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**H. B. 2112**

(By Delegates Rodighiero, Hicks, Perdue, Marcum, Reynolds,  
Eldridge and Moye)

[Introduced January 20, 2015; referred to the  
Committee on Education then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §18-5D-2, §18-5D-3 and §18-5D-4 of the Code of West Virginia, 1931, as amended, all relating to the West Virginia Feed to Achieve Act; and providing that school nutrition plans include take home meals for low income students or any student who requests take home meals.

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

That §18-5D-2, §18-5D-3 and §18-5D-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.**

**§18-5D-2. Legislative findings; intent.**

(a) The Legislature finds and declares that:

(1) Every child in school needs to have nutritious meals in order to achieve his or her potential. Providing the best schools and teachers alone does not ensure a child is mentally present and able to learn. A growing body of research establishes that a hungry child is less able to process the information provided and is less likely to be attentive to the lessons being taught.

1           (2) President Harry S. Truman began the national school lunch program in 1946 as a measure  
2 of national security to safeguard the health and well-being of the nation's children and to encourage  
3 the domestic consumption of nutritious agricultural commodities and other food. Last year in West  
4 Virginia, 32.3 million school lunches were served to students in public schools.

5           (3) Research shows that healthy eating, proper nutrition and regular physical activity result  
6 in students who have: (A) Increased standardized achievement test scores; (B) improved attendance;  
7 (C) reduced tardiness; (D) improved academic, behavioral and emotional functioning; and (E)  
8 improved nutrition, and for many students, the nutritious breakfast at school is essential.

9           (4) Schools that provide universal breakfast programs also report: (A) Decreases in discipline  
10 and psychological problems; (B) decreases in visits to school nurses; (C) decreases in tardiness; (D)  
11 increases in student attentiveness; (E) increases in attendance; and (F) improved learning  
12 environments, and these positive attributes are furthered through comprehensive healthy schools  
13 policies that include quality nutrition, integrating physical activity during the school day, and  
14 teaching children about the importance of embracing a healthy active lifestyle.

15           (5) An effective school breakfast program is not an interruption of the school day; it is an  
16 integral and vital part of the school day.

17           (6) The participation rate for the school breakfast program varies greatly among our counties.  
18 Those counties which have made a determined effort to increase participation by offering programs  
19 to best meet student needs, such as Grab-And-Go Breakfasts, providing Breakfast in the Classroom  
20 or providing Breakfast After First Period, are feeding significantly higher percentages of their  
21 students.

22           (7) The West Virginia Center on Budget and Policy reports that in 2011 more than 25 percent

1 of the children in West Virginia lived in homes with a household income below the federal poverty  
2 line, which is \$23,050 for a family of four. About 50 percent of West Virginia children live in  
3 homes with a household income below twice the federal poverty level, \$46,100 for a family of four,  
4 which is approximately the level of the Work Force West Virginia self-sufficiency standard.

5 (8) The majority of students from families below the self-sufficiency standard are currently  
6 not eating breakfast at school. On the average school day during the 2011-2012 school year, less  
7 than half of the West Virginia students eligible for a federally funded free breakfast actually received  
8 one. On that same average day, only about one third of the students eligible to receive a reduced  
9 price breakfast actually received one.

10 (9) In order to maximize each child's potential to learn and develop, the Legislature, schools  
11 and communities must partner to provide the most basic support for learning: nutritious meals.

12 (10) In order to maximize student participation in school nutrition programs and to reduce  
13 the secondary adverse impacts of poverty, it is important that schools provide nutritious meals  
14 without a risk to students of being stigmatized as poor, including take home meals for low income  
15 students or any student who requests take home meals.

16 (11) High rates of childhood hunger and childhood obesity occur simultaneously because  
17 children are not receiving healthy, nutritious food. According to the Data Resource Center for Child  
18 and Adolescent Health and others, in 2008 West Virginia ranked 44 in overall prevalence of  
19 childhood obesity, with 35.5 percent of children considered either overweight or obese.

20 (12) According to the 2008 Pediatric Nutrition Surveillance System, which assesses weight  
21 status of children from low-income families participating in the Women, Infants and Children  
22 program, 28.3 percent of low income children age 2-5 are overweight or obese in West Virginia.

