

1 SENATE BILL 266

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

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 TO PARTICIPATE IN DAILY
13 PHYSICAL EDUCATION; PROVIDING FOR A PHASE-IN OVER SIX YEARS;
14 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~~]
3 pursuant to the phase-in schedule provided in Section 22-13-1.7
4 NMSA 1978 in a public school classified by the department as an
5 elementary school.

6 C. During the phase-in of universal elementary
7 physical education, a school district or charter school that
8 received elementary physical education program units in fiscal
9 year 2018 shall continue to receive those units; provided that
10 a school district or charter school shall generate elementary
11 physical education program units in excess of the total average
12 number of elementary students in elementary physical education
13 on the second and third reporting dates of the prior school
14 year multiplied by the cost differential of six one-
15 hundredths."

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

20 "22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS
21 REQUIRED--ACCREDITATION.--

22 A. The department shall require public schools to
23 address department-approved academic content and performance
24 standards when instructing in specific department-required
25 subject areas as provided in this section. A public school or

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1 school district failing to meet these minimum requirements
2 shall not be accredited by the department.

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

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

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

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

23 (2) mathematics;

24 (3) language other than English;

25 (4) communication skills;

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

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

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

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

22 H. All health education courses shall include:

- 23 (1) age-appropriate sexual abuse and assault
24 awareness and prevention training that meets department
25 standards developed in consultation with the federal centers

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1 for disease control and prevention that are based on evidence-
2 based methods that have proven to be effective; and

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

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

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

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

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

23 A. As used in this section, ~~[(1) "eligible~~
24 ~~students" means students in kindergarten through grade six in a~~
25 ~~public school classified by the department as an elementary~~

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1 school; and

2 (2) "elementary physical education" means a
3 kindergarten through sixth 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.

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

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

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1 department shall compile the program results submitted by the
2 school districts each year and make an annual report to the
3 legislative education study committee and the legislature.

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

13 D. Universal elementary physical education shall be
14 phased in over six years as follows:

15 (1) beginning in the 2018-2019 school year,
16 all students in kindergarten shall participate in physical
17 education each day;

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

21 (3) beginning in the 2020-2021 school year,
22 all students in second grade shall participate in physical
23 education each day;

24 (4) beginning in the 2021-2022 school year,
25 all students in third grade shall participate in physical

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1 education each day;

2 (5) beginning in the 2022-2023 school year,
3 all students in fourth grade shall participate in physical
4 education each day; and

5 (6) beginning in the 2023-2024 school year,
6 all students in fifth and sixth grades shall participate in
7 physical education each day."

8 SECTION 4. APPROPRIATION.--Three million five hundred
9 fifty-five thousand dollars (\$3,555,000) is appropriated from
10 the general fund to the state equalization guarantee
11 distribution for expenditure in fiscal year 2019 to provide
12 universal elementary physical education to all kindergarten
13 students in the 2018-2019 school year. Any unexpended or
14 unencumbered balance remaining at the end of fiscal year 2019
15 shall revert to the general fund.

16 SECTION 5. APPLICABILITY.--The provisions of this act
17 apply to the 2018-2019 school year and subsequent school years.