

114TH CONGRESS
1ST SESSION

S. 1075

To strengthen and extend the authorization of appropriations for the Carol M. White Physical Education Program and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2015

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To strengthen and extend the authorization of appropriations for the Carol M. White Physical Education Program and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fitness Integrated Into
5 Teaching Kids Act” or the “FIT Kids Act”.

6 **SEC. 2. AMENDMENTS TO THE CAROL M. WHITE PHYSICAL**
7 **EDUCATION PROGRAM.**

8 Subpart 10 of part D of title V of the Elementary
9 and Secondary Education Act of 1965 (20 U.S.C. 7261
10 et seq.) is amended to read as follows:

1 **“Subpart 10—Physical Education**

2 **“SEC. 5501. SHORT TITLE.**

3 “‘This subpart may be cited as the ‘Carol M. White
4 Physical Education Program’.

5 **“SEC. 5502. PURPOSE.**

6 “‘The purpose of this subpart is to award grants to
7 initiate, expand, and improve physical education programs
8 for all kindergarten through 12th-grade students.

9 **“SEC. 5503. ALLOCATION OF FUNDS.**

10 “(a) GRANTS TO LOCAL EDUCATIONAL AGENCIES
11 AND COMMUNITY-BASED ORGANIZATIONS.—The Sec-
12 retary shall use the funds made available to carry out this
13 subpart, except funds reserved under subsection (b) (if
14 any), to support grants to local educational agencies and
15 community-based organizations under section 5504.

16 “(b) GRANTS TO STATES.—Of the funds appro-
17 priated to carry out this subpart for a fiscal year, the Sec-
18 retary shall reserve 25 percent of the amount by which
19 such funds exceed \$75,000,000 to award grants to States,
20 on a competitive basis, in accordance with section 5505.

21 **“SEC. 5504. GRANTS TO LOCAL EDUCATIONAL AGENCIES**
22 **AND COMMUNITY-BASED ORGANIZATIONS.**

23 “(a) AUTHORIZATION.—The Secretary is authorized
24 to award grants to local educational agencies and commu-
25 nity-based organizations (such as Boys and Girls Clubs,
26 Boy Scouts and Girl Scouts, and the Young Men’s Chris-

1 tian Organization (YMCA) and Young Women’s Christian
 2 Organization (YWCA)) to pay the Federal share of the
 3 costs of initiating, expanding, and improving physical edu-
 4 cation programs (including after-school programs) for kin-
 5 dergarten through 12th-grade students by—

6 “(1) providing equipment and support to enable
 7 students to participate actively in physical education
 8 activities; and

9 “(2) providing funds for staff and teacher
 10 training and education.

11 “(b) PROGRAM ELEMENTS.—A physical education
 12 program funded under this section may provide for one
 13 or more of the following:

14 “(1) Fitness education and assessment to help
 15 students understand, improve, or maintain their
 16 physical well-being.

17 “(2) Instruction in a variety of motor skills and
 18 physical activities designed to enhance the physical,
 19 mental, and social or emotional development of every
 20 student.

21 “(3) Development of, and instruction in, cog-
 22 nitive concepts about motor skill and physical fitness
 23 that support a lifelong healthy lifestyle.

1 “(4) Opportunities to develop positive social
2 and cooperative skills through physical activity par-
3 ticipation.

4 “(5) Instruction in healthy eating habits and
5 good nutrition.

6 “(6) Opportunities for professional development
7 for teachers of physical education to stay abreast of
8 the latest research, issues, and trends in the field of
9 physical education.

10 “(c) SPECIAL RULE.—For the purpose of this sec-
11 tion, extracurricular activities, such as team sports and
12 Reserve Officers’ Training Corps (ROTC) program activi-
13 ties, shall not be considered as part of the curriculum of
14 a physical education program assisted under this section.

