

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 455**

4 (By Senators Unger, Stollings, Kessler (Mr. President), Yost,
5 Edgell, Laird, Kirkendoll, Cann, Miller, Beach and Fitzsimmons)

6 _____
7 [Originating in the Committee on Education;
8 reported February 20, 2014.]
9 _____

10
11 A BILL to amend and reenact §18-2-7a of the Code of West Virginia,
12 1931, as amended, relating to creation of the West Virginia
13 Move to Improve Act; establishing legislative findings;
14 providing for integration of an average of thirty minutes of
15 moderate to vigorous physical activity in school day; setting
16 minimum amount of moderate to vigorous physical exercise in
17 physical education classes; defining terms; requiring
18 alternate programs to be submitted to the county board for
19 approval; removing expired requirements; requiring
20 accountability for the physical education and physical
21 activity required herein; requiring provision of adequate
22 professional development and training on physical activity
23 integration; and requiring collaboration with teachers and
24 administrators when developing any rule pursuant to this act.

25 *Be it enacted by the Legislature of West Virginia:*

26 That §18-2-7a of the Code of West Virginia, 1931, as amended,
27 be amended and reenacted to read as follows:

1 **ARTICLE 2. STATE BOARD OF EDUCATION.**

2 **§18-2-7a. West Virginia Move to Improve Act; Legislative**
3 **findings; required physical education; program in**
4 **physical fitness; required physical activity.**

5 ~~(a) The Legislature hereby finds that obesity is a problem of~~
6 ~~epidemic proportions in this state. There is increasing evidence~~
7 ~~that all segments of the population, beginning with children, are~~
8 ~~becoming more sedentary, more overweight and more likely to develop~~
9 ~~health risks and diseases including Type II Diabetes, high blood~~
10 ~~cholesterol and high blood pressure. The Legislature further finds~~
11 ~~that the promotion of physical activity during the school day for~~
12 ~~school children is a crucial step in combating this growing~~
13 ~~epidemic and in changing the attitudes and behavior of the~~
14 ~~residents of this state toward health promoting physical activity.~~

15 (a) This act may be cited as the West Virginia Move to Improve
16 Act.

17 (b) The Legislature finds that:

18 (1) Childhood obesity is an epidemic in West Virginia and the
19 United States. According to a report from the Trust for America's
20 Health and the Robert Wood Johnson Foundation, if the obesity rates
21 continue to grow at current rates over the next two decades, the
22 health and economic cost to our state and the nation will be
23 staggering;

24 (2) West Virginia has some of the highest rates of the
25 highest-cost and highest-incidence health problems related to
26 obesity and physical inactivity: Type 2 diabetes, coronary, heart
27 disease and stroke, hypertension, arthritis and obesity-related
28 cancers;

1 (3) Researchers estimate that the medical costs of adult
2 obesity in the United States range from \$147 billion to nearly \$210
3 billion per year and that Medicare and Medicaid will pay \$61.8
4 billion of those costs. In West Virginia, a recent economic study
5 found that in 2009 the direct medical cost of obesity was \$8.9
6 million;

7 (4) Childhood obesity is responsible for \$14.1 billion in
8 direct medical costs nationally. In West Virginia the estimated
9 direct medical cost to Medicaid for treatment of childhood obesity
10 in 2013 was \$198.1 million;

11 (5) Providing healthy, nutritious meals and snacks in schools
12 will help curb the rise in childhood obesity but that alone is not
13 enough to address the obesity epidemic;

14 (6) There is a large body of scientific evidence demonstrating
15 that regular physical activity promotes growth and development in
16 children and teens and has multiple benefits for physical, mental
17 and cognitive health;

18 (7) A study by the Institute of Medicine found that physical
19 activity is related to lower body fat, greater muscular strength,
20 stronger bones and improvements in cardiovascular and metabolic
21 health, as well as improvements in mental health, by reducing and
22 preventing conditions such as anxiety and depression and enhancing
23 self esteem;

24 (8) West Virginia was ranked the number two state nationally
25 in adult physical inactivity in a 2013 report by the Trust for
26 America's Health and the Robert Wood Johnson Foundation.

