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FREE CONFERENCE REPORT

H. 3499

The General Assembly, Columbia, S.C., May 24, 2005

The COMMITTEE OF FREE CONFERENCE, to whom was referred:

H. 3499 -- Reps. Harrell, Wilkins, Townsend, Leach, Bales, G.R. Smith, J.R. Smith, Battle, Cobb-Hunter, Neilson, Clark, Harrison, Skelton, Moody-Lawrence, Rice, Harvin, Ott, J.E. Smith, Merrill, Mack, Hinson, Cotty, Norman, Talley, Chellis, Hardwick, Clemmons, Bailey, Dantzler, Walker, Cooper, E.H. Pitts, Ballentine, Bowers, Huggins and Hagood: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 10, ENTITLED PHYSICAL EDUCATION AND NUTRITIONAL STANDARDS, TO TITLE 59 SO AS TO ESTABLISH PHYSICAL EDUCATION AND NUTRITIONAL STANDARDS IN ELEMENTARY SCHOOLS, TO PROVIDE FOR THE AMOUNT OF PHYSICAL EDUCATION INSTRUCTION A STUDENT IN KINDERGARTEN THROUGH FIFTH GRADE MUST RECEIVE EACH WEEK ON A PHASED-IN BASIS, PROVIDE FOR A MEASURE OF EFFECTIVENESS OF THE PHYSICAL EDUCATION PROGRAM IN ALL PUBLIC SCHOOLS, PROVIDE FOR A PHYSICAL EDUCATION ACTIVITY DIRECTOR, PROVIDE CERTAIN NUTRITIONAL STANDARDS FOR ELEMENTARY SCHOOLS, PROVIDE THAT ELEMENTARY SCHOOLS SHALL REMOVE CERTAIN FOOD AND DRINKS FROM VENDING MACHINES, PROVIDE THE MINIMUM AMOUNT OF TIME ELEMENTARY SCHOOL STUDENTS MUST HAVE TO EAT LUNCH, PROVIDE FOR THE ESTABLISHMENT OF A DISTRICT LEVEL AND AN ELEMENTARY SCHOOL LEVEL COORDINATED SCHOOL HEALTH ADVISORY COUNCIL AND PROVIDE ITS POWERS AND DUTIES, PROVIDE FOR NUTRITIONAL EDUCATION, AND PROVIDE A MEASURE OF EFFECTIVENESS OF HEALTH EDUCATION PROGRAMS.

Beg leave to report that they have duly and carefully considered the same and recommend:

That the same do pass with the following amendments:

Amend the bill, as and if amended, by striking all after the enacting words and inserting therein the following:

/ SECTION 1. (A) The General Assembly finds that:

(1) South Carolina ranks tenth in the United States for the number of overweight and obese people;

- (2) the number of overweight children in South Carolina has tripled since the 1960's;
- (3) South Carolina ranks first in the number of strokes, third in heart disease, and tenth in diabetes;
- (4) Twenty-five percent of children ages five to ten have high cholesterol, high blood pressure, or other early warning signs of heart disease;
- (5) regular physical activity helps to improve strength and endurance, prevents obesity and controls body weight, helps build healthy bones and muscles, and reduces anxiety and stress;
- (6) newly completed research shows a significant relationship between academic achievement and physical fitness; and
- (7) according to a national report, for the first time in one hundred years the current generation of people will have a shorter life span than the previous generation due to a sedentary lifestyle.

(B) The General Assembly further finds that one goal of public education is to assist all students in reaching their full academic potential and that a child's health impacts his school attendance, readiness to learn, potential learning, and achievement. In this regard, the General Assembly believes that each public elementary school in this State should have a full-time school nurse in order to:

- (1) improve early detection of health problems that can interfere with learning or lead to more serious or disabling health conditions;
- (2) prevent disease by teaching and encouraging healthy lifestyles and habits that have lifelong implications for children and their families;
- (3) provide valuable health services, including administering medications and care management necessary for those students who have chronic or episodic health conditions and disabilities; and
- (4) care for students who incur injuries at school including injuries that require medical attention.

SECTION 2. This act may be cited as the Students Health and Fitness Act of 2005.

SECTION 3. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 10

Physical Education, School Health Services, and Nutritional Standards

Article 1

Physical Education Standards

Section 59-10-10. (A) The goal of this article is to provide every elementary student with the equivalent of thirty minutes of physical activity daily. Beginning in the 2006-07 school year, students in kindergarten through fifth grade must be provided a minimum of one hundred fifty minutes a week of physical education and physical activity. In 2006-07, a minimum of sixty minutes a week must be provided in physical education, and as Section 59-10-20 is phased in, the minimum time for physical education is must be increased to ninety minutes a week. The certified physical education teacher to student ratio is designed to provide students in kindergarten through fifth grade with scheduled physical education either every day or on alternate days throughout the school year and must be based on the South Carolina Physical Education Curriculum Standards. The student to teacher ratio in a physical education class may not exceed the average student to teacher ratio of 28 to 1. An individual student's fitness status must be reported to his parent or guardian during a student's fifth grade, eighth grade, and high school physical education courses. The physical activity must be planned and coordinated by the Physical Education Activity Director pursuant to Section 59-10-30.

(B) A student may be exempted from these physical education and activity requirements required by subsection (A) by seeking a waiver as outlined in Section 59-29-80(B).

(C) During each year of implementation of the reduced student to physical education teacher ratio, each district shall report to the State Department of Education by June fifteenth, the number of minutes of physical education instruction and the minutes of additional physical activity students receive daily with a total for the week. The report must be listed by elementary school and by individual class and grade level. The State Department of Education shall provide a summary of this information to the General Assembly by December first of each year of implementation.

(D) The implementation of decreased student to teacher ratio and increased instruction in physical education pursuant to Section 59-10-20 is not intended to replace or reduce time dedicated to instruction in the arts taught by certified arts specialists.

Section 59-10-20. (A) Beginning with the 2006-07 school year, the student to certified physical education teacher ratio in the elementary schools of the State must be 700 to 1.

(B) Beginning with the 2007-08 school year, the student to certified physical education teacher ratio in the elementary schools of the State must be 600 to 1.

(C) Beginning with the 2008-09 school year, the student to certified physical education teacher ratio in the elementary schools of the State must be 500 to 1.

Section 59-10-30. (A) Each elementary school shall designate a physical education teacher to serve as its Physical Education Activity Director. The Physical Education Activity Director shall plan and coordinate opportunities for additional physical activity for students that exceed the designated weekly student physical education instruction times that may include, but not be limited to, before, during, and after school dance instruction, fitness trail programs, intramural programs, bicycling programs, walking programs, recess, and activities designed to promote physical activity opportunities in the classroom.

(B) In schools having dance education specialists, instruction based on the South Carolina Dance Curriculum Standards and the dance components of the South Carolina Physical Education Standards may be used to satisfy one-fourth of the required physical education minutes.

(C) Noncertified or adult volunteers may assist in implementing or supervising these structured physical activities if approved by the district superintendent. If volunteers are used, appropriate liability insurance must be provided. The director annually shall submit to the principal a report outlining the additional physical activities for students.

Section 59-10-40. Appropriate professional development must be provided to teachers and volunteers on the importance of physical activity for young children and the relationship of activity and good nutrition to academic performance and healthy lifestyles.

Section 59-10-50. (A) Each public school in this State shall administer the South Carolina Physical Education Assessment. Assessment of students in second grade, fifth grade, eighth grade, and high school must be used to assess the effectiveness of the school's physical education program and its adherence to the South Carolina Physical Education Curriculum Standards. The State Department of Education shall develop a procedure for calculating a district and school physical education program effectiveness score. The district and school physical education effectiveness score must be reported to the education community through the district and school report card.

(B) The physical education teachers in a school that receives an unsatisfactory program effectiveness score pursuant to subsection (A), will be provided professional development activities designed to assist the school in improving its programs' effectiveness.

Section 59-10-60. Each district shall make every effort to ensure that the schools in its district have age appropriate equipment and facilities to implement the physical education curriculum standards.

Article 2

School Health Services

Section 59-10-210. Beginning with the 2007-08 school year, the General Assembly, annually in the General Appropriations Act, shall appropriate funds to the Department of Education to provide licensed nurses for elementary public schools. The State Department of Education shall make these funds available through a grant program and shall distribute the funds to the local school districts on a per school basis.

Article 3

Nutrition Standards

Section 59-10-310. In an effort to promote optimal healthy eating patterns, the State Board of Education by policy shall establish requirements for elementary school food service meals and competitive foods based upon the recommendations outlined in the State Department of Education Task Force on Student Nutrition and Physical Activity Report, National School Lunch Act, and the most recent applicable Dietary Guidelines for Americans.

Section 59-10-320. (A) The State Department of Education shall make available to each school district a coordinated school health model designed to address health issues of children. The program must provide for coordinating the following eight components: safe and healthy environment, physical education, health education, staff wellness, health services, guidance and health, nutrition services, and

parent and community involvement. The Department of Education shall notify each school district of the availability of professional development opportunities and provide technical assistance for implementing the coordinated school health model.

(B) The Department of Education shall develop or adopt an assessment program to evaluate district and school health education programs. At a minimum, the assessment must be designed to determine program effectiveness and adherence to South Carolina Health and Safety Education Curriculum Standards. The State Department of Education shall begin piloting health education assessments in the 2006-07 school year with implementation in the 2008-09 school year.

