

1 SENATE BILL 304

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO PUBLIC EDUCATION; REQUIRING ALL STUDENTS IN
12 KINDERGARTEN THROUGH SIXTH GRADE IN ELEMENTARY SCHOOLS TO
13 PARTICIPATE IN DAILY PHYSICAL EDUCATION; PROVIDING FOR A PHASE-
14 IN OVER THREE YEARS; MAKING AN APPROPRIATION.

15
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 sixth grade [~~six~~] if
3 sixth grade is included in the elementary school pursuant to
4 the phase-in schedule provided in Section 22-13-1.7 NMSA 1978
5 in a public school classified by the department as an
6 elementary school.

7 C. During the phase-in of universal elementary
8 physical education, a school district or charter school that
9 received elementary physical education program units in the
10 2018-2019 school year shall continue to receive those units;
11 provided that a school district or charter school shall not
12 generate elementary physical education program units in excess
13 of the total average number of elementary students in
14 elementary physical education on the second and third reporting
15 dates of the prior school year multiplied by the cost
16 differential factor of six one-hundredths."

17 **SECTION 2.** Section 22-13-1 NMSA 1978 (being Laws 2003,
18 Chapter 153, Section 57, as amended by Laws 2016, Chapter 17,
19 Section 1 and by Laws 2016, Chapter 18, Section 1) is amended
20 to read:

21 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
22 REQUIRED--ACCREDITATION.--

23 A. The department shall require public schools to
24 address department-approved academic content and performance
25 standards when instructing in specific department-required

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1 subject areas as provided in this section. A public school or
2 school district failing to meet these minimum requirements
3 shall not be accredited by the department.

4 B. All kindergarten through third grade classes
5 shall provide daily instruction in reading and language arts
6 skills, including phonemic awareness, phonics and
7 comprehension, and in mathematics. Students in kindergarten
8 and first grades shall be screened and monitored for progress
9 in reading and language arts skills, and students in second
10 grade shall take diagnostic tests on reading and language arts
11 skills. All kindergarten classes shall provide instruction in
12 physical education.

13 C. All first, second and third grade classes shall
14 provide instruction in art, music and a language other than
15 English, and instruction that meets content and performance
16 standards shall be provided in science, social studies,
17 physical education and health education.

18 D. In fourth through eighth grades, instruction
19 that meets academic content and performance standards shall be
20 provided in the following subject areas:

21 (1) reading and language arts skills, with an
22 emphasis on writing and editing for at least one year and an
23 emphasis on grammar and writing for at least one year;

24 (2) mathematics;

25 (3) language other than English;

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- 1 (4) communication skills;
- 2 (5) science;
- 3 (6) art;
- 4 (7) music;
- 5 (8) social studies;
- 6 (9) New Mexico history;
- 7 (10) United States history;
- 8 (11) geography;
- 9 (12) physical education; and
- 10 (13) health education.

11 E. Beginning with the 2008-2009 school year, in
12 eighth grade, algebra 1 shall be offered in regular classroom
13 settings or through online courses or agreements with high
14 schools.

15 F. In fourth through eighth grades, school
16 districts shall offer electives that contribute to academic
17 growth and skill development and provide career and technical
18 education. In sixth through eighth grades, media literacy may
19 be offered as an elective.

20 G. In ninth through twelfth grades, instruction
21 that meets academic content and performance standards shall be
22 provided in health education.

23 H. All health education courses shall include:

- 24 (1) age-appropriate sexual abuse and assault
25 awareness and prevention training that meets department

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1 standards developed in consultation with the federal centers
2 for disease control and prevention that are based on evidence-
3 based methods that have proven to be effective; and

4 (2) lifesaving skills training that follows
5 nationally recognized guidelines for hands-on psychomotor
6 skills cardiopulmonary resuscitation training. Students shall
7 be trained to recognize the signs of a heart attack, use an
8 automated external defibrillator and perform the Heimlich
9 maneuver for choking victims. The secretary shall promulgate
10 rules to provide for the:

11 (a) use of the following instructors for
12 the training provided pursuant to this paragraph: 1) school
13 nurses, health teachers and athletic department personnel as
14 instructors; and 2) any qualified persons volunteering to
15 provide training at no cost to the school district that the
16 school district determines to be eligible to offer instruction
17 pursuant to this paragraph; and

18 (b) approval of training and
19 instructional materials related to the training established
20 pursuant to this paragraph in both English and Spanish."

