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HOUSE BILL 208

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Joni Marie Gutierrez

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR PHYSICAL EDUCATION IN GRADES KINDERGARTEN THROUGH SIX IN ELEMENTARY SCHOOLS; ADDING PHYSICAL EDUCATION PROGRAM UNITS AND CHARTER SCHOOL STUDENT ACTIVITIES PROGRAM UNITS INTO THE PROGRAM COST CALCULATION; PROVIDING A PHASED-IN PROGRAM OVER FOUR YEARS; MAKING AN APPROPRIATION.

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

Section 1. A new section of the Public School Finance Act is enacted to read:

"[NEW MATERIAL] ELEMENTARY PHYSICAL EDUCATION PROGRAM UNITS.--

A. The number of elementary physical education program units is determined by multiplying the number of students in elementary physical education by the cost

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1 differential factor of six one-hundredths.

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

6 Section 2. Section 22-8-18 NMSA 1978 (being Laws 1974,  
7 Chapter 8, Section 8, as amended) is amended to read:

8 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
9 RESPONSIBILITY.--

10 A. The total program units for the purpose of  
11 computing the program cost shall be calculated by multiplying  
12 the sum of the program units itemized as Paragraphs (1) through  
13 [~~(5)~~] (6) in this subsection by the instructional staff  
14 training and experience index and adding the program units  
15 itemized as Paragraphs [~~(6)~~] (7) through [~~(10)~~] (12) in this  
16 subsection. The itemized program units are as follows:

- 17 (1) early childhood education;  
18 (2) basic education;  
19 (3) special education, adjusted by subtracting  
20 the units derived from membership in class D special education  
21 programs in private, nonsectarian, nonprofit training centers;  
22 (4) bilingual multicultural education;  
23 (5) fine arts education;  
24 (6) elementary physical education;  
25 [~~(6)~~] (7) size adjustment;

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1                    [~~(7)~~] (8) at-risk program;  
2                    [~~(8)~~] (9) enrollment growth or new district  
3 adjustment;

4                    [~~(9)~~] (10) special education units derived  
5 from membership in class D special education programs in  
6 private, nonsectarian, nonprofit training centers; [~~and~~  
7                    ~~(10)~~] (11) national board for professional  
8 teaching standards certification; and  
9                    (12) charter school student activities.

10                    B. The total program cost calculated as prescribed  
11 in Subsection A of this section includes the cost of early  
12 childhood, special, bilingual multicultural, fine arts and  
13 vocational education and other remedial or enrichment programs.  
14 It is the responsibility of the local school board or governing  
15 body of a charter school to determine its priorities in terms  
16 of the needs of the community served by that board. Funds  
17 generated under the Public School Finance Act are discretionary  
18 to local school boards and governing bodies of charter schools,  
19 provided that the special program needs as enumerated in this  
20 section are met."

21                    Section 3. A new section of Chapter 22, Article 13 NMSA  
22 1978 is enacted to read:

23                    "[NEW MATERIAL] ELEMENTARY PHYSICAL EDUCATION.--

24                    A. As used in this section:

25                    (1) "eligible students" means students in

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1 kindergarten through grade six in a public school classified by  
2 the department as an elementary school; and

3 (2) "physical education" includes programs of  
4 education through which students participate in activities  
5 related to fitness education and assessment; active games and  
6 sports; and development of physical capabilities such as motor  
7 skills, strength and coordination.

8 B. Elementary physical education programs that  
9 serve eligible students are eligible for funding if those  
10 programs meet academic content and performance standards for  
11 elementary physical education programs.

12 C. In granting approval for funding of elementary  
13 physical education programs, the department shall provide that  
14 programs are first implemented in public schools that have the  
15 highest proportion of students most in need based on the  
16 at-risk index or grade-level schools that serve an entire  
17 school district and in public schools with available space. If  
18 the department determines that an elementary physical education  
19 program is not meeting the academic content and performance  
20 standards necessary to ensure adequate yearly progress of  
21 students in the program, the department shall notify the school  
22 district that the public school's failure to meet the academic  
23 content and performance standards will result in the cessation  
24 of funding for the following school year. The department shall  
25 compile the program results submitted by the school districts

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1 each year of the phase-in of elementary physical education and  
2 make an annual report to the legislative education study  
3 committee and the legislature.

4 D. As they become eligible for elementary physical  
5 education program funding, public schools shall submit to the  
6 department their elementary physical education program plans  
7 that meet academic content and performance standards and other  
8 guidelines of the department. At a minimum, the plan shall  
9 include the elementary physical education courses being taught  
10 and an evaluation component. To be eligible for state  
11 financial support, an elementary physical education program  
12 shall:

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

15 (2) use teachers with a license endorsement  
16 for physical education.

17 E. Elementary physical education programs shall be  
18 phased in over a four-year period as follows:

19 (1) effective with the 2007-2008 school year,  
20 one-fourth of New Mexico's eligible students shall be in an  
21 elementary physical education program;

22 (2) effective with the 2008-2009 school year,  
23 one-half of New Mexico's eligible students shall be in an  
24 elementary physical education program;

25 (3) effective with the 2009-2010 school year,

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1 three-fourths of New Mexico's eligible students shall be in an  
2 elementary physical education program; and

3 (4) effective with the 2010-2011 school year,  
4 all of New Mexico's eligible students shall be in an elementary  
5 physical education program."

6 Section 4. APPROPRIATION.--Eight million dollars  
7 (\$8,000,000) is appropriated from the general fund to the state  
8 equalization guarantee distribution for expenditure in fiscal  
9 year 2008 to fund elementary physical education program units.  
10 Any unexpended or unencumbered balance remaining at the end of  
11 fiscal year 2008 shall not revert to the general fund.