

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number: \*SB 433**

**51st Legislature, 1st Session, 2013**

**Tracking Number: .191312.1**

**Short Title: Public School Physical Education & Funding**

**Sponsor(s): Senator Linda M. Lopez and Representative Luciano “Lucky” Varela and Others**

**Analyst: Mark Murphy**

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**Bill Summary:**

SB 433 amends the *Public School Finance Act* to:

- expand eligibility for physical education (PE) program units to include PE programs serving students in grades K-8 in a public school;
- establish the Physical Education Fund within the State Treasury to provide funding for PE programs pursuant to the *Public School Finance Act* with the stipulation that one-fourth of the fund be distributed to the State Equalization Guarantee (SEG) by July 1 of each year.

Among its other provisions, SB 433 modifies current law to:

- require that instruction that meets content and performance standards in PE be provided to students in grades K-8;
- redefine “eligible students” for the PE program units as students in grades K-8 in a public school; and
- delete provisions in current law applicable to the funding and oversight of elementary school only PE programs.

Finally, SB 433 also includes an emergency clause.

**Fiscal Impact:**

\$42.0 million is appropriated from the General Fund to the Physical Education Fund for expenditure in FY 14 and subsequent fiscal years for PE programs for public school students in grades K-8. Any unexpended or unencumbered balance remaining at the end of a fiscal year will not revert to any other fund.

**Fiscal Issues:**

According to an analysis by the Legislative Education Study Committee (LESC) of the Public Education Department (PED) Final Funded Run data for school year 2011-2012, the cost to provide the additional units to all students in K-8 can be estimated by completing the following calculation:

$$(\text{Total MEM Grades K-8}) \times (\text{PE Cost Differential Factor}) \times (\text{Unit Value}) = (\text{Estimated Cost})$$

Inserting actual numbers from the Final Funded Run yields the following estimated cost:

$$(260,600.25) \times (0.06) \times (3,598.87) = \$56.2 \text{ million.}$$

Based on this projection, the cost to arrive at full implementation of K-8 PE programs would be \$56.2 million. The SEG distribution currently provides \$16.0 million in base funding for elementary PE and therefore would require an increased appropriation by approximately \$40.2 million to fully fund PE programs for students in grades K-8.

According to the bill analysis by the Department of Finance and Administration (DFA), “it appears the total funding available (\$16.0 million plus \$10.5 million) will not be sufficient to fully fund this initiative.”

### **Substantive Issues:**

According to the Department of Health (DOH) bill analysis of SB 433, a 2010 US Department of Health and Human Services report indicates that:

- when children and adolescents participate in at least 60 minutes of physical activity each day, multiple health benefits can be seen;
- regular physical activity builds healthy bones and muscles, improves muscular strength and endurance, reduces the risk for developing chronic risk factors, improves self esteem, and reduces stress and anxiety; and
- results from the 2011 New Mexico Youth Risk and Resiliency Survey show that:
  - 25.6 percent of middle school students described themselves as overweight;
  - 44.9 percent were trying to lose weight;
  - 49.8 percent were physically active five or more days of the past week;
  - 31.7 percent were physically active every day of the past week;
  - 17.4 percent were physically active on no days of the past week;
  - 57.9 percent attended a PE class at school one day per week; and
  - 30.4 percent attended a daily physical education class at school.

Further, in 2007, New Mexico enacted LESC-endorsed legislation that included funding for elementary PE programs into the SEG distribution. According to the LESC analysis for that bill, an LESC work group reported research data that showed the increase of obesity-related health problems in the nation. In New Mexico in particular:

- approximately 56 percent of New Mexico adults were obese or overweight;
- 10 percent of New Mexico high school students were overweight and another 14 percent at risk for becoming overweight;
- 9.0 percent of New Mexico children two to five years old were overweight; and
- \$324.0 million was the estimated price tag for medical treatment of obesity-related chronic conditions in New Mexico alone, at least half of which would be paid from public funds.

The LESC work group also found that national research confirmed a correlation between fitness and improved academic performance:

- The *Journal of School Health* reported that schools that offer intense physical activity programs have seen positive effects on academic performance and achievement, with improved test scores in mathematics, reading and writing, as well as less disruptive behavior, even when the added PE time reduces time for academics; and
- Action for Health Kids, a national coalition of health organizations, cited a meta-analysis of nearly 200 studies for the finding that regular physical activity supports better learning.

Also, according to research cited in the LESC work group, overweight children experience an array of problems in school, including:

- absenteeism because of health problems and reduced immune function;
- fatigue, inattention, and poor class participation;
- disruptive behavior, bullying, or being victimized by bullies;
- depression, anxiety, and other mental health problems; and
- lower academic achievement.