1           (13) The Food Research and Action Center has found that providing a balanced school  
2 breakfast may protect against childhood obesity. School breakfast participation, particularly when  
3 combined with comprehensive efforts that include regular physical activity and promote healthy  
4 eating habits, is associated with a lower body mass index, a lower probability of being overweight  
5 and a lower probability of obesity, all of which help prevent a range of chronic diseases including  
6 Type II Diabetes, high blood cholesterol, high blood pressure, heart disease and stroke.

7           (14) Participation in federally funded meals in child care, preschool, school, or summer  
8 settings is associated with a lower body mass index among young, low income children.

9           (15) Private and nonprofit sectors have shown a willingness to commit significant resources  
10 to addressing hunger in America, leveraging federal programs and enlisting their employees,  
11 customers and clients to improve the availability and accessibility of affordable, healthy food for  
12 those in need of assistance.

13           (16) Public schools in this state and others are adopting a continuum of policies to implement  
14 low cost, effective programs that include physical activity, physical education, proper nutrition and  
15 the promotion of healthy eating habits, along with involvement by school staff, families and  
16 communities, and a variety of resources to assist schools in adopting and implementing these  
17 programs are easily accessible on the Internet and through the Office of Healthy Schools in the West  
18 Virginia Department of Education.

19           (b) In order to maximize the economies of scale and to access all available federal funds to  
20 support our school nutrition programs, the Feed to Achieve initiative directs schools to make  
21 available and to promote the federally approved and subsidized meals to all prekindergarten through  
22 twelfth grade students, to make them readily available and to consider reducing or eliminating the

1 cost to students if sufficient funds become available.

2 (c) The Legislature intends to provide a framework for the State Board of Education and the  
3 county boards of education to provide, as effectively and as efficiently as possible, a minimum of  
4 two nutritious meals each school day to all students.

5 (d) The Legislature intends for the state and county boards of education to enter into public-  
6 private partnerships to eventually provide free nutritious meals for all prekindergarten through  
7 twelfth grade school children in West Virginia.

8 (e) The Legislature encourages county boards to examine the options available for  
9 comprehensive policies and programs to improve student health and promote academic achievement  
10 and to establish a comprehensive policy on healthy schools that best meets the needs of their student  
11 population.

12 (f) It is not the intention of the Legislature to allow or encourage parents to abdicate their  
13 parental responsibility related to providing healthy, nutritious meals for their children. However, it  
14 is the intent of the Legislature that no child be denied nutritious meals.

15 (g) It is the intent of the Legislature that healthy nutritious school lunches and take home  
16 meals for low income students or any student who requests take home meals be made available to  
17 all students in a manner which maximizes participation and minimizes stigma attached to  
18 participating low income students.

19 **§18-5D-3. School nutrition programs.**

20 (a) Each county board of education shall establish and operate school nutrition programs  
21 under which, at a minimum, a nutritious breakfast, ~~and lunch~~ and take home meals for low income  
22 students or any student who requests take home meals are made effectively available to all students

1 enrolled in the schools of the county in accordance with the State Board of Education standards. The  
2 standards shall include guidelines for determining the eligibility of students for paid, free and  
3 reduced meals. The standards shall also establish procedures and guidelines for the Feed to Achieve  
4 initiative to allow for the provision of healthy, nutritious meals to all elementary school students,  
5 without cost to students, where schools find it practical to do so.

6 (b) The Feed to Achieve initiative will be phased in for all elementary schools as sufficient  
7 funds become available, through donations, contributions and payments made by individuals,  
8 communities, businesses, organizations and parents or guardians on behalf of students. Nothing in  
9 this article prohibits any school from providing free meals to all of its students.

10 (c) Each county board of education shall:

11 (1) Require all schools to adopt a delivery system approved by the state Office of Child  
12 Nutrition, no later than the 2015 school year, that ensures all students are given an adequate  
13 opportunity to eat breakfast. These approved systems shall include, but are not limited to, Grab-  
14 And-Go Breakfasts, Breakfast in the Classroom or Breakfast After First Period and no later than the  
15 2016 school year these systems shall include take home meals programs; and

16 (2) Collaborate with the state Office of Child Nutrition to develop strategies and methods to  
17 increase the percentage of children participating in the school breakfast, ~~and~~ lunch nutrition  
18 programs and take home meals programs.

