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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/15

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Physical Ed in Equalization Guarantee SB 187

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$14,000.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 182 appropriates \$14 million from the general fund to the state equalization guarantee of the public school fund for expenditure in fiscal year 2016 to fund physical education in public schools pursuant to the Public School Finance Act and the Public School Code. Any unexpended or unencumbered balance remaining at the end of FY16 shall revert to the general fund.

FISCAL IMPLICATIONS

The appropriation of \$14 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY16 shall revert to the general fund.

Currently, 3,908 elementary physical education program units are funded annually. This amount represents approximately 50 percent of eligible physical education programs statewide – only 50 percent of eligible programs have been approved for funding to date. At an estimated cost of \$4007.75 per program unit based on the FY15 preliminary unit value, it would cost \$15.7 million to fully fund the remaining elementary physical education programs, assuming 3,908 additional units needed to be funded (this also assumes all elementary physical education programs would

apply for funding).

The bill does not specify that the appropriation is for elementary physical education units, making it likely that the appropriation would not be used to create additional program units and would instead flow through the funding formula to all school districts and charter schools for physical education programs.

If the appropriation is distributed through the funding formula without the addition of new program units, it will have the effect of increasing the unit value by approximately 0.6 percent.

SIGNIFICANT ISSUES

It is unclear if this bill intends to fully fund elementary physical education program units under Section 22-8-23.7 and 22-13-1.7 NMSA 1978, or to fund other required physical education instruction for fourth through 12th grade students pursuant to Section 22-13-1 and 22-13-1.1 NMSA 1978.

Elementary Physical Education Program Units

Section 22-8-23.7 NMSA 1978 of The Public School Finance Act allows for the generation of elementary physical education program units for eligible physical education. The number of program units is determined by multiplying the number of students in eligible physical education programs that serve kindergarten through sixth-grade students in public elementary schools by the cost differential factor of 0.06. A companion statute, Section 22-13-1.7 NMSA 1978, grants PED the authority to approve elementary physical education programs funded by the elementary physical education program unit for funding. To date, the Legislature has not fully funded the program; the Legislature appropriated \$8 million in FY08 and \$8 million in FY09, resulting in funding physical education for approximately 50 percent of kindergarten through sixth-grade students at that time. Because implementation of elementary physical education occurred at the onset of the Great Recession, the Legislature never fully funded the program.

Other Physical Education Programs

Statute requires physical education instruction in fourth through eighth grade and requires each ninth through twelfth grade student to earn one unit of physical or participation in marching band, junior reserve officers' training corps or interscholastic sports sanctioned by the New Mexico activities association or any other co-curricular physical activity for the purposes of graduation. See Sections 22-13-1 and 22-13-1.1 NMSA 1978. However, these programs do not generate program units for schools districts and charter schools.

PED notes this would be the first course specific appropriation to the SEG that does not have units tied to it. Since the SEG is distributed non-categorically to school districts and charter schools, there is no way to ensure that this funding will be used to fund physical education programs. To address PED's concerns, the Legislature may want to include language in the GAA of 2015 to require PED to ensure the funds are used for elementary programs. PED has the ultimate authority to approve school district and charter schools budgets and is able to ensure funds are budgeted for physical education programs through the budgeting process.

PERFORMANCE IMPLICATIONS

The Department of Health (DOH) states the bill relates to their FY16 strategic plan goal 1:

improve health outcomes for the people of New Mexico, specifically “encourage physical activity and healthy eating in elementary school students.” The bill also relates to one of the nine priority health areas in the DOH 2014 State Health Improvement Plan. This priority area aims to reduce child and adolescent obesity in NM.

Given research noted in the DOH analysis, it is likely the bill could lead to positive student outcomes, including increased math and reading proficiency and graduation rates, and decreased college remediation in the future.

ADMINISTRATIVE IMPLICATIONS

If the intent of the bill is to fully fund elementary physical education programs pursuant to Section 22-13-1.7, the Public Education Department will be required review elementary physical education plans from new school districts to ensure they meet academic content and performance standards, are taught by a teacher with a license endorsement for physical education and other PED requirements. Additionally, PED will be required to ensure programs that have highest proportion of students most in need based on the percentage of students eligible for free or reduced-fee lunch or grade-level schools that serve an entire school district and in public schools with available space are funded first. However, if the funding is simply intended to flow through the state equalization guarantee (SEG) to school districts and charter schools, there would be no administrative burden on PED.

TECHNICAL ISSUES

If the intent of the bill is to fully fund elementary physical education programs and create units in the funding formula for these programs, the correct statutory citations should be included in the bill. LFC staff recommends the following be inserted: “Section 22-8-23.7 NMSA 1978 of” on line 18 before “the Public School Finance Act” and “Section 22-13-1.7 NMSA 1978 of” on line 20 before “the Public School Code” to ensure the funding is used for increasing qualifying elementary physical education programs.

OTHER SUBSTANTIVE ISSUES

Department of Health Analysis

The Department of Health notes that in 2013, nearly one-in-three (29.5 percent) Native American third-grade students were either overweight or obese compared with 22.8 percent of Hispanic third graders and 12.8 percent of Caucasian third graders. Additionally, New Mexico data demonstrates upward shifts in weight categories between kindergarten and third grade; 19.9 percent of third graders were obese in 2013 compared to 13.2 percent of kindergarten students in 2010 that were sampled from the same general birth group suggesting a time-sensitive window of opportunity, especially for preventing excessive weight gain in children who are already overweight in kindergarten (*New Mexico Childhood Obesity 2013 Update, New Mexico Department of Health*).

The U.S. Department of Health and Human Services recommends that young people, aged 6 to 17 years, participate in at least 60 minutes of physical activity daily (U.S. Department of Health and Human Services. 2008 Physical Activity Guidelines for Americans. Washington, DC: U.S. Department of Health and Human Services; 2008).

Research shows that physical activity has beneficial influences on academic performance when children and adolescents participate in at least sixty minutes of physical activity each day, including: 1) improve academic achievement, including grades and standardized test scores; and 2) affect cognitive skills and attitudes and academic behavior (including enhanced concentration, attention, and improved classroom behavior). Beyond these known academic effects, multiple health benefits can be seen, including building healthy bones and muscles, improved muscular strength and endurance, reduced risk for developing chronic risk factors, improved self-esteem, and reduced stress and anxiety. (Centers for Disease Control and Prevention *The Association Between School Based Physical Activity, Including Physical Education, and Academic Performance*. Atlanta, GA: US Department of Health and Human Services, 2010).

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