**Technical Issues:**

According to the language of this bill, the \$42.0 million appropriation will be transferred to the newly created PE fund and then be distributed through the SEG distribution at a rate of one-fourth of the fund being distributed to the SEG by July 1 of each year. Thus, if additional appropriations are not made to the fund, the amount provided to the SEG each year will decrease.

Table 1, below, depicts this scenario over the next five years.

**Table 1. PE Fund Distributions to the SEG without Additional Appropriations to the PE Fund**

<b>Fiscal Year</b>	<b>Amount in PE Fund</b>	<b>25% Distributed to SEG</b>
2014	\$42,000,000	\$10,500,000
2015	\$31,500,000	\$7,875,000
2016	\$23,625,000	\$5,906,250
2017	\$17,718,750	\$4,429,687
2018	\$13,289,063	\$3,322,266

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As can be seen in Table 1, without recurring appropriations, the amount of funding for the additional PE programs reduces over time under the current language of the bill, but would allow for funding to continue indefinitely at a rate of 25 percent of the remaining balance in the PE Fund. Although the PED and the DFA bill analyses both indicate that SB 433 would provide “\$10.5 million annually for 4 years to implement physical education programs in grades K-8,” the bill does not provide for this type of distribution of funds from the PE Fund.

The original funding for the elementary PE programs was supposed to be phased in over a four-year period of time. If the intent was to implement a similar phase-in for this expanded PE program, the sponsors may wish to amend the language on page 6, lines 21-22.

**Background:**

Since FY 06, New Mexico has allocated funds to be used specifically for elementary PE programs or anti-obesity programs. The appropriations for FY 08 represented the first time that funding for these programs was provided above the line.

***Elementary PE Programs / Anti-Obesity Programs Funded “Below the Line”***

Prior to the elementary PE programs being included in the SEG distribution, the Legislature appropriated the following amounts to elementary PE programs and Anti-Obesity Programs as “below the line” appropriations:

- \$1.43 million in FY 06; and
- \$2.0 million in FY 07.

***Elementary PE Programs Funded “Above the Line,” in the SEG***

In 2007, New Mexico amended the *Public School Finance Act* to establish a factor of 0.06 to provide additional funding to districts offering PED-approved elementary PE programs for students in grades K-6. Priority for the available funding is currently given to schools that have the highest proportion of students with the most need, based on the percentage of students who are eligible for free or reduced-fee lunch or grade-level schools. PED is required to determine annually the programs and the number of students that will receive state financial support in accordance with available funding.

The appropriations for elementary PE program units in the SEG distribution began in FY 08 with an \$8.0 million appropriation followed by another \$8.0 million appropriation in FY 09. Thus, since FY 09, the base SEG distribution has included a \$16.0 million appropriation for elementary PE programs across New Mexico.

***Actual Program Cost for Elementary PE Programs***

Using data from PED’s Final Funded Runs for school years 2007-2013, the program cost for the elementary PE programs since the inclusion of funding for elementary PE programs within the SEG distribution is shown in Table 2. In order to arrive at the Program Cost in the final column in Table 2, the following calculation was used:

$$(\text{Total Elem. PE Units}) \times (\text{Final Unit Value}) = (\text{Program Cost})$$

**Table 2. Program Cost for Elementary PE Programs since Inclusion in SEG, FY 08-FY13.**

<b>Fiscal Year</b>	<b>Total Elem. PE Units</b>	<b>Final Unit Value</b>	<b>Program Cost</b>
2008	2,374.836	\$3,674.26	\$8,725,764.92
2009	4,294.606	\$3,871.79	\$16,627,812.57
2010	4,290.699	\$3,458.06	\$14,837,494.58
2011	4,298.514	\$3,572.34	\$15,355,753.50
2012	4,306.329	\$3,598.87	\$15,497,918.25
2013	4,302.422	\$3,673.54	\$15,805,119.31

Data Source: PED, Annual Final Funded Run

Compiled by the LESC, 2/27/2013.

**Committee Referrals:**

SEC/SFC

**Related Bills:**

- CS/HB 158 *School Performance-Based Budgeting*
- HB 165a *School Finance Units for Small Districts*
- HB 192 *School Program Units for Certain Personnel*

HB 245 *Stop Some Indian Impact Aid Credits*  
SB 302a *Home & Charter School Student Program Units*  
SB 325 *Stop Some Indian Impact Aid Credits*  
SB 359 *School Employee Program Units*  
SB 378 *K-3 Plus Equalization Guarantee Distribution*  
SB 379 *Vocational Education Funding Differential*