

**AMENDMENT TO THE RULES COMMITTEE PRINT
OF H.R. 5
OFFERED BY MR. KIND OF WISCONSIN**

Page 74, beginning on line 1, amend paragraph (4)
to read as follows:

- 1 (4) in subsection (d)(1)—
- 2 (A) by striking “student academic achieve-
- 3 ment” and inserting “academic”;
- 4 (B) by inserting “, healthy,” after “sup-
- 5 portive”;
- 6 (C) by striking “; and participating” and
- 7 inserting “; participating”; and
- 8 (D) by inserting after “extracurricular
- 9 time” the following: “; and supporting their
- 10 children in leading a healthy and active life,
- 11 such as by providing healthy meals and snacks,
- 12 encouraging participation in physical education,
- 13 and sharing in physical activity outside the
- 14 school day to support successful academic
- 15 achievement”.

Page 365, beginning line 24, amend clause (i) to
read as follows:

1 “(i) Supplement student support ac-
2 tivities such as before, after, or summer
3 school activities, tutoring, and expanded
4 learning time, including physical education
5 and activity but not including athletics or
6 in-school learning activities.”.

Page 372, after line 15, insert the following new
part:

7 **“PART C—HEALTHY STUDENTS GRANTS**

8 **“SEC. 3301. DEFINITIONS.**

9 “In this part:

10 “(1) PHYSICAL EDUCATION INDICATORS MEAS-
11 UREMENT SYSTEM.—

12 “(A) IN GENERAL.—The term ‘physical
13 education indicators measurement system’
14 means a State reporting and information sys-
15 tem that measures student physical health and
16 well-being, nutrition, and fitness based on the
17 physical education indicators and is, to the ex-
18 tent possible, part of the State’s statewide lon-
19 gitudinal data system and part of the State’s
20 system for reporting the data required under
21 section 1111.

22 “(B) DESCRIPTION OF SYSTEM.—Such
23 system shall—

1 “(i) contain, at a minimum, data from
2 valid and reliable surveys of students and
3 staff on the physical education indicators
4 that allow staff at the State, local edu-
5 cational agencies, and schools to examine
6 and improve school-level conditions regard-
7 ing physical activity, education, and fitness
8 and nutrition;

9 “(ii) collect school-level data on the
10 physical education indicators, in the aggre-
11 gate and disaggregated by the categories of
12 race, ethnicity, gender, disability status,
13 migrant status, English proficiency, and
14 status as economically disadvantaged, and
15 cross-tabulated across all of such cat-
16 egories by gender and by disability;

17 “(iii) protect student privacy, con-
18 sistent with applicable data privacy laws
19 and regulations, including section 444 of
20 the General Education Provisions Act (20
21 U.S.C. 1232g, commonly known as the
22 ‘Family Educational Rights and Privacy
23 Act of 1974’); and

24 “(iv) to the extent possible, utilize a
25 web-based reporting system.

1 “(2) ELIGIBLE LOCAL APPLICANT.—The term
2 ‘eligible local applicant’ means a local educational
3 agency, a consortium of local educational agencies,
4 or a nonprofit organization that has a track record
5 of success in implementing the proposed activities
6 and has signed a memorandum of understanding
7 with a local educational agency or consortium of
8 local educational agencies to—

9 “(A) implement school-based activities; and
10 “(B) conduct school-level measurement of
11 the physical education indicators that are con-
12 sistent with this part.

13 “(3) PHYSICAL EDUCATION INDICATORS.—The
14 term ‘physical education indicators’ means a set of
15 measures for instruction on physical activity, health-
16 related fitness, physical competence, and cognitive
17 understanding about physical activity. Such indica-
18 tors shall include—

19 “(A) for the State, for each local edu-
20 cational agency in the State, and for each
21 school in the State, the average number of min-
22 utes per week (averaged over the school year)
23 that all students spend in required physical
24 education, and the average number of minutes
25 per week (averaged over the school year) that

1 all students engage in moderate to vigorous
2 physical activity, as measured against estab-
3 lished recommended guidelines of the Centers
4 for Disease Control and Prevention and the De-
5 partment of Health and Human Services;

6 “(B) for the State, the percentage of local
7 educational agencies that have a required, age-
8 appropriate physical education curriculum that
9 adheres to Centers for Disease Control and
10 Prevention guidelines and State standards;

