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:

(4) in subsection (d)(1)—

(A) by striking “student academic achievement” and inserting “academic”; 

(B) by inserting “, healthy,” after “supportive”;

(C) by striking “; and participating” and inserting “; participating”; and

(D) by inserting after “extracurricular time” the following: “; and supporting their children in leading a healthy and active life, such as by providing healthy meals and snacks, encouraging participation in physical education, and sharing in physical activity outside the school day to support successful academic achievement”.

Page 365, beginning line 24, amend clause (i) to read as follows:
“(i) Supplement student support activities such as before, after, or summer school activities, tutoring, and expanded learning time, including physical education and activity but not including athletics or in-school learning activities.”.

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

“PART C—HEALTHY STUDENTS GRANTS

“SEC. 3301. DEFINITIONS.

“In this part:

“(1) PHYSICAL EDUCATION INDICATORS MEASUREMENT SYSTEM.—

“(A) IN GENERAL.—The term ‘physical education indicators measurement system’ means a State reporting and information system that measures student physical health and well-being, nutrition, and fitness based on the physical education indicators and is, to the extent possible, part of the State’s statewide longitudinal data system and part of the State’s system for reporting the data required under section 1111.

“(B) DESCRIPTION OF SYSTEM.—Such system shall—
“(i) contain, at a minimum, data from valid and reliable surveys of students and staff on the physical education indicators that allow staff at the State, local educational agencies, and schools to examine and improve school-level conditions regarding physical activity, education, and fitness and nutrition;

“(ii) collect school-level data on the physical education indicators, in the aggregate and disaggregated by the categories of race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, and cross-tabulated across all of such categories by gender and by disability;

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

“(iv) to the extent possible, utilize a web-based reporting system.
“(2) ELIGIBLE LOCAL APPLICANT.—The term ‘eligible local applicant’ means a local educational agency, a consortium of local educational agencies, or a nonprofit organization that has a track record of success in implementing the proposed activities and has signed a memorandum of understanding with a local educational agency or consortium of local educational agencies to—

“(A) implement school-based activities; and

“(B) conduct school-level measurement of the physical education indicators that are consistent with this part.

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

“(A) for the State, for each local educational agency in the State, and for each school in the State, the average number of minutes per week (averaged over the school year) that all students spend in required physical education, and the average number of minutes per week (averaged over the school year) that
all students engage in moderate to vigorous physical activity, as measured against established recommended guidelines of the Centers for Disease Control and Prevention and the Department of Health and Human Services;

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

“(C) for the State, for each local educational agency in the State, and for each school in the State, the percentage of elementary school and secondary school physical education teachers who are licensed or certified by the State to teach physical education;

“(D) for the State, and for each local educational agency in the State, the percentage of schools that have a physical education teacher who is certified or licensed in the State to teach physical education and adapted physical education;

“(E) for each school in the State, the number of indoor square feet and the number of
outdoor square feet used primarily for physical education; and

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

“(i) includes members appointed by the local educational agency superintendent;

“(ii) may include parents, students, representatives of the school food authority, representatives of the school board, school administrators, school nurses, and members of the public; and

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

“(4) Program to Promote Physical Activity, Education, and Fitness and Nutrition.—The term ‘program to promote physical activity, education, and fitness and nutrition’ means a program that—

“(A) increases and enables active student participation in physical well-being activities and provides teacher and school leader professional development to encourage and increase such participation;
“(B) is comprehensive in nature;

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

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

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

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

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

“(iv) Opportunities to develop positive social and cooperative skills through physical activity.

“SEC. 3302. DISTRIBUTION OF FUNDS.

“From amounts made available to carry out this part, the Secretary shall use—
“(1) in each year for which funding is made available to carry out this part, not more than 2 percent of such amounts for technical assistance and evaluation;

“(2) for the first 3 fiscal years for which funding is made available to carry out this part—

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

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

“(I) to develop the State’s physical education indicators measurement system;

“(II) to conduct a needs analysis to meet the requirements of section 3303(c)(2)(C); and
“(III) if grant funds remain after carrying out subclauses (I) and (II), for activities described in section 3303(f); and 
“(ii) not more than 68 percent of such amounts for grants under section 3303; and 
“(B) for any fiscal year for which the amount remaining available after funds are reserved under paragraph (1) is less than $30,000,000, all of such remainder for the State measurement system grants described in subparagraph (A)(i); and 
“(3) for the fourth fiscal year and each subsequent fiscal year for which funding is made available to carry out this part, not less than 98 percent of such amounts for grants under section 3303.

