

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 819

**FISCAL
NOTE**

By Senator Rucker

[Introduced March 19, 2025; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to amend and reenact §18-2-7a and §18-2-9 of the Code of West Virginia, 1931, as
2 amended; and to amend the code by adding a new section, designated §18-2-7h, relating
3 to public school student health; requiring a heart health program whereby each child
4 enrolled in the public schools in grades three through six is to actively participate in
5 nutrition and aerobic exercise classes for 12 weeks straight at any point during the
6 instructional term; specifying what the program is to include; requiring program to be
7 aligned with state health standards; addressing selection of the program; allowing the
8 nutrition and aerobic exercise education to be in the form of a book, DVD, CD, online, or
9 another form of technology; requiring each school that includes any of grades three
10 through six to ensure time is allowed during the school day to meet certain aerobic
11 exercise, education, and information tracking requirements; requiring each school that
12 includes any of grades three through six ensure certain accountability measure data;
13 allowing school districts to issue a request for proposals to contract with qualified service
14 providers on a per-student rate to provide certain nutrition and aerobic exercise programs
15 and/or products; and specifying accountability measures the programs must include.

Be it enacted by the Legislature of West Virginia:

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

requirement that each child enrolled in the public schools of this state actively participates in physical education classes during the school year to the level of his or her ability as follows:

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

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

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

The grade three through six requirements in §18-2-7h of this code supersede any conflicting requirements in this subsection.

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

(d) The state board shall prescribe a program within the existing health and physical education program which incorporates fitness testing, reporting, recognition, fitness events and incentive programs which requires the participation in grades four through eight and the required

high school course. The program shall be selected from nationally accepted fitness testing programs designed for school-aged children that test cardiovascular fitness, muscular strength and endurance, flexibility and body composition: *Provided*, That nothing in this subsection shall be construed to prohibit the use of programs designed under the auspices of the President's Council on Physical Fitness and Sports. The program shall include modified tests for exceptional students. Each school in the state shall participate in National Physical Fitness and Sports Month in May of each year and shall make every effort to involve the community it serves in the related events.

(e) The state board shall promulgate a rule in accordance with ~~the provisions §29A-3B-1 et seq.~~ of this code that includes at least the following provisions to provide for the collection, reporting and use of body mass index data in the public schools:

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

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

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

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

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

§18-2-7h. Heart health program.

(a) The Legislature hereby finds that:

(1) Obesity is a significant problem in this state;

(2) There is increasing evidence that all segments of the population, beginning with children, are becoming more sedentary, more overweight, and more likely to develop health risks and diseases, including Type II Diabetes, high blood cholesterol, and high blood pressure; and

6 (3) The promotion of physical activity during the school day for school children is a crucial
7 step in combating this growing epidemic and in changing the attitudes and behavior of the
8 residents of this state toward health-promoting physical activity.

9 (b) The state board shall require that each child enrolled in the public schools of this state
10 in grades three through six actively participate in nutrition and aerobic exercise classes for 12
11 weeks straight at any point during the instructional term to the level of the child's ability as follows:

12 (1) The heart health education shall include instruction on proper nutrition and aerobic
13 exercise, consisting of at least 20 minutes of aerobic exercise at least three days per week;

14 (2) Selected programs shall be aligned to the state health standards. Upon completion of
15 the program required by this section, the child shall receive a pass or fail grade;

16 (3) The program required by this section shall be selected from nationally accepted
17 nutrition and aerobic exercise programs designed for school-aged children that test nutrition
18 knowledge, cardiovascular fitness, muscular strength, and endurance. The program shall include
19 modified tests for exceptional students;

20 (4) The program shall include instruction on the subject of proper nutrition and aerobic
21 exercise education including the importance of how nutrition and regular aerobic exercise improve
22 heart health to prevent hypertension, obesity, diabetes, and heart disease;

23 (5) The heart health program shall include a provision for evidence-based nutrition and
24 aerobic exercise education for all teachers and children in grades three through six. The education
25 for teachers shall include all classroom teachers, including physical education teachers and
26 teachers teaching health;

27 (6) The program shall include the provision of all third-through sixth-grade teachers and
28 students with complete access to turnkey, evidence- based nutrition and aerobic exercise
29 education to implement in the classroom, during school, before school, after school, and/or at
30 home with family;

31 (7) The nutrition and aerobic exercise education may be in the form of book, DVD, CD,

online, or another form of technology. Each school that includes any of grades three through six shall ensure the following:

(A) Time is allowed during the school day for the classroom, physical education, and/or health education teaching personnel to provide grade three through six students with up to 30 minutes of aerobic exercise and education to learn how exercise improves heart health;

(B) Time is allowed during the school day for the classroom, physical education, and/or health education teaching personnel to provide grade three through six students with proper nutrition education that teaches about the nutrients and their relationship to improving heart health;

(C) Time is allowed during the school day for the classroom, physical, and/or health education teaching personnel to provide both grade three through six students and the teacher with time to fill out a journal to track information relating to any of the following: Food, nutrition, and exercise. The nutrient information may include information such as the amounts of water, carbohydrates, protein, fat, minerals, and vitamins consumed; and

(D) All data that is necessary to comply with the accountability measures set forth by the state board and its service providers. Data collected pursuant to this program is subject to state and federal data privacy laws to protect the privacy and confidentiality of individual students and not subject to disclosure under the West Virginia Freedom of Information Act set forth in §29B-1-1 *et seq.* of this code;

(8) School districts may issue a request for proposals to contract with qualified service providers on a per-student rate to provide evidence-based nutrition and aerobic exercise programs and/or products consisting of nutrition education, aerobic exercise, use of technology, and associated licenses for teachers and students in grades three through six in school districts provided for under this section; and

(9) Programs implemented pursuant to this section shall include the following accountability measures:

(A) Annually, school districts shall report the identity of the participating schools and accountability measures in the aggregate to the West Virginia Department of Education, which shall make such reports available to the general public.

(B) At a minimum, reports submitted to the West Virginia Department of Education shall include aggregated student pre- and post-testing data in the areas of:

(i) Nutrition knowledge;

(ii) Heart health using such measures as blood pressure and heart rate; and

(iii) Strength endurance using such measures as push-ups and sit-ups; and

(C) The pre-testing required by subdivision of this subsection shall occur prior to the beginning of the nutrition and aerobic exercise instruction each school year, and the post-testing shall occur each school year near or after the conclusion of the instruction.

§18-2-9. Required courses of instruction.

(a) (1) In all public, private, parochial, and denominational schools located within this state there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. The schools shall require regular courses of instruction by the completion of the 12th grade in the history of the United States, in civics, in the Constitution of the United States, and in the government of the State of West Virginia for the purpose of teaching, fostering, and perpetuating the ideals, principles, and spirit of political and economic democracy in America, and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The required courses shall include instruction on the institutions and structure of American government, such as the separation of powers, the Electoral College, and federalism. The required courses shall include instruction that provides students an understanding of American political philosophy and history, utilizing writings from prominent figures in Western civilization, such as Aristotle, Thomas Hobbes, John Locke, and Thomas Jefferson. The courses of instruction shall offer an objective and critical analysis of ideologies throughout history including, but not limited to, capitalism, republicanism, democracy,

15 socialism, communism, and fascism. The required courses shall emphasize the use of primary
16 sources and interactive learning techniques, such as mock scenarios, debates, and open and
17 impartial discussions.

18 (2) The state board shall, with the advice of the state superintendent, and after consultation
19 with other entities, prescribe the courses of study, including the basic course requirements for
20 middle school and high school, and the academic standards listed in subdivision (1) of this
21 subsection for these courses of study covering these subjects for the public schools, and publish
22 an approved list of instructional resources pursuant to §18-2A-1 *et seq.* of this code. The
23 curriculum used in the delivery of instruction shall cover the standards adopted for such courses.
24 The other entities for consultation may include such organizations as the Florida Joint Center for
25 Citizenship, the College Board, the Bill of Rights Institute, Hillsdale College, the Gilder Lehrman
26 Institute of American History, the Constitutional Sources Project, educators, school administrators,
27 postsecondary education representatives, elected officials, business and industry leaders,
28 parents, and the public. Officials or boards having authority over the respective private, parochial,
29 and denominational schools shall prescribe courses of study for the schools under their control
30 and supervision similar to those required for the public schools.

31 (3) The state board shall provide testing or assessment instruments for the history and
32 civics courses of instruction required by this section. These testing instruments shall:

33 (A) Be aligned with the academic standards required by this section;

34 (B) Be mandatory for students enrolled in those courses of instruction;

35 (C) Be cumulative by including questions about knowledge learned in prior history and
36 civics courses; and

37 (D) Measure students' factual and conceptual knowledge including how the facts
38 interrelate and the reasons behind historical documents and events.

39 (4) To further this study, every high school student eligible by age for voter registration shall
40 be afforded the opportunity to register to vote pursuant to §3-2-22 of this code.

