S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N A S S E M B L Y

January 18, 2013

Introduced by M. of A. ORTIZ, GALEF, MORELLE, PAULIN, BENEDETTO, ENGLEBRIGHT, CLARK, BOYLAND, COOK -- Multi-Sponsored by -- M. of A. BRENNAN, GOTTFRIED, HEASTIE, JACOBS, LENTOL, LIFTON, LUPARDO, MAGNARELLI, MILLMAN, RIVERA, ROBINSON, SWEENEY, TITUS, WEISENBERG, WRIGHT -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring instruction in physical education in certain elementary and secondary schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. (i) The legislature hereby finds and declares that the health and physical activity of its children and youth are and have been a long-standing health objective of the state. Against a background of epidemic levels of child obesity, in which at least 1 out of 3 children is now considered overweight or obese, physical education has become even more particularly important in the role it plays in the state's health objectives for its children and youths.

(ii) According to the Centers for Disease Control and Prevention (CDC), the academic success of America's youth is strongly linked with their health. Furthermore, the CDC has studied and documented that students who engage in sixty minutes or more of physical activity five or more days per week do better in school. Research also indicates that obese children and youth have higher absenteeism and lower reading proficiency scores than their non-obese peers.

(iii) Although it may be correlation and not causation, many kids are spending less time exercising and more time in front of the TV, computer, or video-game console. And today's busy families have fewer free moments to prepare nutritious, home-cooked meals. From fast food to electronics, quick and easy is the reality for many people in the new millennium.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(iv) Our schools are uniquely positioned to meet children's and youth's physical activity needs. Physical education can be the cornerstone of building healthier student bodies, healthier neighborhoods and higher achievement. This is true in physical education's role as an integral part of a school's instruction, health education classes, elementary and secondary school recess, after-school activity clubs, intramural or interscholastic programs. Taken together, these sorts of activities can raise children's and youth's self-esteem, physical competence, and open new careers and activities to them.

(v) The legislature finds and declares therefore that mandatory physical education in schools is a key part of protecting the health of our children and youth, the adults into which they will grow, and an important tool in preventing the myriad diseases plaguing New York that derive from child obesity and lack of physical activity.

S 2. Subdivision 5 of section 803 of the education law, as amended by chapter 118 of the laws of 1957, is amended to read as follows:

5. (A) It shall be the duty of the regents to adopt rules determining the subjects to be included in courses of physical education provided for in this section, the period of instruction in each of such courses, the qualifications of teachers, and the attendance upon such courses of instruction.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE REGENTS SHALL PROVIDE IN ITS RULES THAT THE PHYSICAL EDUCATION INSTRUCTION REQUIREMENT FOR ALL STUDENTS ENROLLED IN ELEMENTARY AND SECONDARY SCHOOL GRADES IN CITIES WITH A POPULATION OF ONE MILLION OR MORE SHALL, WHERE FEASIBLE, INCLUDE MANDATORY DAILY PHYSICAL EDUCATION, INCLUDING STUDENTS WITH DISABLING CONDITIONS AND THOSE IN ALTERNATIVE EDUCATION PROGRAMS. THE REGENTS SHALL INCLUDE IN ITS RULES THAT STUDENTS ENROLLED IN SUCH ELEMENTARY AND SECONDARY SCHOOLS SHALL PARTICIPATE IN PHYSICAL EDUCATION FOR A MINIMUM OF ONE HUNDRED FIFTY MINUTES DURING EACH SCHOOL WEEK. THE REGENTS SHALL PROVIDE FOR A TWO-YEAR PHASE-IN SCHEDULE FOR DAILY PHYSICAL EDUCATION IN ELEMENTARY SCHOOLS IN ITS RULES.

S 3. This act shall take effect immediately; provided, however, the two-year phase-in required by subdivision 5 of section 803 of the education law as amended by section two of this act shall be completed no later than July 1, 2016.