“SEC. 3303 HEALTHY STUDENTS GRANTS.

“(a) GRANT PROGRAM AUTHORIZED.—
“(1) IN GENERAL.—From amounts made available under paragraph (2)(A)(ii) or (3) of section 3302 for a fiscal year, the Secretary shall award grants to States to implement comprehensive programs to promote physical activity, education, and fitness and nutrition and that are based on—
“(A) scientifically valid research; and

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

“(2) AWARDS TO STATES.—

“(A) FORMULA GRANTS.—For any fiscal year for which the total amount available under (2)(A)(ii) or (3) of section 3302 for grants under this section is $250,000,000 or more, the Secretary shall allot to each State with an approved application an amount that bears the same relationship to such total amount as the amount received under subpart 1 of part A of title I by such State for such fiscal year bears to the amount received under such part for such fiscal year by all States.

“(B) COMPETITIVE GRANTS.—

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

“(ii) SUFFICIENT SIZE AND SCOPE.—

In awarding grants on a competitive basis
pursuant to clause (i), the Secretary shall ensure that grant awards are of sufficient size and scope to carry out required and approved activities under this section.

“(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall demonstrate that the State has established a statewide physical education requirement that is consistent with widely recognized standards.

“(c) APPLICATIONS.—

“(1) IN GENERAL.—A State that desires to receive a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONTENT OF APPLICATION.—At a minimum, the application shall include—

“(A) documentation of the State’s eligibility to receive a grant under this section, as described in subsection (b);

“(B) a plan for improving physical activity, education, and fitness and nutrition in schools in the State in a manner consistent with the requirements of the program that may be a part of a broader statewide child and youth plan, if
such a plan exists and is consistent with the requirements of this part;

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

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

“(ii) may be a part of a broader statewide child and youth needs analysis, if such an analysis exists and is consistent with the requirements of this part;

“(D) a description of how the programs to promote physical activity, education, and fitness and nutrition that the State proposes to implement with grant funds are responsive to the results of the needs analysis described in subparagraph (C); and

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

“(i) develop, adapt, improve, or adopt, and implement, the State’s physical education indicators measurement system, and how the State will ensure that all local educational agencies and schools in the State participate in such system;
“(ii) ensure the quality of the State’s data collection for the physical education indicators, including the State’s plan for survey administration and for ensuring the reliability and validity of survey instruments;

“(iii) coordinate the proposed activities with other Federal and State programs, which may include programs to expand learning time and for before- and after-school programming in order to provide sufficient time to carry out the activities described in this part;

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

“(v) solicit and approve subgrant applications, including how the State will—

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

“(II) consider the results of the needs analysis described in subpara-
graph (C) in the State's distribution of subgrants;

“(vi) address the needs of diverse geographic areas in the State, including rural and urban communities; and

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

“(3) PEER-REVIEW PROCESS.—The Secretary shall establish a peer-review process that includes individuals with applicable expertise in physical activity, education, or fitness or nutrition to review applications submitted under this subsection.

“(d) DURATION.—

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

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

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

“(1) reserve not more than 10 percent of the grant funds for administration of the program, technical assistance, and the development, adaptation, improvement, or adoption, and implementation of the State’s physical education indicators measurement system, as described in paragraphs (1) through (5) of subsection (f); and

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

“(f) REQUIRED STATE ACTIVITIES.—A State that receives a grant under this section shall—

“(1) not later than 1 year after receipt of the grant, develop, adapt, improve, or adopt and implement a physical education indicators measurement system (unless the State can demonstrate, to the
satisfaction of the Secretary, that an appropriate system has already been implemented) that annually measures the State’s progress regarding physical activity, education, and fitness and nutrition for every public school in the State;

“(2) collect information in each year of the grant on physical activity, education, and fitness and nutrition at the school level through comprehensive needs assessments of student, school staff, and family perceptions, experiences, and behaviors;

