



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1523

Introduced 2/9/2017, by Sen. Kyle McCarter

#### SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g	from Ch. 122, par. 2-3.25g
105 ILCS 5/27-5	from Ch. 122, par. 27-5
105 ILCS 5/27-6	from Ch. 122, par. 27-6
105 ILCS 5/27-6.5	
105 ILCS 5/27-7	from Ch. 122, par. 27-7

Amends the School Code. Provides that physical education may (rather than shall) be provided to pupils. Makes related changes, including changes concerning physical fitness assessments. Removes a provision concerning the State Board of Education preparing and making available guidelines for the various grades and types of schools.

LRB100 08538 MLM 18663 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Sections  
5 2-3.25g, 27-5, 27-6, 27-6.5, and 27-7 as follows:

6 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

7 Sec. 2-3.25g. Waiver or modification of mandates within the  
8 School Code and administrative rules and regulations.

9 (a) In this Section:

10 "Board" means a school board or the governing board or  
11 administrative district, as the case may be, for a joint  
12 agreement.

13 "Eligible applicant" means a school district, joint  
14 agreement made up of school districts, or regional  
15 superintendent of schools on behalf of schools and programs  
16 operated by the regional office of education.

17 "Implementation date" has the meaning set forth in  
18 Section 24A-2.5 of this Code.

19 "State Board" means the State Board of Education.

20 (b) Notwithstanding any other provisions of this School  
21 Code or any other law of this State to the contrary, eligible  
22 applicants may petition the State Board of Education for the  
23 waiver or modification of the mandates of this School Code or

1 of the administrative rules and regulations promulgated by the  
2 State Board of Education. Waivers or modifications of  
3 administrative rules and regulations and modifications of  
4 mandates of this School Code may be requested when an eligible  
5 applicant demonstrates that it can address the intent of the  
6 rule or mandate in a more effective, efficient, or economical  
7 manner or when necessary to stimulate innovation or improve  
8 student performance. Waivers of mandates of the School Code may  
9 be requested when the waivers are necessary to stimulate  
10 innovation or improve student performance. Waivers may not be  
11 requested from laws, rules, and regulations pertaining to  
12 special education, teacher educator licensure, teacher tenure  
13 and seniority, or Section 5-2.1 of this Code or from compliance  
14 with the No Child Left Behind Act of 2001 (Public Law 107-110).  
15 Eligible applicants may not seek a waiver or seek a  
16 modification of a mandate regarding the requirements for (i)  
17 student performance data to be a significant factor in teacher  
18 or principal evaluations or (ii) teachers and principals to be  
19 rated using the 4 categories of "excellent", "proficient",  
20 "needs improvement", or "unsatisfactory". On September 1,  
21 2014, any previously authorized waiver or modification from  
22 such requirements shall terminate.

23 (c) Eligible applicants, as a matter of inherent managerial  
24 policy, and any Independent Authority established under  
25 Section 2-3.25f-5 of this Code may submit an application for a  
26 waiver or modification authorized under this Section. Each

1 application must include a written request by the eligible  
2 applicant or Independent Authority and must demonstrate that  
3 the intent of the mandate can be addressed in a more effective,  
4 efficient, or economical manner or be based upon a specific  
5 plan for improved student performance and school improvement.  
6 Any eligible applicant requesting a waiver or modification for  
7 the reason that intent of the mandate can be addressed in a  
8 more economical manner shall include in the application a  
9 fiscal analysis showing current expenditures on the mandate and  
10 projected savings resulting from the waiver or modification.  
11 Applications and plans developed by eligible applicants must be  
12 approved by the board or regional superintendent of schools  
13 applying on behalf of schools or programs operated by the  
14 regional office of education following a public hearing on the  
15 application and plan and the opportunity for the board or  
16 regional superintendent to hear testimony from staff directly  
17 involved in its implementation, parents, and students. The time  
18 period for such testimony shall be separate from the time  
19 period established by the eligible applicant for public comment  
20 on other matters. If the applicant is a school district or  
21 joint agreement requesting a waiver or modification of Section  
22 27-6 of this Code, the public hearing shall be held on a day  
23 other than the day on which a regular meeting of the board is  
24 held.

