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SB 785

FILED

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WEST VIRGINIA LEGISLATURE
Regular Session, 2006

ENROLLED

SENATE BILL NO. 785

(By Senator Plymale, et al)

PASSED March 11, 2006

In Effect 90 days from Passage

FILED

2006 APR -4 P 4: 55

OFFICE WEST VIRGINIA
SECRETARY OF STATE

ENROLLED

Senate Bill No. 785

(BY SENATORS PLYMALE, EDGELL, DEMPSEY, HUNTER,
OLIVERIO, WHITE, BOLEY AND SPROUSE)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended, relating to requirements for physical education in public schools; additional condition authorizing development of alternative programs to meet requirements; grouping requirements by programmatic rather than grade levels; and requiring state board rule on collection, use and reporting body mass index data.

Be it enacted by the Legislature of West Virginia:

That §18-2-7a of the Code of West Virginia, 1931, as amended, be amended and 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
- 2 of epidemic proportions in this state. There is increasing

3 evidence that all segments of the population, beginning
4 with children, are becoming more sedentary, more over-
5 weight and more likely to develop health risks and dis-
6 eases including Type II Diabetes, high blood cholesterol
7 and high blood pressure. The Legislature further finds
8 that the promotion of physical activity during the school
9 day for school children is a crucial step in combating this
10 growing epidemic and in changing the attitudes and
11 behavior of the residents of this state toward health
12 promoting physical activity.

13 (b) As a result of these findings, the State Department of
14 Education shall establish the requirement that each child
15 enrolled in the public schools of this state actively partici-
16 pates in physical education classes during the school year
17 to the level of his or her ability as follows:

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

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

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

31 (c) Enrollment in physical education classes and activi-
32 ties required by the provisions of this section shall not
33 exceed, and shall be consistent with, state guidelines for
34 enrollment in all other subjects and classes: *Provided*, That
35 schools which do not currently have the number of certi-
36 fied physical education teachers, do not currently have
37 the required physical setting or would have to significantly

38 alter academic offerings to meet the physical education
39 requirements may develop alternate programs that will
40 enable current staff, physical settings and offerings to be
41 used to meet the physical education requirements estab-
42 lished herein. These alternate programs shall be submitted
43 to the State Department of Education and the Healthy
44 Lifestyle Council for approval. Those schools needing to
45 develop alternate programs shall not be required to
46 implement this program until the school year commencing
47 two thousand six.

48 (d) The state board shall prescribe a program within the
49 existing health and physical education program which
50 incorporates fitness testing, reporting, recognition, fitness
51 events and incentive programs which requires the partici-
52 pation in grades four through eight and the required high
53 school course. The program shall be selected from nation-
54 ally accepted fitness testing programs designed for school-
55 aged children that test cardiovascular fitness, muscular
56 strength and endurance, flexibility and body composition:
57 *Provided*, That nothing in this subsection shall be con-
58 strued to prohibit the use of programs designed under the
59 auspices of the President's Council on Physical Fitness and
60 Sports. The program shall include modified tests for
61 exceptional students. Each school in the state shall
62 participate in National Physical Fitness and Sports Month
63 in May of each year and shall make every effort to involve
64 the community it serves in the related events.

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

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

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

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

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

79 (5) All body mass index data shall be reported in aggre-
80 gate to the Governor, the State Board of Education, the
81 Healthy Lifestyles Coalition and the Legislative Oversight
82 Commission on Health and Human Resources Account-
83 ability for use as an indicator of progress toward promot-
84 ing healthy lifestyles among school-aged children.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *4th*
Day of *April*, 2006.

[Signature]
.....
Governor

PRESENTED TO THE
GOVERNOR

APR 03 2006

Time 2:10 pm