27 (9) Children and teens have low levels of physical activity.
28 For example, former military leaders report that twenty-seven

1 percent of young Americans are too overweight to serve in the
2 military;

3 (10) According to a 2005 national literature review reported
4 in Pediatric Exercise Science, students in middle and high school
5 engaged in moderate to vigorous physical activity during physical
6 education class for twenty-seven percent to forty-seven percent of
7 class time.

8 (11) A study reported in the West Virginia Medical Journal
9 found that elementary school physical education classes provide
10 moderate to vigorous physical activity for less than twenty-seven
11 percent of the recommended class time rather than the recommended
12 fifty percent. West Virginia children are generally not receiving
13 the necessary intensity of activity nor the minimum of sixty
14 minutes per day of moderate to vigorous physical activity;

15 (12) Research shows that physically active children are more
16 likely to thrive academically and socially. There is evidence that
17 physically fit children have higher scholastic achievement, better
18 classroom behavior and less absenteeism than their unfit
19 counterparts;

20 (13) Children and teens spend more than half of their waking
21 hours at school which makes school an ideal location to increase
22 physical activity;

23 (14) Schools have historically been leaders in supporting the
24 wellbeing of our children and teens by providing health screenings,
25 immunizations and nutrition programs while training them to be
26 productive citizens and lifelong learners. The next step in
27 nurturing and developing healthy productive children and teens is
28 to engage them in regular physical activity. Our schools can and

1 should play a major role in efforts to make our children and teens
2 more active, putting them on a track toward better health
3 and performance in school and throughout life.

4 (15) The schools can not accomplish this alone; the necessary
5 improvements in our children's health and wellbeing will require
6 collaboration between the families, communities and schools;

7 (16) In 2005, the Legislature enacted the Healthy Lifestyles
8 Act; however, there is no mechanism to assure implementation and
9 many students are not receiving the benefits of the required
10 physical education;

11 (17) The availability of online resources and peer training
12 greatly improves teacher and principal perception and participation
13 in physical activity programs;

14 (18) Teachers and principals report that physical activity has
15 been successfully incorporated into classroom teaching in some
16 schools in West Virginia through "Let's Move! West Virginia"
17 programs such as activity breaks and active learning without the
18 need for special facilities or additional physical education
19 teachers or expanding the school day; and

20 (19) Schools face challenges in providing needed physical
21 education and physical activity to students. Lack of staff and
22 equipment and increased pressure to raise test scores and greater
23 demands to meet content standards and objectives impede efforts to
24 provide adequate physical education and activity. Regardless of
25 the challenges, schools must provide physical education and
26 physical activity in order to assure their health and wellbeing and
27 halt the obesity epidemic afflicting our children and teens.

28 ~~(b)~~ (c) As a result of these findings, the State Department of

1 Education shall establish the requirement that each child enrolled
2 in the public schools of this state actively participates in
3 physical education classes and physical activity during the school
4 year to the level of his or her ability as follows:

5 (1) Elementary school ~~grades~~ students shall participate in:

6 (A) Not less than thirty minutes of physical education,
7 including physical exercise and age-appropriate physical
8 activities, for not less than three days a week.

9 (B) Not less than fifty percent of each physical education
10 class shall be spent in moderate to vigorous physical activity; and

11 (C) Not less than an average of thirty minutes daily of
12 moderate to vigorous physical activity integrated into the school
13 day.

14 (2) Middle school ~~grades~~ students shall participate in:

15 (A) Not less than one full period of physical education,
16 including physical exercise and age-appropriate physical
17 activities, each school day of one semester of the school year.

18 (B) Not less than fifty percent of each physical education
19 class shall be spent in moderate to vigorous physical activity; and

20 (C) Not less than an average of thirty minutes daily of
21 moderate to vigorous physical activity integrated into the school
22 day.

23 (3) High school ~~grades~~ students shall participate in:

24 (A) Not less than one full course credit of physical
25 education, including physical exercise and age-appropriate physical
26 activities, which shall be required for graduation, and the
27 opportunity to enroll in an elective lifetime physical education
28 course.

