

1 SENATE BILL 433

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; PROVIDING FOR PHYSICAL EDUCATION
12 INSTRUCTION AND FUNDING FOR PUBLIC SCHOOL STUDENTS IN
13 KINDERGARTEN THROUGH GRADE EIGHT; CREATING A PUBLIC EDUCATION
14 FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

17 SECTION 1. Section 22-8-23.7 NMSA 1978 (being Laws 2007,
18 Chapter 348, Section 1) is amended to read:

19 "22-8-23.7. [~~ELEMENTARY~~] PHYSICAL EDUCATION PROGRAM
20 UNITS.--

21 A. The number of [~~elementary~~] physical education
22 program units is determined by multiplying the number of
23 students in [~~elementary~~] physical education by the cost
24 differential factor of six one-hundredths.

25 B. As used in this section, "[~~elementary~~] physical
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1 education" means eligible physical education programs that
2 serve students in kindergarten through grade [~~six~~] eight in a
3 public school [~~classified by the department as an elementary~~
4 ~~school~~]."

5 SECTION 2. Section 22-13-1 NMSA 1978 (being Laws 2003,
6 Chapter 153, Section 57, as amended) is amended to read:

7 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
8 REQUIRED--ACCREDITATION.--

9 A. The department shall require public schools to
10 address department-approved academic content and performance
11 standards when instructing in specific department-required
12 subject areas as provided in this section. A public school or
13 school district failing to meet these minimum requirements
14 shall not be accredited by the department.

15 B. All kindergarten through third grade classes
16 shall provide daily instruction in reading and language arts
17 skills, including phonemic awareness, phonics and
18 comprehension, and in mathematics. Students in kindergarten
19 and first grades shall be screened and monitored for progress
20 in reading and language arts skills, and students in second
21 grade shall take diagnostic tests on reading and language arts
22 skills.

23 C. Instruction that meets content and performance
24 standards in physical education shall be provided to students
25 in kindergarten.

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1 ~~[G-]~~ D. All first, second and third grade classes
2 shall provide instruction in art, music and a language other
3 than English ~~[and]~~. Instruction that meets content and
4 performance standards ~~[shall be provided]~~ in science, social
5 studies, physical education and health education shall be
6 provided to students in first, second and third grade classes.

7 ~~[D-]~~ E. In fourth through eighth grades,
8 instruction that meets academic content and performance
9 standards shall be provided in the following subject areas:

- 10 (1) reading and language arts skills, with an
11 emphasis on writing and editing for at least one year and an
12 emphasis on grammar and writing for at least one year;
- 13 (2) mathematics;
- 14 (3) language other than English;
- 15 (4) communication skills;
- 16 (5) science;
- 17 (6) art;
- 18 (7) music;
- 19 (8) social studies;
- 20 (9) New Mexico history;
- 21 (10) United States history;
- 22 (11) geography;
- 23 (12) physical education; and
- 24 (13) health education.

25 ~~[E-]~~ F. Beginning with the 2008-2009 school year,

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1 in eighth grade, algebra 1 shall be offered in regular
2 classroom settings or through online courses or agreements with
3 high schools.

4 [F-] G. In fourth through eighth grades, school
5 districts shall offer electives that contribute to academic
6 growth and skill development and provide career and technical
7 education. In sixth through eighth grades, media literacy may
8 be offered as an elective.

9 [G-] H. In ninth through twelfth grades,
10 instruction that meets academic content and performance
11 standards shall be provided in health education."

12 **SECTION 3.** Section 22-13-1.7 NMSA 1978 (being Laws 2007,
13 Chapter 348, Section 3) is amended to read:

14 "22-13-1.7. [~~ELEMENTARY~~] PHYSICAL EDUCATION.--

15 A. As used in this section:

16 (1) "eligible students" means students in
17 kindergarten through grade [~~six~~] eight in a public school
18 [~~classified by the department as an elementary school~~]; and

19 (2) "physical education" includes programs of
20 education through which students participate in activities
21 related to fitness education and assessment; active games and
22 sports; and development of physical capabilities such as motor
23 skills, strength and coordination.

24 B. [~~Elementary~~] Physical education programs that
25 serve eligible students are eligible for funding if those

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1 programs meet academic content and performance standards for
2 ~~[elementary]~~ physical education programs.

3 ~~[G. In granting approval for funding of elementary~~
4 ~~physical education programs, the department shall provide that~~
5 ~~programs are first implemented in public schools that have the~~
6 ~~highest proportion of students most in need based on the~~
7 ~~percentage of students eligible for free or reduced-fee lunch~~
8 ~~or grade-level schools that serve an entire school district and~~
9 ~~in public schools with available space. If the department~~
10 ~~determines that an elementary physical education program is not~~
11 ~~meeting the academic content and performance standards for~~
12 ~~elementary physical education programs, the department shall~~
13 ~~notify the school district that the public school's failure to~~
14 ~~meet the academic content and performance standards will result~~
15 ~~in the cessation of funding for the following school year. The~~
16 ~~department shall compile the program results submitted by the~~
17 ~~school districts each year and make an annual report to the~~
18 ~~legislative education study committee and the legislature.~~

19 ~~D.]~~ C. As they become eligible for ~~[elementary]~~
20 physical education program funding, public schools shall submit
21 to the department their ~~[elementary]~~ physical education program
22 plans that meet academic content and performance standards and
23 other guidelines of the department. At a minimum, the plan
24 shall include the ~~[elementary]~~ physical education program being
25 taught and an evaluation component. To be eligible for state

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1 financial support, [~~an elementary~~] a physical education program
2 shall:

3 (1) provide for the physical education needs
4 of students defined in this section; and

5 (2) use teachers with a license endorsement
6 for physical education.

7 ~~[E. The department shall annually determine the~~
8 ~~programs and the consequent number of students in elementary~~
9 ~~physical education that will receive state financial support in~~
10 ~~accordance with funding available in each school year.]"~~

11 SECTION 4. A new section of the Public School Finance Act
12 is enacted to read:

13 "[NEW MATERIAL] PHYSICAL EDUCATION FUND.--

14 A. The "physical education fund" is created in the
15 state treasury to provide funding for physical education
16 programs pursuant to the Public School Finance Act. Money in
17 the fund shall not revert to any other fund at the end of a
18 fiscal year. The fund shall be administered by the public
19 education department, and money in the fund is appropriated to
20 the department to carry out the purposes of the fund.

21 B. By July 1 of each year, one-fourth of the fund
22 shall be distributed to the state equalization guarantee."

23 SECTION 5. APPROPRIATION.--Forty-two million dollars
24 (\$42,000,000) is appropriated from the general fund to the
25 physical education fund for expenditure in fiscal year 2014 and

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1 subsequent fiscal years for physical education programs for
2 public school students in kindergarten through grade eight.
3 Any unexpended or unencumbered balance remaining at the end of
4 a fiscal year shall not revert to the general fund.

5 SECTION 6. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect immediately.

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