Section 59-10-330. (A) Each school district shall establish and maintain a Coordinated School Health Advisory Council (CSHAC) to assess, plan, implement, and monitor district and school health policies and programs, including the development of a district wellness policy to begin implementation in the 2006-07 school year. The council must be composed of members of the community, school representatives, students, parents, district food service employees, and school board members.

(B) Each district, in collaboration with the CSHAC, shall develop a school health improvement plan that addresses strategies for improving student nutrition, health, and physical activity and includes the district's wellness policy. The district health improvement plan goals and progress toward those goals must be included in the district's strategic plan required pursuant to Section 59-20-60.

(C) Each school board of trustees shall establish health and nutrition policies for its elementary schools designed to limit vending sales and sales of foods and beverages of minimal nutritional value at any time during the school day except in the case of medical emergency and special occasions celebrated during school hours. However, this policy does not restrict the food that a parent or guardian may provide for his child's consumption at school. A school district board of trustees may adopt a more restrictive policy.

Section 59-10-340. Each district's Coordinated School Health Advisory Council established pursuant to Section 59-10-330 shall determine which snacks may be sold in vending machines in elementary schools.

Section 59-10-350. Each elementary school shall provide students a minimum of twenty minutes to eat lunch once they have received their food. In determining the total length of the lunch period, time to and from the cafeteria, time to go through the line, and time to bus trays at the end of lunch must be considered.

Section 59-10-360. Health curriculum for students in kindergarten through fifth grade must include a weekly nutrition component.

Section 59-10-370. Each phase of implementation of this chapter is contingent upon the appropriation of adequate funding as documented by the fiscal impact statement provided by the Office of State Budget of the State Budget and Control Board. There is no mandatory financial obligation to school districts if state funding is not appropriated for each phase of implementation as provided for in the fiscal impact statement of the Office of the State Budget of the State Budget and Control Board.

Section 59-10-380. Nothing in this article may be construed to prohibit or limit the sale or distribution of any food or beverage item through fundraisers by students, teachers, or groups when the items are intended for sale off the school campus.”

SECTION 4. This act takes effect upon approval by the Governor. /

Amend the bill further, by striking all before the enacting words and inserting:

/ TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 10, ENTITLED PHYSICAL EDUCATION, SCHOOL HEALTH SERVICES, AND NUTRITIONAL STANDARDS, TO TITLE 59 SO AS TO ESTABLISH PHYSICAL EDUCATION, SCHOOL HEALTH SERVICES, AND NUTRITIONAL STANDARDS IN ELEMENTARY SCHOOLS; TO PROVIDE FOR THE AMOUNT OF PHYSICAL EDUCATION INSTRUCTION A STUDENT IN KINDERGARTEN THROUGH FIFTH GRADE MUST RECEIVE EACH WEEK ON A PHASED-IN BASIS; TO PROVIDE FOR A CERTAIN PHYSICAL EDUCATION TEACHER TO STUDENT RATIO ON A PHASED-IN BASIS; TO PROVIDE FOR A MEASURE OF EFFECTIVENESS OF THE PHYSICAL EDUCATION PROGRAM IN ALL PUBLIC SCHOOLS; TO PROVIDE FOR A PHYSICAL EDUCATION ACTIVITY DIRECTOR; TO PROVIDE FOR THE APPROPRIATION OF FUNDS FOR LICENSED NURSES FOR ELEMENTARY PUBLIC SCHOOLS; TO PROVIDE CERTAIN NUTRITIONAL STANDARDS FOR ELEMENTARY SCHOOLS; TO PROVIDE FOR A COORDINATED SCHOOL HEALTH MODEL AND AN ASSESSMENT PROGRAM FOR SCHOOL HEALTH EDUCATION PROGRAMS; TO PROVIDE THE MINIMUM AMOUNT OF TIME ELEMENTARY SCHOOL STUDENTS MUST HAVE TO EAT LUNCH; TO PROVIDE FOR THE ESTABLISHMENT OF A DISTRICT LEVEL AND AN ELEMENTARY SCHOOL LEVEL COORDINATED SCHOOL HEALTH ADVISORY COUNCIL AND PROVIDE ITS POWERS AND DUTIES; TO PROVIDE FOR A WEEKLY NUTRITION COMPONENT FOR THE HEALTH CURRICULUM; AND TO PROVIDE THAT IMPLEMENTATION IS CONTINGENT UPON THE APPROPRIATION OF FUNDING. /

Amend title to conform.

The Honorable Robert W. Hayes, Jr.

The Honorable Robert E. Walker

The Honorable Linda H. Short

The Honorable Ronald P. Townsend

The Honorable Darrell Jackson

The Honorable Michael A. Anthony

On Part of the Senate.

On Part of the House.