11 “(C) for the State, for each local edu-
12 cational agency in the State, and for each
13 school in the State, the percentage of elemen-
14 tary school and secondary school physical edu-
15 cation teachers who are licensed or certified by
16 the State to teach physical education;

17 “(D) for the State, and for each local edu-
18 cational agency in the State, the percentage of
19 schools that have a physical education teacher
20 who is certified or licensed in the State to teach
21 physical education and adapted physical edu-
22 cation;

23 “(E) for each school in the State, the num-
24 ber of indoor square feet and the number of

1 outdoor square feet used primarily for physical
2 education; and

3 “(F) for the State, the percentage of local
4 educational agencies that have a school wellness
5 council that—

6 “(i) includes members appointed by
7 the local educational agency super-
8 intendent;

9 “(ii) may include parents, students,
10 representatives of the school food author-
11 ity, representatives of the school board,
12 school administrators, school nurses, and
13 members of the public; and

14 “(iii) meets regularly to promote a
15 healthy school environment.

16 “(4) PROGRAM TO PROMOTE PHYSICAL ACTIV-
17 ITY, EDUCATION, AND FITNESS AND NUTRITION.—
18 The term ‘program to promote physical activity,
19 education, and fitness and nutrition’ means a pro-
20 gram that—

21 “(A) increases and enables active student
22 participation in physical well-being activities
23 and provides teacher and school leader profes-
24 sional development to encourage and increase
25 such participation;

1 “(B) is comprehensive in nature;

2 “(C) includes opportunities for professional
3 development for teachers of physical education
4 to stay abreast of the latest research, issues,
5 and evidence-based trends in the field of phys-
6 ical education; and

7 “(D) includes 1 or more of the following
8 activities:

9 “(i) Fitness education and assessment
10 to help students understand, improve, or
11 maintain their physical well-being.

12 “(ii) Instruction in a variety of motor
13 skills and physical activities designed to
14 enhance the physical, mental, social, and
15 emotional development of every student.

16 “(iii) Development of, and instruction
17 in, cognitive concepts about motor skill and
18 physical fitness that support a lifelong
19 healthy lifestyle.

20 “(iv) Opportunities to develop positive
21 social and cooperative skills through phys-
22 ical activity.

23 **“SEC. 3302. DISTRIBUTION OF FUNDS.**

24 “From amounts made available to carry out this part,
25 the Secretary shall use—

1 “(1) in each year for which funding is made
2 available to carry out this part, not more than 2 per-
3 cent of such amounts for technical assistance and
4 evaluation;

5 “(2) for the first 3 fiscal years for which fund-
6 ing is made available to carry out this part—

7 “(A) except as provided in subparagraph
8 (B)—

9 “(i) not more than 30 percent of such
10 amounts or \$30,000,000, whichever
11 amount is more, for State measurement
12 system grants, distributed to every State
13 (by an application process consistent with
14 section 3303(c)) in an amount proportional
15 to each State’s share of funding under part
16 A of title I of the Elementary and Sec-
17 ondary Education Act of 1965 (20 U.S.C.
18 6311 et seq.), to be used—

19 “(I) to develop the State’s phys-
20 ical education indicators measurement
21 system;

22 “(II) to conduct a needs analysis
23 to meet the requirements of section
24 3303(c)(2)(C); and

1 “(III) if grant funds remain after
2 carrying out subclauses (I) and (II),
3 for activities described in section
4 3303(f); and

5 “(ii) not more than 68 percent of such
6 amounts for grants under section 3303;
7 and

8 “(B) for any fiscal year for which the
9 amount remaining available after funds are re-
10 served under paragraph (1) is less than
11 \$30,000,000, all of such remainder for the
12 State measurement system grants described in
13 subparagraph (A)(i); and

14 “(3) for the fourth fiscal year and each subse-
15 quent fiscal year for which funding is made available
16 to carry out this part, not less than 98 percent of
17 such amounts for grants under section 3303.

18 **“SEC. 3303 HEALTHY STUDENTS GRANTS.**

19 “(a) GRANT PROGRAM AUTHORIZED.—

20 “(1) IN GENERAL.—From amounts made avail-
21 able under paragraph (2)(A)(ii) or (3) of section
22 3302 for a fiscal year, the Secretary shall award
23 grants to States to implement comprehensive pro-
24 grams to promote physical activity, education, and
25 fitness and nutrition and that are based on—

1 “(A) scientifically valid research; and

2 “(B) an analysis of need that considers, at
3 a minimum, the physical education indicators.

