

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2112

FISCAL
NOTE

2015 Carryover

(BY DELEGATES RODIGHIERO, HICKS, PERDUE, MARCUM,
REYNOLDS AND ELDRIDGE)

[Introduced January 13, 2016; referred to the
Committee on Education then Finance.]

1 A BILL to amend and reenact §18-5D-2, §18-5D-3 and §18-5D-4 of the Code of West Virginia,
2 1931, as amended, all relating to the West Virginia Feed to Achieve Act; and providing
3 that school nutrition plans include take home meals for low income students or any student
4 who requests take home meals.

Be it enacted by the Legislature of West Virginia:

1 That §18-5D-2, §18-5D-3 and §18-5D-4 of the Code of West Virginia, 1931, as amended,
2 be amended and reenacted, all to read as follows:

ARTICLE 5D. WEST 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 in order to achieve his or her
3 potential. Providing the best schools and teachers alone does not ensure a child is mentally
4 present and able to learn. A growing body of research establishes that a hungry child is less
5 able to process the information provided and is less likely to be attentive to the lessons being
6 taught.

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

12 (3) Research shows that healthy eating, proper nutrition and regular physical activity
13 result in students who have: (A) Increased standardized achievement test scores; (B) improved
14 attendance; (C) reduced tardiness; (D) improved academic, behavioral and emotional
15 functioning; and (E) improved nutrition, and for many students, the nutritious breakfast at school

16 is essential.

17 (4) Schools that provide universal breakfast programs also report: (A) Decreases in
18 discipline and psychological problems; (B) decreases in visits to school nurses; (C) decreases in
19 tardiness; (D) increases in student attentiveness; (E) increases in attendance; and (F) improved
20 learning environments, and these positive attributes are furthered through comprehensive
21 healthy schools policies that include quality nutrition, integrating physical activity during the
22 school day, and teaching children about the importance of embracing a healthy active lifestyle.

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

25 (6) The participation rate for the school breakfast program varies greatly among our
26 counties. Those counties which have made a determined effort to increase participation by
27 offering programs to best meet student needs, such as Grab-And-Go Breakfasts, providing
28 Breakfast in the Classroom or providing Breakfast After First Period, are feeding significantly
29 higher percentages of their students.

30 (7) The West Virginia Center on Budget and Policy reports that in 2011 more than 25
31 percent of the children in West Virginia lived in homes with a household income below the
32 federal poverty line, which is \$23,050 for a family of four. About 50 percent of West Virginia
33 children live in homes with a household income below twice the federal poverty level, \$46,100
34 for a family of four, which is approximately the level of the Work Force West Virginia self-
35 sufficiency standard.

36 (8) The majority of students from families below the self-sufficiency standard are
37 currently not eating breakfast at school. On the average school day during the 2011-2012
38 school year, less than half of the West Virginia students eligible for a federally funded free
39 breakfast actually received one. On that same average day, only about one third of the

40 students eligible to receive a reduced price breakfast actually received one.

41 (9) In order to maximize each child's potential to learn and develop, the Legislature,
42 schools and communities must partner to provide the most basic support for learning: nutritious
43 meals.

44 (10) In order to maximize student participation in school nutrition programs and to
45 reduce the secondary adverse impacts of poverty, it is important that schools provide nutritious
46 meals without a risk to students of being stigmatized as poor, including take home meals for low
47 income students or any student who requests take home meals.

48 (11) High rates of childhood hunger and childhood obesity occur simultaneously
49 because children are not receiving healthy, nutritious food. According to the Data Resource
50 Center for Child and Adolescent Health and others, in 2008 West Virginia ranked 44 in overall
51 prevalence of childhood obesity, with 35.5 percent of children considered either overweight or
52 obese.

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

57 (13) The Food Research and Action Center has found that providing a balanced school
58 breakfast may protect against childhood obesity. School breakfast participation, particularly
59 when combined with comprehensive efforts that include regular physical activity and promote
60 healthy eating habits, is associated with a lower body mass index, a lower probability of being
61 overweight and a lower probability of obesity, all of which help prevent a range of chronic
62 diseases including Type II Diabetes, high blood cholesterol, high blood pressure, heart disease
63 and stroke.

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

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

70 (16) Public schools in this state and others are adopting a continuum of policies to
71 implement low cost, effective programs that include physical activity, physical education, proper
72 nutrition and the promotion of healthy eating habits, along with involvement by school staff,
73 families and communities, and a variety of resources to assist schools in adopting and
74 implementing these programs are easily accessible on the Internet and through the Office of
75 Healthy Schools in the West Virginia Department of Education.

76 (b) In order to maximize the economies of scale and to access all available federal funds
77 to support our school nutrition programs, the Feed to Achieve initiative directs schools to make
78 available and to promote the federally approved and subsidized meals to all prekindergarten
79 through twelfth grade students, to make them readily available and to consider reducing or
80 eliminating the cost to students if sufficient funds become available.

81 (c) The Legislature intends to provide a framework for the State Board of Education and
82 the county boards of education to provide, as effectively and as efficiently as possible, a
83 minimum of two nutritious meals each school day to all students.

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

87 (e) The Legislature encourages county boards to examine the options available for

88 comprehensive policies and programs to improve student health and promote academic
89 achievement and to establish a comprehensive policy on healthy schools that best meets the
90 needs of their student population.