15 “(d) APPLICATIONS.—

16 “(1) IN GENERAL.—Each local educational
17 agency or community-based organization desiring a
18 grant under this section shall submit to the Sec-
19 retary an application that contains a plan to initiate,
20 expand, or improve physical education programs in
21 order to make progress toward meeting State stand-
22 ards for physical education.

23 “(2) PRIVATE SCHOOL AND HOME-SCHOOLED
24 STUDENTS.—An application for funds under this

1 section may provide for the participation, in the ac-
2 tivities funded under this section, of—

3 “(A) students enrolled in private nonprofit
4 elementary schools or secondary schools, and
5 their parents and teachers; or

6 “(B) home-schooled students, and their
7 parents and teachers.

8 “(e) ANNUAL REPORT TO THE SECRETARY.—In
9 order to continue receiving funding after the first year of
10 a multiyear grant under this section, the administrator of
11 the grant for the local educational agency or community-
12 based organization shall submit to the Secretary an an-
13 nual report that—

14 “(1) describes the activities conducted during
15 the preceding year; and

16 “(2) demonstrates that progress has been made
17 toward meeting State standards for physical edu-
18 cation.

19 “(f) ADMINISTRATIVE EXPENSES.—Not more than 5
20 percent of the grant funds made available to a local edu-
21 cational agency or community-based organization under
22 this section for any fiscal year may be used for administra-
23 tive expenses.

24 “(g) FEDERAL SHARE.—The Federal share under
25 this section may not exceed—

1 “(1) 90 percent of the total cost of a program
2 for the first year for which the program receives as-
3 sistance under this section; and

4 “(2) 75 percent of such cost for the second and
5 each subsequent such year.

6 “(h) PROPORTIONALITY.—To the extent practicable,
7 the Secretary shall ensure that grants awarded under this
8 section shall be equitably distributed among local edu-
9 cational agencies and community-based organizations
10 serving urban and rural areas.

11 “(i) REPORT TO CONGRESS.—Not later than 2 years
12 after the Secretary awards the first grant under this sec-
13 tion, the Secretary shall submit a report to Congress
14 that—

15 “(1) describes the programs assisted under this
16 section;

17 “(2) documents the success of such programs in
18 improving physical fitness; and

19 “(3) makes such recommendations as the Sec-
20 retary determines appropriate for the continuation
21 and improvement of the programs assisted under
22 this section.

23 **“SEC. 5505. GRANTS TO STATES.**

24 “(a) AUTHORIZATION.—Subject to the availability of
25 funds described in section 5503, the Secretary is author-

1 ized to award grants to States to implement comprehen-
 2 sive programs that address the purpose of this subpart.
 3 Such programs shall be based on—

4 “(1) scientifically valid research, to the extent
 5 feasible; and

6 “(2) an analysis of need that considers, at a
 7 minimum, the indicators in the State’s measurement
 8 system described in subsection (e).

9 “(b) APPLICATION.—A State that desires to receive
 10 a grant under this section shall submit an application at
 11 such time, in such manner, and containing such informa-
 12 tion as the Secretary may require. At a minimum, the ap-
 13 plication shall include—

14 “(1) an analysis of the needs of the schools and
 15 students in the State in the areas of physical activ-
 16 ity, physical education, fitness, and nutrition, which
 17 shall include a description of, and data measuring,
 18 conditions of the State in the areas of physical activ-
 19 ity, physical education, fitness, and nutrition;

20 “(2) a plan for improving the physical activity,
 21 physical education, fitness, and nutrition of students
 22 in the State, which may be part of a broader state-
 23 wide child and youth plan if the plan proposes to im-
 24 plement activities responsive to the results of the
 25 needs analysis described in paragraph (1); and

1 “(3) a description of how the State will—

2 “(A) develop, adopt, adapt, or implement
3 the State’s measurement system described in
4 subsection (e), and how the State will ensure
5 that all local educational agencies and schools
6 in the State participate in such system;

7 “(B) ensure the quality and validity of the
8 State’s procedures for collecting the data need-
9 ed to implement that measurement system;

