

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2618**

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[Originating in the Committee of Health and Human  
Resources]



1 A BILL to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended, all  
2 relating to body mass index.

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

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

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

**§18-2-7a. Legislative findings; required physical education; program in physical fitness.**

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

8 (b) As a result of these findings, the state Department of Education shall establish the  
9 requirement that each child enrolled in the public schools of this state actively participates in  
10 physical education classes during the school year to the level of his or her ability as follows:

11 (1) *Elementary school grades.* -- Not less than thirty minutes of physical education,  
12 including physical exercise and age-appropriate physical activities, for not less than three days a  
13 week.

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

17 (3) *High school grades.* -- Not less than one full course credit of physical education,  
18 including physical exercise and age-appropriate physical activities, which shall be required for  
19 graduation and the opportunity to enroll in an elective lifetime physical education course.

20 (c) Enrollment in physical education classes and activities required by the provisions of  
21 this section shall not exceed, and shall be consistent with, state guidelines for enrollment in all  
22 other subjects and classes: *Provided*, That schools which do not currently have the number of  
23 certified physical education teachers, do not currently have the required physical setting or would  
24 have to significantly alter academic offerings to meet the physical education requirements may  
25 develop alternate programs that will enable current staff, physical settings and offerings to be  
26 used to meet the physical education requirements established herein. These alternate programs  
27 shall be submitted to the state Department of Education and the Healthy Lifestyle Council for  
28 approval. Those schools needing to develop alternate programs shall not be required to  
29 implement this program until the school year commencing 2006.

30 (d) The state board shall prescribe a program within the existing health and physical  
31 education program which incorporates fitness testing, ~~reporting~~, recognition, fitness events and  
32 incentive programs which requires the participation in grades four through eight and the required  
33 high school course. The program shall be selected from nationally accepted fitness testing  
34 programs designed for school-aged children that test cardiovascular fitness, muscular strength  
35 and endurance, flexibility and body composition: *Provided*, That nothing in this subsection shall  
36 be construed to prohibit the use of programs designed under the auspices of the President's  
37 Council on Physical Fitness and Sports. The program shall include modified tests for exceptional  
38 students. Each school in the state shall participate in National Physical Fitness and Sports Month  
39 in May of each year and shall make every effort to involve the community it serves in the related  
40 events.

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

44 ~~(1) The data shall be collected using the appropriate methodology for assessing the body~~  
45 ~~mass index from student height and weight data;~~

- 46           ~~(2) The data shall be collected on a scientifically drawn sample of students;~~
- 47           ~~(3) The data shall be collected and reported in a manner that protects student~~  
48 ~~confidentiality;~~
- 49           ~~(4) The data shall be reported to the Department of Education; and~~
- 50           ~~(5) All body mass index data shall be reported in aggregate to the Governor, the state~~  
51 ~~Board of Education, the Healthy Lifestyles Coalition and the Legislative Oversight Commission~~  
52 ~~on Health and Human Resources Accountability for use as an indicator of progress toward~~  
53 ~~promoting healthy lifestyles among school-aged children~~

NOTE: The purpose of this bill is to remove the requirement that a student's body mass index be obtained.

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