

Senate Bill No. 663

(By Senators Unger, Edgell, Cookman, Laird,
Miller, Palumbo, Plymale, Prezioso, Stollings,
M. Hall and Barnes)

[Originating in the Select Committee on Children and Poverty;
reported March 27, 2013.]

A BILL to repeal §18-5-37 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §18-5D-1, §18-5D-2, §18-5D-3 and §18-5D-4, all relating to improving the nutrition and health of West Virginia's children; creating the West Virginia Feed to Achieve Act; providing legislative findings and intent; phasing in implementation of the West Virginia Feed to Achieve Act; requiring nutritious breakfast and lunch be made available to all students; requiring all schools to adopt delivery systems, strategies and methods to maximize participation by students; providing for record keeping and reporting; authorizing continuation or termination of nutrition programs under certain conditions; providing that classroom teachers may not be required to operate a breakfast program as part of their regular

duties; establishing nonprofit foundations or funds to provide moneys for school nutrition programs; providing for acceptance of private contributions; authorizing expenditures of private funds to draw down maximum federal funds for child nutrition; authorizing certain expenditures; prohibiting use of private funds for administrative or personnel expenses; authorizing partnerships with federal and state agencies and public and private organizations to expand options for providing healthy, nutritious food to children; encouraging healthy food initiatives such as community gardens and farm-to-school programs; and requiring an annual audit of the private funds.

Be it enacted by the Legislature of West Virginia:

That §18-5-37 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §18-5D-1, §18-5D-2, §18-5D-3 and §18-5D-4, all to read as follows:

ARTICLE 5D. West Virginia Feed to Achieve Act.

§18-5D-1. Short title.

1 This act shall be known and may be cited as the West
2 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
3 in order to achieve his or her potential. Providing the best
4 schools and teachers alone does not ensure a child is mentally
5 present and able to learn. A growing body of research
6 establishes that a hungry child is less able to process the
7 information provided and is less likely to be attentive to the
8 lessons being taught.

9 (2) President Harry S. Truman began the national school
10 lunch program in 1946 as a measure of national security to
11 safeguard the health and well being of the nation's children
12 and to encourage the domestic consumption of nutritious
13 agricultural commodities and other food. Last year in West
14 Virginia, 32.3 million school lunches were served to students
15 in public schools.

16 (3) Research shows that students who eat breakfast at
17 school have: (A) Increased standardized achievement test
18 scores; (B) improved attendance; (C) reduced tardiness; (D)
19 improved academic, behavioral and emotional functioning;
20 and (E) improved nutrition.

21 (4) Schools that provide universal breakfast in the
22 classroom also report: (A) Decreases in discipline and
23 psychological problems; (B) decreases in visits to school

24 nurses; (C) decreases in tardiness; (D) increases in student
25 attentiveness; (E) increases in attendance; and (F) improved
26 learning environments.

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

30 (6) The participation rate for the school breakfast
31 program varies greatly among our counties. Those counties
32 which have made a determined effort to increase participation
33 by offering programs to best meet student needs, such as
34 grab-and-go breakfasts, providing breakfast in the classroom
35 or providing breakfast after first period, are feeding
36 significantly higher percentages of their students.

37 (7) The West Virginia Center on Budget and Policy
38 reports that in 2011 more than twenty-five percent of the
39 children in West Virginia lived in homes with a household
40 income below the federal poverty line, which is \$23,050 for
41 a family of four. About fifty percent of West Virginia
42 children live in homes with a household income below twice
43 the federal poverty level, \$46,100 for a family of four, which
44 is approximately the level of the Work Force West Virginia
45 self-sufficiency standard.

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

54 (9) In order to maximize each child's potential to learn
55 and develop, the Legislature, schools and communities must
56 partner to provide the most basic learning tool: nutritious
57 meals.

58 (10) In order to maximize student participation in school
59 nutrition programs and to reduce the secondary adverse
60 impacts of poverty, it is important that schools provide
61 nutritious meals without a risk to students of being
62 stigmatized as poor.

63 (11) High rates of childhood hunger and childhood
64 obesity occur simultaneously because children are not
65 receiving healthy, nutritious food. According to the Data
66 Resource Center for Child and Adolescent Health and others,
67 in 2008 West Virginia ranked 44 in overall prevalence of

68 childhood obesity, with 35.5 percent of children considered
69 either overweight or obese.

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

75 (13) The Food Research and Action Center has found that
76 providing a balanced school breakfast may protect against
77 childhood obesity. School breakfast participation is
78 associated with a lower body mass index, lower probability
79 of being overweight and lower probability of obesity.

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

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

89 (b) In order to maximize the economies of scale and to
90 access all available federal funds to support our school
91 nutrition programs, the Feed to Achieve initiative requires
92 free meals to be provided to all prekindergarten through
93 twelfth grade students, as funds becomes available.

