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

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

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

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

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

(c) Enrollment in physical education classes and activi-
ties required by the provisions of this section shall not
exceed, and shall be consistent with, state guidelines for
enrollment in all other subjects and classes: Provided, That
schools which do not currently have the number of certi-
fied physical education teachers, do not currently have
the required physical setting or would have to significantly
alter academic offerings to meet the physical education requirements may develop alternate programs that will enable current staff, physical settings and offerings to be used to meet the physical education requirements established herein. These alternate programs shall be submitted to the State Department of Education and the Healthy Lifestyle Council for approval. Those schools needing to develop alternate programs shall not be required to implement this program until the school year commencing two thousand six.

(d) The state board shall prescribe a program within the existing health and physical education program which incorporates fitness testing, reporting, recognition, fitness events and incentive programs which requires the participation in grades four through eight and the required high school course. The program shall be selected from nationally accepted fitness testing programs designed for school-aged children that test cardiovascular fitness, muscular strength and endurance, flexibility and body composition: Provided, That nothing in this subsection shall be construed to prohibit the use of programs designed under the auspices of the President’s Council on Physical Fitness and Sports. The program shall include modified tests for exceptional students. Each school in the state shall participate in National Physical Fitness and Sports Month in May of each year and shall make every effort to involve the community it serves in the related events.

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

(1) The data shall be collected using the appropriate methodology for assessing the body mass index from student height and weight data;
(2) The data shall be collected on a scientifically drawn sample of students;

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

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

(5) All body mass index data shall be reported in aggregate to the Governor, the State Board of Education, the Healthy Lifestyles Coalition and the Legislative Oversight Commission on Health and Human Resources Accountability for use as an indicator of progress toward promoting healthy lifestyles among school-aged children.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor