

1 **Senate Bill No. 455**

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

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5 [Introduced January 30, 2014; referred to the Committee on Health
6 and Human Resources; and then to the Committee on Education.]
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9
10 A BILL to amend and reenact §18-2-7a of the Code of West Virginia,
11 1931, as amended, relating to creation of the West Virginia
12 Move to Improve Act; establishing legislative findings;
13 providing for integration of thirty minutes of moderate to
14 vigorous physical activity in school day; setting minimum
15 amount of moderate to vigorous physical exercise in physical
16 education classes; defining terms; removing expired
17 requirements; requiring accountability for the physical
18 education and physical activity required herein; and providing
19 for collaboration with teachers and administrators in
20 establishing rules or policy to effectuate the professional
21 development opportunities and training required by this act.

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

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

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

26 **§18-2-7a. West Virginia Move to Improve Act; Legislative**
27 **findings; required physical education; program in**

1 **physical fitness; required physical activity.**

2 ~~(a) The Legislature hereby finds that obesity is a problem of~~
3 ~~epidemic proportions in this state. There is increasing evidence~~
4 ~~that all segments of the population, beginning with children, are~~
5 ~~becoming more sedentary, more overweight and more likely to develop~~
6 ~~health risks and diseases including Type II Diabetes, high blood~~
7 ~~cholesterol and high blood pressure. The Legislature further finds~~
8 ~~that the 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 activity.~~

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

14 (b) The Legislature finds that:

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

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

26 (3) Researchers estimate that the medical costs of adult
27 obesity in the United States range from \$147 billion to nearly \$210
28 billion per year and that Medicare and Medicaid will pay \$61.8

1 billion of those costs. In West Virginia, a recent economic study
2 found that in 2009 the direct medical cost of obesity was \$8.9
3 million;

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

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

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

15 (7) A study by the Institute of Medicine found that physical
16 activity is related to lower body fat, greater muscular strength,
17 stronger bones, improvements in cardiovascular and metabolic
18 health, as well as improvements in mental health by reducing and
19 preventing conditions such as anxiety, depression and enhancing
20 self-esteem;

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

24 (9) Children and teens have low levels of physical activity.
25 For example, former military leaders report that 27% of young
26 Americans are too overweight to serve in the military;

27 (10) According to a 2005 national literature review reported
28 in Pediatric Exercise Science, students in middle and high school

1 engaged in moderate to vigorous physical activity during physical
2 education class for 27% to 47% of class time.

3 (11) A study reported in the West Virginia Medical Journal
4 found that elementary school physical education classes provide
5 moderate to vigorous physical activity for less than 27% of the
6 recommended class time rather than the recommended 50%. West
7 Virginia children are generally not receiving the necessary
8 intensity of activity nor the minimum of 60 minutes per day of
9 moderate to vigorous physical activity;

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

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

18 (14) Schools have historically been leaders in supporting the
19 well-being of our children and teens by providing health
20 screenings, immunizations and nutrition programs while training
21 them to be productive citizens and lifelong learners. The next
22 step in nurturing and developing healthy productive children and
23 teens is to engage them in regular physical activity. Our schools
24 can and should play a major role in efforts to make our children
25 and teens more active; putting them on a track toward better health
26 and performance in school and throughout life.

27 (15) The schools can not accomplish this alone, the necessary
28 improvements in our children's health and well being will require

1 collaboration between the families, communities and schools;

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

6 (17) The availability of online resources and peer training
7 greatly improves teacher and principal perception and participation
8 in physical activity programs;

9 (18) Teachers and principals report that physical activity has
10 been successfully incorporated into classroom teaching in some
11 schools in West Virginia through "Lets Move! West Virginia"
12 programs such as activity breaks and active learning without the
13 need for special facilities or additional physical education
14 teachers or expanding the school day; and

15 (19) Schools face challenges in providing needed physical
16 education and physical activity to students. Lack of staff and
17 equipment and increased pressure to raise test scores and greater
18 demands to meet content standards and objectives time impeded efforts
19 to provide adequate physical education and activity. Regardless of
20 the challenges, schools must provide physical education and
21 physical activity in order to assure their health and well being
22 and halt the obesity epidemic afflicting our children and teens.

23 ~~(b)~~ (c) As a result of these findings, the state Department of
24 Education shall establish the requirement that each child enrolled
25 in the public schools of this state actively participates in
26 physical education classes and physical activity during the school
27 year to the level of his or her ability as follows:

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

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

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

6 (C) Not less than thirty minutes daily of moderate to vigorous
7 physical activity integrated into the school day.

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

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

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

14 (C) Not less than thirty minutes daily of moderate to vigorous
15 physical activity integrated into the school day.

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

17 (A) Not less than one full course credit of physical
18 education, including physical exercise and age-appropriate physical
19 activities, which shall be required for graduation and the
20 opportunity to enroll in an elective lifetime physical education
21 course.

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

24 (4) As used in this section:

25 (A) "Physical education" means a class taught by a certified
26 physical education teacher who assesses student knowledge, motor
27 and social skills and provides instruction in a safe, supportive
28 environment. Based on sequence of learning, physical education

1 should not be compared to, or confused with other physical activity
2 experiences such as recess, intramural activity or recreational
3 endeavors.

4 (B) "Physical activity" means bodily movement of any type and
5 activities such as walking, jumping rope, playing soccer, lifting
6 weights, as well as daily activities such as taking the stairs or
7 doing yard work. Similar health benefits to those received during
8 a physical education class are possible during physical activity
9 which reaches moderate to vigorous intensity, i.e. when the
10 participant is active at an intensity that increases heart rate and
11 produces heavier than normal breathing.

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

27 ~~(d)~~ (e) The state board shall prescribe a program within the
28 existing health and physical education program which incorporates

1 fitness testing, reporting, recognition, fitness events and
2 incentive programs which requires the participation in grades four
3 through eight and the required high school course. The program
4 shall be selected from nationally accepted fitness testing programs
5 designed for school-aged children that test cardiovascular fitness,
6 muscular strength and endurance, flexibility and body composition:
7 *Provided*, That nothing in this subsection shall be construed to
8 prohibit the use of programs designed under the auspices of the
9 President's Council on Physical Fitness and Sports. The program
10 shall include modified tests for exceptional students. Each school
11 in the state shall participate in National Physical Fitness and
12 Sports Month in May of each year and shall make every effort to
13 involve the community it serves in the related events.

14 ~~(e)~~ (f) The state board shall promulgate a rule in accordance
15 with the provisions article three-b, chapter twenty-nine-a of this
16 code that includes at least the following provisions to provide for
17 the collection, reporting and use of body mass index data in the
18 public schools:

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

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

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

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

27 and

28 (5) All body mass index data shall be reported in aggregate to

1 the Governor, the state Board of Education, the Healthy Lifestyles
2 Coalition and the Legislative Oversight Commission on Health and
3 Human Resources Accountability for use as an indicator of progress
4 toward promoting healthy lifestyles among school-aged children.

5 (g) The state board shall include the physical education and
6 physical activity required in this section as part of the high
7 quality education standards and efficiency standards set forth and
8 assessed pursuant to section five, article two-E of this chapter.

9 (h) The Department of Education shall provide, by rule or
10 policy, adequate professional development and training on
11 integration of physical activity throughout the school day. The
12 professional development and training shall be provided within
13 existing professional development and training opportunities and
14 programs. The Department of Education shall collaborate with
15 teachers and administrators at all grade levels when developing any
16 rule or policy pursuant to the West Virginia Move to Improve Act.

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NOTE: The purpose of this bill is create the West Virginia
Move to Improve Act.