94 (c) The Legislature intends to provide a framework for
95 the State Board of Education and the county boards of
96 education to provide a minimum of two nutritious, free meals
97 each school day to all students.

98 (d) The Legislature intends for the state and county
99 boards of education to enter into public-private partnerships
100 to eventually provide free nutritious meals for all
101 prekindergarten through twelfth grade school children in
102 West Virginia.

§18-5D-3. School nutrition programs.

1 (a) Each county board of education shall establish and
2 operate school nutrition programs under which, at a
3 minimum, a nutritious breakfast and lunch are made
4 effectively available to all students enrolled in the schools of
5 the county in accordance with the State Board of Education
6 standards. The standards shall include guidelines for
7 determining the eligibility of students for paid, free and

8 reduced meals. The standards shall also establish procedures
9 and guidelines for the Feed to Achieve initiative to provide
10 free meals to all elementary school students.

11 (b) The Feed to Achieve initiative will be phased in for
12 all elementary schools as sufficient funds become available.
13 Nothing in this article prohibits any school from providing
14 free meals to all of its students.

15 (c) Each county board of education shall:

16 (1) Require all schools to adopt a delivery system
17 approved by the State Office of Child Nutrition, no later than
18 the 2015 school year, that ensures all students are given an
19 adequate opportunity to eat breakfast. These approved
20 systems shall include, but are not limited to, grab-and-go
21 breakfasts, breakfast in the classroom or breakfast after first
22 period; and

23 (2) collaborate with the State Office of Child Nutrition to
24 develop strategies and methods to increase the percentage of
25 children participating in the school breakfast and lunch
26 nutrition programs.

27 (d) In addition to other statistics, the county boards of
28 education, in consultation with the State Office of Child
29 Nutrition, shall determine the number of children in each

30 school who are participating in each meal offered by the
31 school; the number of children who are not eating each meal
32 offered by the school; and the total daily attendance.

33 (e) The State Office of Child Nutrition shall report to the
34 Joint Committee on Government and Finance, the Select
35 Committee on Children and Poverty and the Legislative
36 Oversight Commission on Education Accountability on or
37 before December 31, 2015, and each year thereafter, on the
38 impacts of the Feed to Achieve Act and any
39 recommendations for legislation.

40 (f) County boards of education may utilize the nonprofit
41 funds or foundations established in section four of this article
42 or other available funds to offset the costs of providing free
43 meals to elementary students.

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

48 (h) Classroom teachers may not be required to participate
49 in the operation of the school breakfast program as part of
50 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
2 of education shall promptly establish a nonprofit foundation
3 or fund to provide supplemental or matching funds to
4 increase participation in the nutrition programs in the Feed to
5 Achieve initiative set forth in subsection (c) of this section.
6 The Department of Education shall utilize its foundation or
7 fund to assist county boards of education in counties whose
8 foundation or fund lacks sufficient business, industry and
9 individual contributors to fund the Feed to Achieve nutrition
10 programs.

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

14 (c) Expenditures by the state or county foundations or
15 from the funds shall be used for provision of food to students
16 through any of the programs or initiatives approved by the
17 Office of Child Nutrition, including the following programs:
18 School Breakfast Program, National School Lunch Program,
19 the Summer Food Service Program, the Fresh Fruit and
20 Vegetable Program, the Child and Adult Care Food Program,

21 the farm-to-school initiative and community gardens.
22 Expenditures may also be made for initiatives developed with
23 the Department of Health and Human Resources and public-
24 private partnerships to provide outreach and nutritional meals
25 when students are not in school.

26 (d) No administrative expenses or personnel expenses for
27 any of the state departments implementing this act, the State
28 Board of Education, any county board of education, school
29 or program may be paid by the foundation or from the fund.

30 (e) Individuals or businesses that contribute to the
31 foundation or fund may specify schools or nutrition programs
32 for which the contribution is to be used.

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

38 (g) The Department of Education and county boards of
39 education shall form or expand existing partnerships with the
40 federal and state departments of agriculture, Department of
41 Health and Human Resources, local master gardeners, county
42 extension agents or other experts in the field of agriculture or

43 gardening to develop community gardens, farm-to-school
44 programs and other such programs that teach students how to
45 grow and produce healthy food and provide healthy food to
46 the students.

47 (h) The Department of Education shall collaborate with
48 the Department of Health and Human Resources to develop
49 effective strategies and programs such as after-school
50 nutrition outreach and programs that improve the healthy
51 lifestyle of all students in prekindergarten through twelfth
52 grade. The Department of Health and Human Resources may
53 propose rules for promulgation in accordance with the
54 provisions of article three, chapter twenty-nine-a of this code
55 to effectuate any programs so developed.

56 (i) All moneys contributed to a foundation or fund
57 established pursuant to this section and all expenditures made
58 therefrom shall be audited as part of the annual independent
59 audit of the State Board of Education and the county boards
60 of education.