“(3) publicly report, at the school level and district level, the data collected in the physical education indicators measurement system each year in a timely and highly accessible manner and in a manner that does not reveal personally identifiable information;

“(4) use, on a continuous basis, the results of the physical education indicators measurement system to—

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

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

“(C) provide individualized assistance to the lowest-performing schools (consistent with
section 1116, as in effect on the day before the
date of enactment of the Student Success Act)
and schools with significant weaknesses with re-
spect to physical activity, education, and fitness
and nutrition as identified through the physical
education indicators measurement system with
implementation of activities under this part;
“(5) encourage local educational agencies to—
  “(A) integrate physical activity, education,
and fitness into a range of subjects throughout
the school day and locations within schools;
  “(B) encourage consultation with a variety
of stakeholders, including families, students,
school officials, and other organizations with
wellness and physical activity, education, and
fitness expertise; and
  “(C) regularly monitor schools’ efforts in
improving wellness and physical activity, edu-
cation, and fitness understanding and habits
among students; and
“(6) award subgrants under subsection (g) to
eligible local applicants.
“(g) SUBGRANTS.—
“(1) IN GENERAL.—
“(A) AWARDING OF SUBGRANTS.—A State that receives a grant under this section shall award subgrants, on a competitive basis, to eligible local applicants—

“(i) based on need, as identified by—

“(I) data from the State physical education indicators measurement system and, if available, similar local systems; or

“(II) in the case of a State for which the State physical education indicators measurement system required under subsection (f)(1) is not yet implemented, other data determined appropriate by the State;

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

“(iii) to implement programs to promote physical activity, education, and fitness and nutrition that—

“(I) are comprehensive in nature; and

“(II) are based on scientifically valid research.
“(B) ASSISTANCE.—A State that receives a grant under this section shall provide assistance to subgrant applicants and recipients in the selection of scientifically valid programs to promote physical activity, education, and fitness and nutrition.

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

“(2) APPLICATIONS.—An eligible local applicant that desires to receive a subgrant under this subsection shall submit to the State an application at such time, in such manner, and containing such information as the State may require.

“(3) PRIORITY.—In awarding subgrants under this subsection, a State shall give priority to applications that—

“(A) demonstrate the greatest need according to the results of the State’s needs analysis described in subsection (c)(2)(C); and

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

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

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

“(i) the need for which has been identified, at a minimum—

“(I) through the physical education indicators measurement system; or

“(II) in the case of a State that has not yet implemented the physical education indicators measurement system as required under subsection (f)(1), the State’s needs analysis described in subsection (c)(2)(C); and

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

“(B) ensure that each activity selected as part of such program be based on scientifically
valid research and be used for the purpose for which such activity was found to be effective;

“(C) use school-level data from the statewide physical education indicators, and use the statewide physical education indicators measurement system when implemented by the State as required under subsection (f)(1), to inform the implementation and continuous improvement of activities carried out under this part;

“(D) collect and report to the State educational agency, data for schools served by the eligible local applicant, in a manner determined by the State and consistent with the State’s physical education indicators measurement system, when established;

“(E)(i) establish policies to expand access to quality physical activity opportunities (including school wellness policies); and

“(ii) if the local educational agency to be served through the grant does not have an active school wellness council consistent with the requirements of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), establish such a school wellness council, which may be part of
an existing school council that has the capacity
and willingness to address school wellness;

“(F) engage family members and commu-

nity-based organizations in the development of

physical education indicators surveys, and in

the planning, implementation, and review of the

eligible local applicant’s efforts under this part;

and

“(G) consider and accommodate the unique

needs of students with disabilities and English

language learners in implementing activities.

“(h) ACCOUNTABILITY.—

“(1) Establishment of performance

metrics.—The Secretary, acting through the Direc-
tor of the Institute of Education Sciences, shall es-

establish program performance metrics to measure the
effectiveness of the activities carried out under this

part.

“(2) Annual report.—Each State that re-
ceives a grant under this part shall prepare and sub-
mit to the Secretary an annual report that includes

information relevant to the physical education indi-
cators, including progress towards meeting outcomes

for the metrics established under paragraph (1).
“SEC. 3304. FUNDS RESERVED FOR SECRETARY.

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

“(1) direct the Institute of Education Sciences to conduct an evaluation of the impact of the practices funded or disseminated under this part; and

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