19 (d) In addition to other statistics, the county boards of education, in consultation with the  
20 state Office of Child Nutrition, shall determine the number of children in each school who are  
21 participating in each meal offered by the school; the number of children who are not eating each  
22 meal offered by the school; and the total daily attendance.

1 (e) The state Office of Child Nutrition shall report to the Joint Committee on Government  
2 and Finance, the Select Committee on Children and Poverty and the Legislative Oversight  
3 Commission on Education Accountability on or before December 31, 2015, and each year thereafter,  
4 on the impacts of the Feed to Achieve Act and any recommendations for legislation.

5 (f) County boards of education may utilize the nonprofit funds or foundations established in  
6 section four of this article or other available funds to offset the costs of providing free meals, after  
7 school and summer nutrition programs to elementary students.

8 (g) If at any time federal financial appropriations to this state for school nutrition programs  
9 are terminated, county boards of education are hereby authorized, but not required, to continue the  
10 programs at their own expense.

11 (h) Classroom teachers may not be required to participate in the operation of the school  
12 breakfast program as part of their regular duties.

13 **§18-5D-4. Creating public-private partnerships; creating nonprofit foundation or fund; audit.**

14 (a) The Department of Education and each county board of education shall promptly establish  
15 a fund that is restricted solely for the receipt and expenditure of gifts, grants and bequests for the  
16 purposes of this article and may establish in lieu thereof a nonprofit foundation for this purpose. The  
17 purpose of the fund or nonprofit foundation is to provide supplemental or matching funds to increase  
18 participation in the nutrition programs in the Feed to Achieve initiative set forth in subsection (c) of  
19 this section. The Department of Education shall utilize its fund or nonprofit foundation to assist  
20 county boards of education in counties whose fund or foundation lacks sufficient business, industry  
21 and individual contributors to fund the Feed to Achieve nutrition programs.

22 (b) Financial support for the fund or foundation may come from either public or private gifts,

1 grants, contributions, bequests and endowments.

2 (c) Expenditures from the state or county funds or by the foundations shall be used for  
3 provision of food to students through any of the programs or initiatives approved by the Office of  
4 Child Nutrition, including the following programs: School Breakfast Program, National School  
5 Lunch Program, the Summer Food Service Program, the Fresh Fruit and Vegetable Program, the  
6 Child and Adult Care Food Program, the farm-to-school initiative and community gardens.  
7 Expenditures may also be made for initiatives developed with the Department of Health and Human  
8 Resources and public-private partnerships to provide outreach and nutritional meals when students  
9 are not in school, including take home meals programs.

10 (d) No administrative expenses or personnel expenses for any of the state departments  
11 implementing this act, the State Board of Education, any county board of education, school or  
12 program may be paid from the funds or by the foundations.

13 (e) Individuals or businesses that contribute to the funds or foundations may specify schools  
14 or nutrition programs for which the contribution is to be used.

15 (f) The Department of Education and county boards of education may establish public-private  
16 partnerships to enhance current or advance additional nutrition programs that provide nutritious food  
17 for children to take home for weekend meals.

18 (g) The Department of Education and county boards of education shall form or expand  
19 existing partnerships with the federal and state departments of agriculture, Department of Health and  
20 Human Resources, local master gardeners, county extension agents or other experts in the field of  
21 agriculture or gardening to develop community gardens, farm-to-school programs and other such  
22 programs that teach students how to grow and produce healthy food and provide healthy food to the



1 students.

2 (h) The Department of Education shall collaborate with the Department of Health and Human  
3 Resources to develop effective strategies and programs such as after school nutrition outreach and  
4 programs that improve the healthy lifestyle of all students in prekindergarten through twelfth grade.  
5 The Department of Health and Human Resources may propose rules for promulgation in accordance  
6 with the provisions of article three, chapter twenty-nine-a of this code to effectuate any programs so  
7 developed.

8 (i) All moneys contributed to a fund or foundation established pursuant to this section and  
9 all expenditures made therefrom shall be audited as part of the annual independent audit of the State  
10 Board of Education and the county boards of education.

NOTE: The purpose of this bill is to require that school nutrition plans include take home meals for low income students or any student who requests take home meals.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.