91 (f) It is not the intention of the Legislature to allow or encourage parents to abdicate their
92 parental responsibility related to providing healthy, nutritious meals for their children. However,
93 it is the intent of the Legislature that no child be denied nutritious meals.

94 (g) It is the intent of the Legislature that healthy nutritious school lunches and take home
95 meals for low income students or any student who requests take home meals be made
96 available to all students in a manner which maximizes participation and minimizes stigma
97 attached to participating low income students.

§18-5D-3. School nutrition programs.

1 (a) Each county board of education shall establish and operate school nutrition programs
2 under which, at a minimum, a nutritious breakfast, ~~and lunch~~ and take home meals for low
3 income students or any student who requests take home meals are made effectively available
4 to all students enrolled in the schools of the county in accordance with the State Board of
5 Education standards. The standards shall include guidelines for determining the eligibility of
6 students for paid, free and reduced meals. The standards shall also establish procedures and
7 guidelines for the Feed to Achieve initiative to allow for the provision of healthy, nutritious meals
8 to all elementary school students, without cost to students, where schools find it practical to do
9 so.

10 (b) The Feed to Achieve initiative will be phased in for all elementary schools as
11 sufficient funds become available, through donations, contributions and payments made by
12 individuals, communities, businesses, organizations and parents or guardians on behalf of
13 students. Nothing in this article prohibits any school from providing free meals to all of its

14 students.

15 (c) Each county board of education shall:

16 (1) Require all schools to adopt a delivery system approved by the state Office of Child
17 Nutrition, no later than the 2015 school year, that ensures all students are given an adequate
18 opportunity to eat breakfast. These approved systems shall include, but are not limited to,
19 Grab-And-Go Breakfasts, Breakfast in the Classroom or Breakfast After First Period and no
20 later than the 2016 school year these systems shall include take home meals programs; and

21 (2) Collaborate with the state Office of Child Nutrition to develop strategies and methods
22 to increase the percentage of children participating in the school breakfast, ~~and~~ lunch nutrition
23 programs and take home meals programs.

24 (d) In addition to other statistics, the county boards of education, in consultation with the
25 state Office of Child Nutrition, shall determine the number of children in each school who are
26 participating in each meal offered by the school; the number of children who are not eating each
27 meal offered by the school; and the total daily attendance.

28 (e) The state Office of Child Nutrition shall report to the Joint Committee on Government
29 and Finance, the Select Committee on Children and Poverty and the Legislative Oversight
30 Commission on Education Accountability on or before December 31, 2015, and each year
31 thereafter, on the impacts of the Feed to Achieve Act and any recommendations for legislation.

32 (f) County boards of education may utilize the nonprofit funds or foundations established
33 in section four of this article or other available funds to offset the costs of providing free meals,
34 after school and summer nutrition programs to elementary students.

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

38 (h) Classroom teachers may not be required to participate in the operation of the school
39 breakfast program as part of 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 of education shall promptly
2 establish a fund that is restricted solely for the receipt and expenditure of gifts, grants and
3 bequests for the purposes of this article and may establish in lieu thereof a nonprofit foundation
4 for this purpose. The purpose of the fund or nonprofit foundation is to provide supplemental or
5 matching funds to increase participation in the nutrition programs in the Feed to Achieve
6 initiative set forth in subsection (c) of this section. The Department of Education shall utilize its
7 fund or nonprofit foundation to assist county boards of education in counties whose fund or
8 foundation lacks sufficient business, industry and individual contributors to fund the Feed to
9 Achieve nutrition programs.

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

12 (c) Expenditures from the state or county funds or by the foundations shall be used for
13 provision of food to students through any of the programs or initiatives approved by the Office of
14 Child Nutrition, including the following programs: School Breakfast Program, National School
15 Lunch Program, the Summer Food Service Program, the Fresh Fruit and Vegetable Program,
16 the Child and Adult Care Food Program, the farm-to-school initiative and community gardens.
17 Expenditures may also be made for initiatives developed with the Department of Health and
18 Human Resources and public-private partnerships to provide outreach and nutritional meals
19 when students are not in school, including take home meals programs.

20 (d) No administrative expenses or personnel expenses for any of the state departments

21 implementing this act, the State Board of Education, any county board of education, school or
22 program may be paid from the funds or by the foundations.

23 (e) Individuals or businesses that contribute to the funds or foundations may specify
24 schools or nutrition programs for which the contribution is to be used.

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

28 (g) The Department of Education and county boards of education shall form or expand
29 existing partnerships with the federal and state departments of agriculture, Department of
30 Health and Human Resources, local master gardeners, county extension agents or other
31 experts in the field of agriculture or gardening to develop community gardens, farm-to-school
32 programs and other such programs that teach students how to grow and produce healthy food
33 and provide healthy food to the students.

34 (h) The Department of Education shall collaborate with the Department of Health and
35 Human Resources to develop effective strategies and programs such as after school nutrition
36 outreach and programs that improve the healthy lifestyle of all students in prekindergarten
37 through twelfth grade. The Department of Health and Human Resources may propose rules
38 for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this
39 code to effectuate any programs so developed.

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

NOTE: The purpose of this bill is to require that school nutrition plans include take home meals for low income students or any student who requests take home meals.

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