

1 **H. B. 4582**

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3 (By Delegate Fleischauer)

4 [Introduced February 17, 2014; referred to the  
5 Committee on Education.]  
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10 A BILL to amend and reenact §18-2-7a of the Code of West Virginia,  
11 1931, as amended, relating to required physical education and  
12 program in physical fitness in the public schools; and  
13 providing that public schools be required to have each child  
14 engage in thirty minutes of physical activity each school day.

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

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

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

19 **§18-2-7a. Legislative findings; required physical education;  
20 program in physical fitness.**

21 (a) The Legislature hereby finds that obesity is a problem of  
22 epidemic proportions in this state. There is increasing evidence  
23 that all segments of the population, beginning with children, are

1 becoming more sedentary, more overweight and more likely to develop  
2 health risks and diseases including Type II Diabetes, high blood  
3 cholesterol and high blood pressure. The Legislature further finds  
4 that the promotion of physical activity during the school day for  
5 school children is a crucial step in combating this growing  
6 epidemic and in changing the attitudes and behavior of the  
7 residents of this state toward health promoting physical activity.

8 (b) As a result of these findings, the State Department of  
9 Education shall establish the requirement that each child enrolled  
10 in the public schools of this state actively participates in  
11 physical education classes during the school year to the level of  
12 his or her ability as follows, subject to collaboration with the  
13 classroom teacher, the principal and with the assistance of  
14 wellness coordinators in each regional educational service agency  
15 on how to fit physical activity into the school day and subject to  
16 reading to students, or other similar educational activity, if done  
17 during mealtimes in the classroom, which may be counted as  
18 instructional for the purpose of providing additional time in the  
19 school day for physical activity:

20 (1) *Elementary school grades.* -- Not less than thirty minutes  
21 of physical education, including physical exercise and  
22 age-appropriate physical activities, ~~for not less than three days~~  
23 ~~a week~~ each school day.

24 (2) *Middle school grades.* -- Not less than one full period of

1 physical education, including physical exercise and age-appropriate  
2 physical activities, each school day of one semester of the school  
3 year: Provided, That in the alternative middle school grades may  
4 have not less than thirty minutes of physical education, including  
5 physical exercise and age-appropriate physical activities each  
6 school day.

7 (3) *High school grades.* -- Not less than one full course  
8 credit of physical education, including physical exercise and  
9 age-appropriate physical activities, which shall be required for  
10 graduation and the opportunity to enroll in an elective lifetime  
11 physical education course: Provided, That this course shall include  
12 not less than thirty minutes of physical education, including  
13 physical exercise and age-appropriate physical activities each  
14 school day.

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

1 herein. These alternate programs shall be submitted to the state  
2 Department of Education and the Healthy Lifestyle Council for  
3 approval. Those schools needing to develop alternate programs  
4 shall not be required to implement this program until the school  
5 year commencing ~~two thousand six~~ 2015 and shall be subject to  
6 collaboration with the classroom teacher, the principal and with  
7 the assistance of wellness coordinators in each regional  
8 educational service agency on how to fit physical activity into the  
9 school day and subject to reading to students, or other similar  
10 educational activity, if done during mealtimes in the classroom,  
11 which may be counted as instructional for the purpose of providing  
12 additional time in the school day for physical activity.

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

1 in the state shall participate in National Physical Fitness and  
2 Sports Month in May of each year and shall make every effort to  
3 involve the community it serves in the related events.

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

9 (1) The data shall be collected using the appropriate  
10 methodology for assessing the body mass index from student height  
11 and weight data;

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

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

16 (4) The data shall be reported to the Department of Education;  
17 and

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

NOTE: The purpose of this bill is to require physical education and a program in physical fitness in the public schools that provides that public schools require that each child engage in thirty minutes of physical activity each school day. The bill also provides that this requirement be subject to collaboration with the classroom teacher, the principal and with the assistance of wellness coordinators in each regional educational service agency on how to fit physical activity into the school day.

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