

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 455**

(By Senators Unger, Stollings, Kessler (Mr. President), Yost, Edgell, Laird, Kirkendoll, Cann, Miller, Beach and Fitzsimmons)

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[Originating in the Committee on Education;  
reported February 20, 2014.]

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A BILL to amend and reenact §18-2-7a of the Code of West Virginia, 1931, as amended, relating to creation of the West Virginia Move to Improve Act; establishing legislative findings; providing for integration of an average of thirty minutes of moderate to vigorous physical activity in school day; setting minimum amount of moderate to vigorous physical exercise in physical education classes; defining terms; requiring alternate programs to be submitted to the county board for approval; removing expired requirements; requiring accountability for the physical education and physical activity required herein; requiring provision of adequate professional development and training on physical activity integration; and requiring collaboration with teachers and administrators when developing any rule pursuant to this act.

*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. West Virginia Move to Improve Act; Legislative findings; required physical education; program in physical fitness; required physical activity.**

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

13       (a) This act may be cited as the West Virginia Move to  
14       Improve Act.

15       (b) The Legislature finds that:

16 (1) Childhood obesity is an epidemic in West Virginia  
17 and the United States. According to a report from the Trust  
18 for America’s Health and the Robert Wood Johnson  
19 Foundation, if the obesity rates continue to grow at current  
20 rates over the next two decades, the health and economic cost  
21 to our state and the nation will be staggering;

22 (2) West Virginia has some of the highest rates of the  
23 highest-cost and highest-incidence health problems related to  
24 obesity and physical inactivity: Type 2 diabetes, coronary,  
25 heart disease and stroke, hypertension, arthritis and  
26 obesity-related cancers;

27 (3) Researchers estimate that the medical costs of adult  
28 obesity in the United States range from \$147 billion to nearly  
29 \$210 billion per year and that Medicare and Medicaid will  
30 pay \$61.8 billion of those costs. In West Virginia, a recent  
31 economic study found that in 2009 the direct medical cost of  
32 obesity was \$8.9 million;

33 (4) Childhood obesity is responsible for \$14.1 billion in  
34 direct medical costs nationally. In West Virginia the  
35 estimated direct medical cost to Medicaid for treatment of  
36 childhood obesity in 2013 was \$198.1 million;

37 (5) Providing healthy, nutritious meals and snacks in  
38 schools will help curb the rise in childhood obesity but that  
39 alone is not enough to address the obesity epidemic;

40 (6) There is a large body of scientific evidence  
41 demonstrating that regular physical activity promotes  
42 growth and development in children and teens and has  
43 multiple benefits for physical, mental and cognitive health;

44 (7) A study by the Institute of Medicine found that  
45 physical activity is related to lower body fat, greater  
46 muscular strength, stronger bones and improvements in  
47 cardiovascular and metabolic health, as well as  
48 improvements in mental health, by reducing and preventing  
49 conditions such as anxiety and depression and enhancing  
50 self esteem;

51 (8) West Virginia was ranked the number two state  
52 nationally in adult physical inactivity in a 2013 report by  
53 the Trust for America's Health and the Robert Wood  
54 Johnson Foundation.

55 (9) Children and teens have low levels of physical  
56 activity. For example, former military leaders report that  
57 twenty-seven percent of young Americans are too  
58 overweight to serve in the military;

59 (10) According to a 2005 national literature review  
60 reported in Pediatric Exercise Science, students in middle and  
61 high school engaged in moderate to vigorous physical  
62 activity during physical education class for twenty-seven  
63 percent to forty-seven percent of class time.

64 (11) A study reported in the West Virginia Medical  
65 Journal found that elementary school physical education  
66 classes provide moderate to vigorous physical activity for  
67 less than twenty-seven percent of the recommended class  
68 time rather than the recommended fifty percent. West  
69 Virginia children are generally not receiving the necessary  
70 intensity of activity nor the minimum of sixty minutes per  
71 day of moderate to vigorous physical activity;

72 (12) Research shows that physically active children are  
73 more likely to thrive academically and socially. There is  
74 evidence that physically fit children have higher scholastic  
75 achievement, better classroom behavior and less absenteeism  
76 than their unfit counterparts;

77 (13) Children and teens spend more than half of their  
78 waking hours at school which makes school an ideal location  
79 to increase physical activity;

80       (14) Schools have historically been leaders in supporting  
81       the wellbeing of our children and teens by providing health  
82       screenings, immunizations and nutrition programs while  
83       training them to be productive citizens and lifelong learners.  
84       The next step in nurturing and developing healthy productive  
85       children and teens is to engage them in regular physical  
86       activity. Our schools can and should play a major role in  
87       efforts to make our children and teens more active, putting  
88       them on a track toward better health and performance in  
89       school and throughout life.

90       (15) The schools can not accomplish this alone; the  
91       necessary improvements in our children's health and  
92       wellbeing will require collaboration between the families,  
93       communities and schools;

94       (16) In 2005, the Legislature enacted the Healthy  
95       Lifestyles Act; however, there is no mechanism to assure  
96       implementation and many students are not receiving the  
97       benefits of the required physical education;

98       (17) The availability of online resources and peer training  
99       greatly improves teacher and principal perception and  
100       participation in physical activity programs;

101 (18) Teachers and principals report that physical activity  
102 has been successfully incorporated into classroom teaching  
103 in some schools in West Virginia through “Let’s Move! West  
104 Virginia” programs such as activity breaks and active  
105 learning without the need for special facilities or additional  
106 physical education teachers or expanding the school day; and

107 (19) Schools face challenges in providing needed  
108 physical education and physical activity to students. Lack of  
109 staff and equipment and increased pressure to raise test  
110 scores and greater demands to meet content standards and  
111 objectives impede efforts to provide adequate physical  
112 education and activity. Regardless of the challenges, schools  
113 must provide physical education and physical activity in  
114 order to assure their health and wellbeing and halt the obesity  
115 epidemic afflicting our children and teens.