25 (c-5) If the applicant is a school district, then the  
26 district shall post information that sets forth the time, date,

1 place, and general subject matter of the public hearing on its  
2 Internet website at least 14 days prior to the hearing. If the  
3 district is requesting to increase the fee charged for driver  
4 education authorized pursuant to Section 27-24.2 of this Code,  
5 the website information shall include the proposed amount of  
6 the fee the district will request. All school districts must  
7 publish a notice of the public hearing at least 7 days prior to  
8 the hearing in a newspaper of general circulation within the  
9 school district that sets forth the time, date, place, and  
10 general subject matter of the hearing. Districts requesting to  
11 increase the fee charged for driver education shall include in  
12 the published notice the proposed amount of the fee the  
13 district will request. If the applicant is a joint agreement or  
14 regional superintendent, then the joint agreement or regional  
15 superintendent shall post information that sets forth the time,  
16 date, place, and general subject matter of the public hearing  
17 on its Internet website at least 14 days prior to the hearing.  
18 If the joint agreement or regional superintendent is requesting  
19 to increase the fee charged for driver education authorized  
20 pursuant to Section 27-24.2 of this Code, the website  
21 information shall include the proposed amount of the fee the  
22 applicant will request. All joint agreements and regional  
23 superintendents must publish a notice of the public hearing at  
24 least 7 days prior to the hearing in a newspaper of general  
25 circulation in each school district that is a member of the  
26 joint agreement or that is served by the educational service

1 region that sets forth the time, date, place, and general  
2 subject matter of the hearing, provided that a notice appearing  
3 in a newspaper generally circulated in more than one school  
4 district shall be deemed to fulfill this requirement with  
5 respect to all of the affected districts. Joint agreements or  
6 regional superintendents requesting to increase the fee  
7 charged for driver education shall include in the published  
8 notice the proposed amount of the fee the applicant will  
9 request. The eligible applicant must notify in writing the  
10 affected exclusive collective bargaining agent and those State  
11 legislators representing the eligible applicant's territory of  
12 its intent to seek approval of a waiver or modification and of  
13 the hearing to be held to take testimony from staff. The  
14 affected exclusive collective bargaining agents shall be  
15 notified of such public hearing at least 7 days prior to the  
16 date of the hearing and shall be allowed to attend such public  
17 hearing. The eligible applicant shall attest to compliance with  
18 all of the notification and procedural requirements set forth  
19 in this Section.

20 (d) A request for a waiver or modification of  
21 administrative rules and regulations or for a modification of  
22 mandates contained in this School Code shall be submitted to  
23 the State Board of Education within 15 days after approval by  
24 the board or regional superintendent of schools. The  
25 application as submitted to the State Board of Education shall  
26 include a description of the public hearing. Except with

1 respect to contracting for adaptive driver education, an  
2 eligible applicant wishing to request a modification or waiver  
3 of administrative rules of the State Board of Education  
4 regarding contracting with a commercial driver training school  
5 to provide the course of study authorized under Section 27-24.2  
6 of this Code must provide evidence with its application that  
7 the commercial driver training school with which it will  
8 contract holds a license issued by the Secretary of State under  
9 Article IV of Chapter 6 of the Illinois Vehicle Code and that  
10 each instructor employed by the commercial driver training  
11 school to provide instruction to students served by the school  
12 district holds a valid teaching certificate or teaching  
13 license, as applicable, issued under the requirements of this  
14 Code and rules of the State Board of Education. Such evidence  
15 must include, but need not be limited to, a list of each  
16 instructor assigned to teach students served by the school  
17 district, which list shall include the instructor's name,  
18 personal identification number as required by the State Board  
19 of Education, birth date, and driver's license number. If the  
20 modification or waiver is granted, then the eligible applicant  
21 shall notify the State Board of Education of any changes in the  
22 personnel providing instruction within 15 calendar days after  
23 an instructor leaves the program or a new instructor is hired.  
24 Such notification shall include the instructor's name,  
25 personal identification number as required by the State Board  
26 of Education, birth date, and driver's license number. If a