10 “(C) coordinate the proposed activities
11 with other Federal and State programs, which
12 may include programs to expand learning time
13 and for before- and after-school programming;

14 “(D) assist local educational agencies in
15 aligning the activities such agencies carry out
16 under this section with funds from other
17 sources in order to support a coherent and non-
18 duplicative program; and

19 “(E) solicit and approve applications for
20 subgrants under subsection (g), including how
21 the State will—

22 “(i) consider the results of the anal-
23 ysis described in paragraph (1) in the
24 State’s distribution of subgrants; and

1 “(ii) address the needs of diverse geo-
 2 graphic areas in the State, including rural
 3 and urban communities.

4 “(c) RESERVATION OF FUNDS.—A State that re-
 5 ceives a grant under this section shall—

6 “(1) reserve not more than 5 percent of the
 7 grant funds for administration of the program im-
 8 plemented with such grant, technical assistance, pro-
 9 fessional development of teachers, and the develop-
 10 ment, improvement, and implementation of the
 11 State’s measurement system, as described in sub-
 12 section (e); and

13 “(2) use the remainder of grant funds to award
 14 subgrants, on a competitive basis, to eligible local
 15 applicants.

16 “(d) STATE ACTIVITIES.—A State that receives a
 17 grant under this section shall—

18 “(1) establish a statewide physical education re-
 19 quirement that is consistent with widely recognized
 20 standards;

21 “(2) not later than 1 year after receipt of the
 22 grant, develop, adapt, improve, or adopt and imple-
 23 ment the statewide measurement system described in
 24 subsection (e) (unless the State can demonstrate, to
 25 the satisfaction of the Secretary, that an appropriate

1 system has already been implemented) that annually
2 measures the progress of each local educational
3 agency in the State on the measures described in
4 that subsection;

5 “(3) not later than 18 months after receipt of
6 the grant and annually thereafter, provide a public
7 report to local educational agencies in the State on
8 the data collected in the State’s measurement sys-
9 tem described in subsection (e), in a timely and
10 highly accessible manner, and in a manner that does
11 not reveal personally identifiable information of stu-
12 dents;

13 “(4) award subgrants, consistent with sub-
14 section (g), to eligible local applicants;

15 “(5) use the results of the data collected in the
16 measurement system described in subsection (e) to
17 help subgrantees identify and address school and
18 student needs;

19 “(6) provide professional development that is
20 directly related to the fields of physical education
21 and health education to physical education teachers
22 and health education teachers to help ensure that
23 children are leading healthy, active lifestyles that are
24 conducive to effective learning; and

1 “(7) monitor subgrants and provide technical
2 assistance to subgrantees on the implementation of
3 subgrant activities.

4 “(e) MEASUREMENT SYSTEM.—Each State that re-
5 ceives a grant under this section shall establish a State
6 reporting and information system that is, to the extent
7 practicable, part of the State’s statewide longitudinal data
8 system and with the State’s system for reporting the data
9 required under section 1111 and that measures conditions
10 at the local educational agency level related to physical
11 fitness, physical education, student health, and nutrition,
12 including information on—

13 “(1) the amount of time students spend in re-
14 quired physical education and the amount of time
15 they spend in moderate to vigorous physical activity;

16 “(2) whether a local educational agency has a
17 required, age-appropriate physical education cur-
18 riculum for all students that adheres to State stand-
19 ards and to national guidelines adopted by the Cen-
20 ters for Disease Control and Prevention;

21 “(3) the number of physical education teachers
22 employed by the local educational agency who are
23 State-licensed or State-certified as physical edu-
24 cation teachers, and the number of physical edu-
25 cation teachers who are not so licensed or certified;

1 “(4) the number of schools operated by the
2 local educational agency that have (and the number
3 that do not have) a school health council that—

4 “(A) includes parents, students, represent-
5 atives of the school food authority, representa-
6 tives of the school board, school administrators,
7 and members of the public; and

8 “(B) meets at least monthly to promote a
9 healthy school environment; and

10 “(5) the number of square feet of facilities
11 (disaggregated by indoor and outdoor facilities)
12 under the control or use of the agency that are pri-
13 marily used for physical education and the number
14 of square feet (so disaggregated) that are primarily
15 used for other physical activity.

