continued in FY16 **with \$133.5 of the \$364.3 appropriation not being spent**. It is unclear why school districts and charter schools would not want to use the funds made available.

In the past two years similar appropriations have led to difficulties with non-profit agencies who believe the appropriation was made for their use. The PED will follow the New Mexico Procurement Code in executing this appropriation and will issue a Request for Proposal Application (RFA) or determine other criteria on which to provide funding, select sites, and make awards. The PED would also need to review budget adjustment requests and requests for payments submitted.

While the PED has increased the number of students able to benefit from the state appropriation, the Legislature may wish to allow transportation costs to be part of the appropriation if the intent of the appropriation is to increase the availability of local produce statewide. Additional transportation costs for schools cannot be determined at this time, since sites have not been selected.

### **SIGNIFICANT ISSUES**

The New Mexico Legislature has provided funding for school purchase of New Mexico-grown produce for the previous four fiscal years but has thus far never provided funding to coordinate the purchase of or the distribution of produce to areas of the state that are not adjacent to agricultural areas. Because the funding has been for statewide purchase, the PED has insisted that all areas of the state be served, despite the fact that only a few rich agricultural areas exist within the state's geographic boundaries. New Mexico also has a short growing season, which hinders the availability of locally grown produce during the winter season.

In 2013, HB 338 provided for a \$1,440.0 appropriation, which became a \$100.0 appropriation in HB 2. The PED distributed the appropriation to New Mexico schools equally to provide the opportunity to purchase locally grown produce. That year, a total of 39 districts were allocated funding that benefitted 40,000 students.

In 2014, HB 81 proposed a \$1,440.0 appropriation for purchase of New Mexico-grown produce but only approximately \$240.0 was appropriated through the general appropriations act (SB 313). With funding more than doubled over the previous year, the PED established a competitive application process for districts willing to participate in efforts to increase their use of local produce. The PED awarded 44 districts and charter schools, serving 186,400 students for the \$239.3. All districts that applied were awarded funding based on their school's population.

In 2015, \$364.3 was appropriated for New Mexico-grown produce. Funding was provided to each School Food Authority participating in the National School Lunch Program on a per pupil basis.

In 2016, \$250.0 was appropriated for New Mexico-grown produce providing funding for 51 districts and charter schools. Funds ranged from \$100.00 to \$63,100.00.

### **PERFORMANCE IMPLICATIONS**

HB208 may support the PED's strategic lever that all students are ready to learn by reinforcing the linkage between health and academic success.

### **ADMINISTRATIVE IMPLICATIONS**

The PED will need to add one nutrition staff FTE, specifically dedicated to coordinating the purchase of agricultural produce between individual schools and school districts and between schools and farmers, and to arrange for transportation of produce through the Human Service Department's (HSD) Food and Nutrition (FANS) bureau. This FTE will be for one year only as recurring funding is not provided by the appropriation.

A direct appropriation to HSD for the transportation element of distributing New Mexico-grown produce could help in determining how much food can be channeled through school and commodity networks.

### **TECHNICAL ISSUES**

While the PED supports incorporation of more New Mexico-grown produce in the diets of New Mexico school children, the following changes could help greatly in distributing the appropriated funding:

- (1) Direct the New Mexico produce funding to snacks and after-school programs. The United States Department of Agriculture (USDA) reimburses schools for meals served—not just ingredients for meals. Because of this, schools that request state reimbursement for New Mexico ingredients risk double-dipping. If legislators' direct New Mexico produce funding to programs not based on federal reimbursements for meal counts, this problem could be more easily resolved. The PED already has after-school programs with its 21<sup>st</sup> Century Grant, and schools that are participating in after-school snack with the National School Lunch Program (NSLP).
- (2) Understand and discuss that distributing funds and food requires departments to contribute costs that are not underwritten. The HSD's FANS Bureau has contributed staff, transportation and capacity costs for delivery of local produce in an effort to get substantial dollars to farmers. The PED has contributed staff for creation of purchase documents, solicitation of participants, procurement, budget flow-through and coordination of purchases without attributing such costs to the small appropriation. Getting a fully functioning system in place will require staffing and transportation, and appropriations should meet an established threshold to provide such staffing or wait until a year when adequate funds are available.

Also noteworthy: the FANS bureau requires set standards for packaging and labeling for all commodities it delivers. If legislators wish to establish a statewide distribution network, it may be helpful to include these standards in legislation.

- (3) Clarify whether New Mexico produce must be certified as to origin and as to safe harvesting and storage practices and, if so, by whom. Thus far, the PED has relied on schools to certify the origins of produce. However, it would be helpful for both farmers and schools if the state's agricultural extension services would establish, as they have done in the Espanola Valley, a certification system statewide. The optional certification system currently provides for safe harvesting practices and certification of authenticity.

## **OTHER SUBSTANTIVE ISSUES**

HB208 requests the same \$1,440.0 for New Mexico grown produce that has been requested every year since 2012. If, as in previous years, the appropriation is reduced considerably from the original request, it is possible that PED will face the same challenges it has faced previously between directing funding to farmers for their produce and providing staff to help coordinate local farm purchases. School districts have to see which farmers accept purchase orders to produce locally grown produce as well.

## **ALTERNATIVES**

Legislators may wish to consider direct funding to school districts, to the state's Agriculture Department or to the HSD's FANS Bureau with consultation from the PED.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

School districts and state chartered-charter schools will continue to provide fresh fruits and vegetables as part of their food service program that may or may not be New Mexico-grown.