1 (B) Not less than fifty percent of each physical education
2 class shall be spent in moderate to vigorous physical activity.

3 (4) As used in this section:

4 (A) "Physical education" means a class taught by a certified
5 physical education teacher who assesses student knowledge and motor
6 and social skills and provides instruction in a safe, supportive
7 environment. Based on sequence of learning, physical education
8 should not be compared to, or confused with, other physical
9 activity experiences such as recess, intramural activity or
10 recreational endeavors.

11 (B) "Physical activity" means bodily movement of any type and
12 activities such as walking, jumping rope, playing soccer and
13 lifting weights, as well as daily activities such as taking the
14 stairs or campus enhancement projects. Similar health benefits to
15 those received during a physical education class are possible
16 during physical activity which reaches moderate to vigorous
17 intensity, i.e., when the participant is active at an intensity
18 that increases heart rate and produces heavier than normal
19 breathing.

20 ~~(c)~~ (d) Enrollment in physical education classes and
21 activities required by the provisions of this section shall not
22 exceed, and shall be consistent with, state guidelines for
23 enrollment in all other subjects and classes: *Provided*, That
24 schools which do not currently have the number of certified
25 physical education teachers, do not currently have the required
26 physical setting or would have to significantly alter academic
27 offerings to meet the physical education requirements may develop
28 alternate programs that will enable current staff, physical

1 settings and offerings to be used to meet the physical education
2 requirements established herein. These alternate programs shall be
3 submitted to the county board for approval. Copies also shall be
4 submitted to the State Department of Education and the Healthy
5 Lifestyle Council ~~for approval. Those schools needing to develop~~
6 ~~alternate programs shall not be required to implement this program~~
7 ~~until the school year commencing two thousand six~~ Coalition.

8 ~~(d)~~ (e) The state board shall prescribe a program within the
9 existing health and physical education program which incorporates
10 fitness testing, reporting, recognition, fitness events and
11 incentive programs which requires the participation in grades four
12 through eight and the required high school course. The program
13 shall be selected from nationally accepted fitness testing programs
14 designed for school-aged children that test cardiovascular fitness,
15 muscular strength and endurance, flexibility and body composition:
16 *Provided*, That nothing in this subsection shall be construed to
17 prohibit the use of programs designed under the auspices of the
18 President's Council on Physical Fitness and Sports. The program
19 shall include modified tests for exceptional students. Each school
20 in the state shall participate in National Physical Fitness and
21 Sports Month in May of each year and shall make every effort to
22 involve the community it serves in the related events.

23 ~~(e)~~ (f) The state board shall promulgate a rule in accordance
24 with the provisions article three-b, chapter twenty-nine-a of this
25 code that includes at least the following provisions to provide for
26 the collection, reporting and use of body mass index data in the
27 public schools:

28 (1) The data shall be collected using the appropriate

1 methodology for assessing the body mass index from student height
2 and weight data;

3 (2) The data shall be collected on a scientifically drawn
4 sample of students;

5 (3) The data shall be collected and reported in a manner that
6 protects student confidentiality;

7 (4) The data shall be reported to the Department of Education;
8 and

9 (5) All body mass index data shall be reported in aggregate to
10 the Governor, the State Board of Education, the Healthy Lifestyles
11 Coalition and the Legislative Oversight Commission on Health and
12 Human Resources Accountability for use as an indicator of progress
13 toward promoting healthy lifestyles among school-aged children.

14 (g) The state board shall include the physical education and
15 physical activity required in this section as part of the high-
16 quality education standards and efficiency standards set forth and
17 assessed pursuant to section five, article two-e of this chapter.

18 (h) The state board shall promulgate a rule in accordance with
19 article three-b, chapter twenty-nine-a of this code to provide
20 adequate professional development and training on integration of
21 physical activity throughout the school day. The professional
22 development and training shall be provided within existing
23 professional development and training opportunities and programs.
24 The state board shall collaborate with teachers and administrators
25 at all grade levels when developing any rule pursuant to the West
26 Virginia Move to Improve Act.