4 “(2) AWARDS TO STATES.—

5 “(A) FORMULA GRANTS.—For any fiscal
6 year for which the total amount available under
7 (2)(A)(ii) or (3) of section 3302 for grants
8 under this section is \$250,000,000 or more, the
9 Secretary shall allot to each State with an ap-
10 proved application an amount that bears the
11 same relationship to such total amount as the
12 amount received under subpart 1 of part A of
13 title I by such State for such fiscal year bears
14 to the amount received under such part for
15 such fiscal year by all States.

16 “(B) COMPETITIVE GRANTS.—

17 “(i) IN GENERAL.—For any fiscal
18 year for which the total amount available
19 under paragraph (2)(A)(ii) or (3) of sec-
20 tion 3302 for grants under this section is
21 less than \$250,000,000, the Secretary
22 shall award such grants to States on a
23 competitive basis.

24 “(ii) SUFFICIENT SIZE AND SCOPE.—

25 In awarding grants on a competitive basis

1 pursuant to clause (i), the Secretary shall
2 ensure that grant awards are of sufficient
3 size and scope to carry out required and
4 approved activities under this section.

5 “(b) ELIGIBILITY.—To be eligible to receive a grant
6 under this section, a State shall demonstrate that the
7 State has established a statewide physical education re-
8 quirement that is consistent with widely recognized stand-
9 ards.

10 “(c) APPLICATIONS.—

11 “(1) IN GENERAL.—A State that desires to re-
12 ceive a grant under this section shall submit an ap-
13 plication at such time, in such manner, and con-
14 taining such information as the Secretary may re-
15 quire.

16 “(2) CONTENT OF APPLICATION.—At a min-
17 imum, the application shall include—

18 “(A) documentation of the State’s eligi-
19 bility to receive a grant under this section, as
20 described in subsection (b);

21 “(B) a plan for improving physical activity,
22 education, and fitness and nutrition in schools
23 in the State in a manner consistent with the re-
24 quirements of the program that may be a part
25 of a broader statewide child and youth plan, if

1 such a plan exists and is consistent with the re-
2 quirements of this part;

3 “(C) a needs analysis of the schools in the
4 State regarding physical activity, education, and
5 fitness and nutrition, which—

6 “(i) shall include a description of, and
7 data measuring, the State’s performance
8 on the physical education indicators; and

9 “(ii) may be a part of a broader state-
10 wide child and youth needs analysis, if
11 such an analysis exists and is consistent
12 with the requirements of this part;

13 “(D) a description of how the programs to
14 promote physical activity, education, and fitness
15 and nutrition that the State proposes to imple-
16 ment with grant funds are responsive to the re-
17 sults of the needs analysis described in subpara-
18 graph (C); and

19 “(E) a description of how the State will—

20 “(i) develop, adapt, improve, or adopt,
21 and implement, the State’s physical edu-
22 cation indicators measurement system, and
23 how the State will ensure that all local
24 educational agencies and schools in the
25 State participate in such system;

1 “(ii) ensure the quality of the State’s
2 data collection for the physical education
3 indicators, including the State’s plan for
4 survey administration and for ensuring the
5 reliability and validity of survey instru-
6 ments;

7 “(iii) coordinate the proposed activi-
8 ties with other Federal and State pro-
9 grams, which may include programs to ex-
10 pand learning time and for before- and
11 after-school programming in order to pro-
12 vide sufficient time to carry out the activi-
13 ties described in this part;

14 “(iv) assist local educational agencies
15 in aligning activities carried out with funds
16 the agencies receive under the grant with
17 other funding sources in order to support
18 a coherent and non-duplicative program;

19 “(v) solicit and approve subgrant ap-
20 plications, including how the State will—

21 “(I) allocate funds for statewide
22 activities and subgrants for each year
23 of the grant; and

24 “(II) consider the results of the
25 needs analysis described in subpara-

1 graph (C) in the State's distribution
2 of subgrants;

3 “(vi) address the needs of diverse geo-
4 graphic areas in the State, including rural
5 and urban communities; and

6 “(vii) assist local educational agencies
7 and schools in their efforts to increase the
8 provision of physical activity and physical
9 education opportunities during the school
10 day and implement programs to promote
11 physical activity, education, and fitness,
12 and nutrition.