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

23 "22-13-1.7. ELEMENTARY PHYSICAL EDUCATION.--

24 A. As used in this section, [~~(1)~~ "eligible
25 students" means students in kindergarten through grade six in a

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1 ~~public school classified by the department as an elementary~~
2 ~~school; and (2)]~~ "elementary physical education" means a
3 kindergarten through fifth grade program that provides at least
4 thirty minutes of activity per day that includes ~~[programs of~~
5 ~~education through which students participate]~~ participation in
6 activities related to fitness education and assessment; active
7 games and sports; and development of physical capabilities such
8 as motor skills, strength and coordination. "Elementary
9 physical education" includes sixth grade if that grade is
10 included in the elementary school.

11 B. Elementary physical education ~~[programs that~~
12 ~~serve eligible students are eligible for funding if those~~
13 ~~programs]~~ shall meet academic content and performance standards
14 for elementary physical education. ~~[programs.~~

15 G. ~~In granting approval for funding of elementary~~
16 ~~physical education programs, the department shall provide that~~
17 ~~programs are first implemented in public schools that have the~~
18 ~~highest proportion of students most in need based on the~~
19 ~~percentage of students eligible for free or reduced-fee lunch~~
20 ~~or grade-level schools that serve an entire school district and~~
21 ~~in public schools with available space. If the department~~
22 ~~determines that an elementary physical education program is not~~
23 ~~meeting the academic content and performance standards for~~
24 ~~elementary physical education programs, the department shall~~
25 ~~notify the school district that the public school's failure to~~

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1 ~~meet the academic content and performance standards will result~~
2 ~~in the cessation of funding for the following school year. The~~
3 ~~department shall compile the program results submitted by the~~
4 ~~school districts each year and make an annual report to the~~
5 ~~legislative education study committee and the legislature.~~

6 ~~D.—An] C.~~ Elementary physical education [program
7 ~~that receives state financial support] shall [(1)] provide for~~
8 ~~the physical education needs of students [defined in this~~
9 ~~section] and [(2)] use teachers with a license endorsement for~~
10 ~~physical education. [The department shall annually determine~~
11 ~~the programs and the consequent number of students in~~
12 ~~elementary physical education that will receive state financial~~
13 ~~support in accordance with funding available in each school~~
14 ~~year.]~~

15 D. Universal elementary physical education shall be
16 phased in over three years as follows:

17 (1) beginning in the 2019-2020 school year,
18 all students in kindergarten and first grade shall participate
19 in physical education each day;

20 (2) beginning in the 2020-2021 school year,
21 all students in second and third grades shall participate in
22 physical education each day;

23 (3) beginning in the 2021-2022 school year,
24 all students in fourth and fifth grades shall participate in
25 physical education each day; and

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1 (4) beginning in the 2021-2022 school year,
2 all students in sixth grade in an elementary school that
3 includes fifth grade shall participate in physical education
4 each day."

5 **SECTION 4. APPROPRIATION.**--Seven million dollars
6 (\$7,000,000) is appropriated from the general fund to the state
7 equalization guarantee distribution for expenditure in fiscal
8 year 2020 to provide universal elementary physical education to
9 all kindergarten and first grade students in the 2019-2020
10 school year. Any unexpended or unencumbered balance remaining
11 at the end of fiscal year 2020 shall revert to the general
12 fund.

13 **SECTION 5. APPLICABILITY.**--The provisions of this act
14 apply to the 2019-2020 school year and subsequent school years.

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