16 “(f) COMPILING STATISTICS.—In compiling the sta-
17 tistics required pursuant to subsection (e)—

18 “(1) the State shall ensure use of uniform defi-
19 nitions and data collection procedures for all local
20 educational agencies statewide;

21 “(2) the State shall collect the data required
22 under subsection (e) at least annually; and

23 “(3) the State and its subgrantees shall use the
24 data for planning and continuous improvement of
25 activities implemented under this section, and sub-

1 grantees may collect data for indicators that are lo-
 2 cally defined, and that are not reported to the State,
 3 to meet local needs (so long as such indicators are
 4 aligned with the objectives of this section).

5 “(g) SUBGRANTS TO ELIGIBLE LOCAL APPLI-
 6 CANTS.—

7 “(1) SUBGRANTS.—A State that receives a
 8 grant under this section shall award subgrants, on
 9 a competitive basis, to eligible local applicants—

10 “(A) based on need, as identified by the
 11 State’s measurement system described in sub-
 12 section (e);

13 “(B) that are of sufficient size and scope
 14 to enable such applicants to carry out approved
 15 activities; and

16 “(C) to implement programs that are com-
 17 prehensive in nature and that promote physical
 18 activity, physical education, fitness, and nutri-
 19 tion.

20 “(2) APPLICATIONS.—An eligible local applicant
 21 that desires to receive a subgrant under this sub-
 22 section shall submit to the State an application at
 23 such time, in such manner, and containing such in-
 24 formation as the State may require.

1 “(3) PRIORITY.—In awarding subgrants under
2 this subsection, a State shall give priority to applica-
3 tions that—

4 “(A) demonstrate the greatest need ac-
5 cording to the results identified by the State’s
6 measurement system described in subsection
7 (e); and

8 “(B) propose to serve schools with the
9 highest concentrations of poverty, based on the
10 percentage of students receiving or eligible to
11 receive a free or reduced price lunch under the
12 Richard B. Russell National School Lunch Act
13 (42 U.S.C. 1751 et seq.).

14 “(4) ACTIVITIES OF SUBGRANTEES.—Each re-
15 cipient of a subgrant under this subsection shall, for
16 the duration of the subgrant—

17 “(A) carry out programs to promote phys-
18 ical activity, physical education, fitness, and nu-
19 trition—

20 “(i) the need for which has been iden-
21 tified through the State’s measurement
22 system described in subsection (e); and

23 “(ii) that are part of a comprehensive
24 strategy or framework to address such
25 need;

1 “(B) ensure that each framework, inter-
2 vention, or program selected to be implemented
3 through the subgrant be based, if feasible, on
4 scientifically valid research and be used for the
5 purpose for which such framework, interven-
6 tion, or program was found to be effective;

7 “(C) collect and report to the State edu-
8 cational agency data for schools served by the
9 subgrantee, in a manner consistent with the
10 State’s measurement system, described in sub-
11 section (e);

12 “(D) establish policies to expand access to
13 quality physical activity opportunities, including
14 local school wellness policies consistent with the
15 requirements of section 9A of the Richard B.
16 Russell National School Lunch Act (42 U.S.C.
17 1758b); and

18 “(E) consider and accommodate the unique
19 needs of students with disabilities and English
20 learners in implementing activities.

21 “(h) ANNUAL STATE REPORT.—Each State that re-
22 ceives a grant under this section shall prepare and submit
23 an annual report to the Secretary on the use of funds
24 under this section.

1 **“SEC. 5506. SUPPLEMENT, NOT SUPPLANT.**

2 “Funds made available under this subpart shall be
3 used to supplement, and not supplant, any other Federal,
4 State, or local funds available for physical education ac-
5 tivities.”.

○