13 “(3) PEER-REVIEW PROCESS.—The Secretary
14 shall establish a peer-review process that includes in-
15 dividuals with applicable expertise in physical activ-
16 ity, education, or fitness or nutrition to review appli-
17 cations submitted under this subsection.

18 “(d) DURATION.—

19 “(1) IN GENERAL.—A State that receives a
20 grant under this section may receive funding for not
21 more than 5 years in accordance with this sub-
22 section.

23 “(2) INITIAL PERIOD.—The Secretary shall
24 award grants under this section for an initial period
25 of not more than 3 years.

1 “(3) GRANT EXTENSION.—The Secretary may
2 extend a grant awarded to a State under this section
3 for not more than an additional 2 years if the State
4 shows sufficient improvement, as determined by the
5 Secretary, against baseline data for the performance
6 metrics established under subsection (h)(1).

7 “(e) RESERVATION AND USE OF FUNDS.—A State
8 that receives a grant under this section shall—

9 “(1) reserve not more than 10 percent of the
10 grant funds for administration of the program, tech-
11 nical assistance, and the development, adaptation,
12 improvement, or adoption, and implementation of
13 the State’s physical education indicators measure-
14 ment system, as described in paragraphs (1) through
15 (5) of subsection (f); and

16 “(2) use the remainder of grant funds after
17 making the reservation under paragraph (1) to
18 award subgrants, on a competitive basis, to eligible
19 local applicants.

20 “(f) REQUIRED STATE ACTIVITIES.—A State that re-
21 ceives a grant under this section shall—

22 “(1) not later than 1 year after receipt of the
23 grant, develop, adapt, improve, or adopt and imple-
24 ment a physical education indicators measurement
25 system (unless the State can demonstrate, to the

1 satisfaction of the Secretary, that an appropriate
2 system has already been implemented) that annually
3 measures the State's progress regarding physical ac-
4 tivity, education, and fitness and nutrition for every
5 public school in the State;

6 “(2) collect information in each year of the
7 grant on physical activity, education, and fitness and
8 nutrition at the school level through comprehensive
9 needs assessments of student, school staff, and fam-
10 ily perceptions, experiences, and behaviors;

11 “(3) publicly report, at the school level and dis-
12 trict level, the data collected in the physical edu-
13 cation indicators measurement system each year in
14 a timely and highly accessible manner and in a man-
15 ner that does not reveal personally identifiable infor-
16 mation;

17 “(4) use, on a continuous basis, the results of
18 the physical education indicators measurement sys-
19 tem to—

20 “(A) identify and address student physical
21 activity, education, and fitness needs statewide;

22 “(B) help subgrantees identify and address
23 school and student needs; and

24 “(C) provide individualized assistance to
25 the lowest-performing schools (consistent with

1 section 1116, as in effect on the day before the
2 date of enactment of the Student Success Act)
3 and schools with significant weaknesses with re-
4 spect to physical activity, education, and fitness
5 and nutrition as identified through the physical
6 education indicators measurement system with
7 implementation of activities under this part;

8 “(5) encourage local educational agencies to—

9 “(A) integrate physical activity, education,
10 and fitness into a range of subjects throughout
11 the school day and locations within schools;

12 “(B) encourage consultation with a variety
13 of stakeholders, including families, students,
14 school officials, and other organizations with
15 wellness and physical activity, education, and
16 fitness expertise; and

17 “(C) regularly monitor schools’ efforts in
18 improving wellness and physical activity, edu-
19 cation, and fitness understanding and habits
20 among students; and

21 “(6) award subgrants under subsection (g) to
22 eligible local applicants.

23 “(g) SUBGRANTS.—

24 “(1) IN GENERAL.—

1 “(A) AWARDING OF SUBGRANTS.—A State
2 that receives a grant under this section shall
3 award subgrants, on a competitive basis, to eli-
4 gible local applicants—

5 “(i) based on need, as identified by—

6 “(I) data from the State physical
7 education indicators measurement sys-
8 tem and, if available, similar local sys-
9 tems; or

10 “(II) in the case of a State for
11 which the State physical education in-
12 dicators measurement system required
13 under subsection (f)(1) is not yet im-
14 plemented, other data determined ap-
15 propriate by the State;

16 “(ii) that are of sufficient size and
17 scope to enable the eligible local applicants
18 to carry out approved activities; and

19 “(iii) to implement programs to pro-
20 mote physical activity, education, and fit-
21 ness and nutrition that—

22 “(I) are comprehensive in nature;
23 and

24 “(II) are based on scientifically
25 valid research.