116 (b) (c) As a result of these findings, the State Department  
117 of Education shall establish the requirement that each child  
118 enrolled in the public schools of this state actively  
119 participates in physical education classes and physical  
120 activity during the school year to the level of his or her  
121 ability as follows:

122 (1) Elementary school ~~grades~~ students shall participate in:

123 (A) Not less than thirty minutes of physical education,  
124 including physical exercise and age-appropriate physical  
125 activities, for not less than three days a week.

126 (B) Not less than fifty percent of each physical education  
127 class shall be spent in moderate to vigorous physical activity;  
128 and

129 (C) Not less than an average of thirty minutes daily of  
130 moderate to vigorous physical activity integrated into the  
131 school day.

132 (2) Middle school ~~grades~~ students shall participate in:

133 (A) Not less than one full period of physical education,  
134 including physical exercise and age-appropriate physical  
135 activities, each school day of one semester of the school year.

136 (B) Not less than fifty percent of each physical education  
137 class shall be spent in moderate to vigorous physical activity;  
138 and

139 (C) Not less than an average of thirty minutes daily of  
140 moderate to vigorous physical activity integrated into the  
141 school day.

142 (3) High school ~~grades~~ students shall participate in:



143 (A) Not less than one full course credit of physical  
144 education, including physical exercise and age-appropriate  
145 physical activities, which shall be required for graduation,  
146 and the opportunity to enroll in an elective lifetime physical  
147 education course.

148 (B) Not less than fifty percent of each physical education  
149 class shall be spent in moderate to vigorous physical activity.

150 (4) As used in this section:

151 (A) “Physical education” means a class taught by a  
152 certified physical education teacher who assesses student  
153 knowledge and motor and social skills and provides  
154 instruction in a safe, supportive environment. Based on  
155 sequence of learning, physical education should not be  
156 compared to, or confused with, other physical activity  
157 experiences such as recess, intramural activity or recreational  
158 endeavors.

159 (B) “Physical activity” means bodily movement of any  
160 type and activities such as walking, jumping rope, playing  
161 soccer and lifting weights, as well as daily activities such as  
162 taking the stairs or campus enhancement projects. Similar  
163 health benefits to those received during a physical education

164 class are possible during physical activity which reaches  
165 moderate to vigorous intensity, i.e., when the participant is  
166 active at an intensity that increases heart rate and produces  
167 heavier than normal breathing.

168 (c) (d) Enrollment in physical education classes and  
169 activities required by the provisions of this section shall not  
170 exceed, and shall be consistent with, state guidelines for  
171 enrollment in all other subjects and classes: *Provided*, That  
172 schools which do not currently have the number of certified  
173 physical education teachers, do not currently have the required  
174 physical setting or would have to significantly alter academic  
175 offerings to meet the physical education requirements may  
176 develop alternate programs that will enable current staff,  
177 physical settings and offerings to be used to meet the physical  
178 education requirements established herein. These alternate  
179 programs shall be submitted to the county board for approval.  
180 Copies also shall be submitted to the State Department of  
181 Education and the Healthy Lifestyle ~~Council for approval.~~  
182 ~~Those schools needing to develop alternate programs shall not~~  
183 ~~be required to implement this program until the school year~~  
184 ~~commencing two thousand six~~ Coalition.

185       (Ⓣ) (e) The state board shall prescribe a program within the  
186 existing health and physical education program which  
187 incorporates fitness testing, reporting, recognition, fitness events  
188 and incentive programs which requires the participation in  
189 grades four through eight and the required high school course.  
190 The program shall be selected from nationally accepted fitness  
191 testing programs designed for school-aged children that test  
192 cardiovascular fitness, muscular strength and endurance,  
193 flexibility and body composition: *Provided*, That nothing in this  
194 subsection shall be construed to prohibit the use of programs  
195 designed under the auspices of the President’s Council on  
196 Physical Fitness and Sports. The program shall include  
197 modified tests for exceptional students. Each school in the state  
198 shall participate in National Physical Fitness and Sports Month  
199 in May of each year and shall make every effort to involve the  
200 community it serves in the related events.

201       (Ⓡ) (f) The state board shall promulgate a rule in  
202 accordance with the provisions article three-b, chapter  
203 twenty-nine-a of this code that includes at least the following  
204 provisions to provide for the collection, reporting and use of  
205 body mass index data in the public schools:

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

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

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

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

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

221 (g) The state board shall include the physical education  
222 and physical activity required in this section as part of the  
223 high-quality education standards and efficiency standards set  
224 forth and assessed pursuant to section five, article two-e of  
225 this chapter.

226 (h) The state board shall promulgate a rule in accordance  
227 with article three-b, chapter twenty-nine-a of this code to

228 provide adequate professional development and training on  
229 integration of physical activity throughout the school day.  
230 The professional development and training shall be provided  
231 within existing professional development and training  
232 opportunities and programs. The state board shall collaborate  
233 with teachers and administrators at all grade levels when  
234 developing any rule pursuant to the West Virginia Move to  
235 Improve Act.