

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2778**

BY DELEGATE RODIGHIERO AND PYLES

[Introduced January 30, 2019; Referred  
to the Committee on Education then Finance.]

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

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

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

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

1 (a) The Legislature finds and declares that:

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

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

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

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

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

22 (6) The participation rate for the school breakfast program varies greatly among our  
23 counties. Those counties which have made a determined effort to increase participation by  
24 offering programs to best meet student needs, such as Grab-And-Go Breakfasts, providing  
25 breakfast in the classroom or providing breakfast after first period, are feeding significantly higher  
26 percentages of their students.

27 (7) The West Virginia Center on Budget and Policy reports that in 2011 more than 25  
28 percent of the children in West Virginia lived in homes with a household income below the federal  
29 poverty line, which is \$23,050 for a family of four. About 50 percent of West Virginia children live  
30 in homes with a household income below twice the federal poverty level, \$46,100 for a family of  
31 four, which is approximately the level of the Work Force West Virginia self-sufficiency standard.

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

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

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

44 (11) High rates of childhood hunger and childhood obesity occur simultaneously because  
45 children are not receiving healthy, nutritious food. According to the Data Resource Center for

46 Child and Adolescent Health and others, in 2008 West Virginia ranked 44 in overall prevalence of  
47 childhood obesity, with 35.5 percent of children considered either overweight or obese.

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

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

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

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

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

69 (b) In order to maximize the economies of scale and to access all available federal funds  
70 to support our school nutrition programs, the Feed to Achieve initiative directs schools to make  
71 available and to promote the federally approved and subsidized meals to all prekindergarten

72 through 12th grade students, to make them readily available and to consider reducing or  
73 eliminating the cost to students if sufficient funds become available.

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

77 (d) The Legislature intends for the state and county boards of education to enter into  
78 public-private partnerships to eventually provide free nutritious meals for all prekindergarten  
79 through 12th grade school children in West Virginia.

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

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

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

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

1 (a) Each county board of education shall establish and operate school nutrition programs  
2 under which, at a minimum, a nutritious breakfast, ~~and lunch,~~ and take home meals for low income  
3 students or any student who requests take home meals are made effectively available to all  
4 students enrolled in the schools of the county in accordance with the State Board of Education  
5 standards. The standards shall include guidelines for determining the eligibility of students for  
6 paid, free and reduced meals. The standards shall also establish procedures and guidelines for

7 the Feed to Achieve initiative to allow for the provision of healthy, nutritious meals to all elementary  
8 school students, without cost to students, where schools find it practical to do so.

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

13 (c) Each county board of education shall:

14 (1) Require all schools to adopt a delivery system approved by the state Office of Child  
15 Nutrition, no later than the 2015 school year, that ensures all students are given an adequate  
16 opportunity to eat breakfast. These approved systems shall include, but are not limited to, Grab-  
17 And-Go Breakfasts, breakfast in the classroom or breakfast after first period, and no later than  
18 the 2019-20 school year these systems shall include take home meals programs; and

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

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

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

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

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

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

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

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

10 (b) Financial support for the fund or foundation may come from either public or private  
11 gifts, grants, contributions, bequests and endowments.

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

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

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

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

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

34 (h) The Department of Education shall collaborate with the Department of Health and  
35 Human Resources to develop effective strategies and programs such as after school nutrition  
36 outreach and programs that improve the healthy lifestyle of all students in prekindergarten through  
37 twelfth grade. The Department of Health and Human Resources may propose rules for  
38 promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code to effectuate any  
39 programs so developed.

40 (i) All moneys contributed to a fund or foundation established pursuant to this section and  
41 all expenditures made therefrom shall be audited as part of the annual independent audit of the  
42 State 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 a heading or the present law and underscoring indicates new language that would be added.