1 “(B) ASSISTANCE.—A State that receives
2 a grant under this section shall provide assist-
3 ance to subgrant applicants and recipients in
4 the selection of scientifically valid programs to
5 promote physical activity, education, and fitness
6 and nutrition.

7 “(C) PARTNERSHIPS ALLOWED.—An eligi-
8 ble local applicant may apply for a subgrant
9 under this subsection in partnership with 1 or
10 more community-based organizations.

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

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

19 “(A) demonstrate the greatest need ac-
20 cording to the results of the State’s needs anal-
21 ysis described in subsection (e)(2)(C); and

22 “(B) propose to serve schools with the
23 highest concentrations of poverty, based on the
24 percentage of students receiving or eligible to
25 receive a free or reduced price lunch under the

1 Richard B. Russell National School Lunch Act
2 (42 U.S.C. 1751 et seq.).

3 “(4) ACTIVITIES OF SUBGRANT RECIPIENTS.—
4 Each eligible local applicant receiving a subgrant
5 under this subsection shall, for the duration of the
6 subgrant—

7 “(A) carry out, as part of a program to
8 promote physical activity, education, and fitness
9 and nutrition, activities—

10 “(i) the need for which has been iden-
11 tified, at a minimum—

12 “(I) through the physical edu-
13 cation indicators measurement sys-
14 tem; or

15 “(II) in the case of a State that
16 has not yet implemented the physical
17 education indicators measurement sys-
18 tem as required under subsection
19 (f)(1), the State’s needs analysis de-
20 scribed in subsection (c)(2)(C); and

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

24 “(B) ensure that each activity selected as
25 part of such program be based on scientifically

1 valid research and be used for the purpose for
2 which such activity was found to be effective;

3 “(C) use school-level data from the state-
4 wide physical education indicators, and use the
5 statewide physical education indicators meas-
6 urement system when implemented by the State
7 as required under subsection (f)(1), to inform
8 the implementation and continuous improve-
9 ment of activities carried out under this part;

10 “(D) collect and report to the State edu-
11 cational agency, data for schools served by the
12 eligible local applicant, in a manner determined
13 by the State and consistent with the State’s
14 physical education indicators measurement sys-
15 tem, when established;

16 “(E)(i) establish policies to expand access
17 to quality physical activity opportunities (in-
18 cluding school wellness policies); and

19 “(ii) if the local educational agency to be
20 served through the grant does not have an ac-
21 tive school wellness council consistent with the
22 requirements of the Child Nutrition Act of
23 1966 (42 U.S.C. 1771 et seq.), establish such
24 a school wellness council, which may be part of

1 an existing school council that has the capacity
2 and willingness to address school wellness;

3 “(F) engage family members and commu-
4 nity-based organizations in the development of
5 physical education indicators surveys, and in
6 the planning, implementation, and review of the
7 eligible local applicant’s efforts under this part;
8 and

9 “(G) consider and accommodate the unique
10 needs of students with disabilities and English
11 language learners in implementing activities.

12 “(h) ACCOUNTABILITY.—

13 “(1) ESTABLISHMENT OF PERFORMANCE
14 METRICS.—The Secretary, acting through the Direc-
15 tor of the Institute of Education Sciences, shall es-
16 tablish program performance metrics to measure the
17 effectiveness of the activities carried out under this
18 part.

19 “(2) ANNUAL REPORT.—Each State that re-
20 ceives a grant under this part shall prepare and sub-
21 mit to the Secretary an annual report that includes
22 information relevant to the physical education indi-
23 cators, including progress towards meeting outcomes
24 for the metrics established under paragraph (1).

1 **“SEC. 3304. FUNDS RESERVED FOR SECRETARY.**

2 “From the amount reserved under section 3302(1),
3 the Secretary shall—

4 “(1) direct the Institute of Education Sciences
5 to conduct an evaluation of the impact of the prac-
6 tices funded or disseminated under this part; and

7 “(2) provide technical assistance to applicants
8 for and recipients of, grants and subgrants under
9 this part.”.