(b) The state board shall cause to be taught in all public schools of this state the subject of health education, including instruction in any of the grades six through 12 as considered appropriate by the county board, on: (1) The prevention, transmission, and spread of acquired immune deficiency syndrome and other sexually transmitted diseases; (2) substance abuse, including the nature of alcoholic drinks and narcotics, tobacco products, and other potentially harmful drugs, with special instruction as to their effect upon the human system and upon society in general; (3) the importance of healthy eating and physical activity in maintaining healthy weight; and (4) education concerning cardiopulmonary resuscitation and first aid, including instruction in the care for conscious choking, and recognition of symptoms of drug or alcohol overdose. The course curriculum requirements and materials for the instruction shall be adopted by the state board by rule in consultation with the Department of Health. The state board shall prescribe a standardized health education assessment to be administered within health education classes to measure student health knowledge and program effectiveness. Any overlapping requirements in §18-2-7h of this code may be used to satisfy the requirements of this subsection.

(c) An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission, and spread of acquired immune deficiency syndrome and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in the instruction. The parent or guardian may exempt the child from participation in the instruction by giving notice to that effect in writing to the school principal.

(d) After July 1, 2015, the required instruction in cardiopulmonary resuscitation in subsection (b) of this section shall include at least 30 minutes of instruction for each student prior to graduation on the proper administration of cardiopulmonary resuscitation (CPR) and the psychomotor skills necessary to perform cardiopulmonary resuscitation. The term "psychomotor skills" means the use of hands-on practicing to support cognitive learning. Cognitive-only training does not qualify as "psychomotor skills". The CPR instruction shall be based on an instructional program established by the American Heart Association or the American Red Cross, or another

67 program which is nationally recognized and uses the most current national evidence-based
68 emergency cardiovascular care guidelines and incorporates psychomotor skills development into
69 the instruction. A licensed teacher is not required to be a certified trainer of cardiopulmonary
70 resuscitation to facilitate, provide, or oversee such instruction. The instruction may be given by
71 community members, such as emergency medical technicians, paramedics, police officers,
72 firefighters, licensed nurses, and representatives of the American Heart Association or the
73 American Red Cross. These community members are encouraged to provide necessary training
74 and instructional resources such as cardiopulmonary resuscitation kits and other material at no
75 cost to the schools. The requirements of this subsection are minimum requirements. A local school
76 district may offer CPR instruction for longer periods of time and may enhance the curriculum and
77 training components, including, but not limited to, incorporating into the instruction the use of an
78 automated external defibrillator (AED): *Provided*, That any instruction that results in a certification
79 being earned shall be taught by an authorized CPR/AED instructor.

80 (e) A full week of classes during the week selected by the county board of education shall
81 be recognized as Celebrate Freedom Week. The purpose of Celebrate Freedom Week is to
82 educate students about the sacrifices made for freedom in the founding of this country and the
83 values on which this country was founded.

84 Celebrate Freedom Week shall include appropriate instruction in each social studies class
85 which:

86 (1) Includes an in-depth study of the intent, meaning, and importance of the Declaration of
87 Independence, the Emancipation Proclamation, and the Constitution of the United States with an
88 emphasis on the amendments that are crucial to the survival of democracy and freedom, such as
89 the Bill of Rights and the thirteenth, fourteenth, fifteenth, and nineteenth amendments;

90 (2) Uses the historical, political, and social environments surrounding each document at
91 the time of its initial passage or ratification; and

92 (3) Includes the study of historical documents to firmly establish the historical background

93 leading to the establishment of the provisions of the constitution and Bill of Rights by the founding
94 fathers for the purposes of safeguarding our constitutional republic.

95 The requirements of this subsection are applicable to all public, private, parochial, and
96 denominational schools located within this state. Nothing in this subsection creates a standard or
97 requirement subject to state accountability measures.

98 (f) Beginning the 2018-2019 school year, students in public schools shall be administered
99 a test the same as or substantially similar to the civics portion of the naturalization test used by the
100 United States Citizenship and Immigration Services between their ninth and 12th grade years as
101 an indicator of student achievement in the area of civics education. The test results may be
102 reported in the aggregate to the county board for evaluation by the board's curriculum director and
103 reported to the board members. Nothing in this subsection creates a standard or requirement
104 subject to state accountability measures.

NOTE: The purpose of this bill is to establish a heart health program in which each child enrolled in the public schools in grades three through six actively participate in nutrition and aerobic exercise classes for 12 weeks straight at any point during the instructional term.

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