1 school district maintains an Internet website, then the  
2 district shall post a copy of the final contract between the  
3 district and the commercial driver training school on the  
4 district's Internet website. If no Internet website exists,  
5 then the district shall make available the contract upon  
6 request. A record of all materials in relation to the  
7 application for contracting must be maintained by the school  
8 district and made available to parents and guardians upon  
9 request. The instructor's date of birth and driver's license  
10 number and any other personally identifying information as  
11 deemed by the federal Driver's Privacy Protection Act of 1994  
12 must be redacted from any public materials. Following receipt  
13 of the waiver or modification request, the State Board shall  
14 have 45 days to review the application and request. If the  
15 State Board fails to disapprove the application within that 45  
16 day period, the waiver or modification shall be deemed granted.  
17 The State Board may disapprove any request if it is not based  
18 upon sound educational practices, endangers the health or  
19 safety of students or staff, compromises equal opportunities  
20 for learning, or fails to demonstrate that the intent of the  
21 rule or mandate can be addressed in a more effective,  
22 efficient, or economical manner or have improved student  
23 performance as a primary goal. Any request disapproved by the  
24 State Board may be appealed to the General Assembly by the  
25 eligible applicant as outlined in this Section.

26 A request for a waiver from mandates contained in this



1 School Code shall be submitted to the State Board within 15  
2 days after approval by the board or regional superintendent of  
3 schools. The application as submitted to the State Board of  
4 Education shall include a description of the public hearing.  
5 The description shall include, but need not be limited to, the  
6 means of notice, the number of people in attendance, the number  
7 of people who spoke as proponents or opponents of the waiver, a  
8 brief description of their comments, and whether there were any  
9 written statements submitted. The State Board shall review the  
10 applications and requests for completeness and shall compile  
11 the requests in reports to be filed with the General Assembly.  
12 The State Board shall file reports outlining the waivers  
13 requested by eligible applicants and appeals by eligible  
14 applicants of requests disapproved by the State Board with the  
15 Senate and the House of Representatives before each March 1 and  
16 October 1. The General Assembly may disapprove the report of  
17 the State Board in whole or in part within 60 calendar days  
18 after each house of the General Assembly next convenes after  
19 the report is filed by adoption of a resolution by a record  
20 vote of the majority of members elected in each house. If the  
21 General Assembly fails to disapprove any waiver request or  
22 appealed request within such 60 day period, the waiver or  
23 modification shall be deemed granted. Any resolution adopted by  
24 the General Assembly disapproving a report of the State Board  
25 in whole or in part shall be binding on the State Board.

26 (e) An approved waiver or modification ~~(except a waiver~~

1 ~~from or modification to a physical education mandate)~~ may  
2 remain in effect for a period not to exceed 5 school years and  
3 may be renewed upon application by the eligible applicant.  
4 However, such waiver or modification may be changed within that  
5 5-year period by a board or regional superintendent of schools  
6 applying on behalf of schools or programs operated by the  
7 regional office of education following the procedure as set  
8 forth in this Section for the initial waiver or modification  
9 request. If neither the State Board of Education nor the  
10 General Assembly disapproves, the change is deemed granted.

11 ~~An approved waiver from or modification to a physical~~  
12 ~~education mandate may remain in effect for a period not to~~  
13 ~~exceed 2 school years and may be renewed no more than 2 times~~  
14 ~~upon application by the eligible applicant. An approved waiver~~  
15 ~~from or modification to a physical education mandate may be~~  
16 ~~changed within the 2 year period by the board or regional~~  
17 ~~superintendent of schools, whichever is applicable, following~~  
18 ~~the procedure set forth in this Section for the initial waiver~~  
19 ~~or modification request. If neither the State Board of~~  
20 ~~Education nor the General Assembly disapproves, the change is~~  
21 ~~deemed granted.~~

22 (f) (Blank).

23 (Source: P.A. 98-513, eff. 1-1-14; 98-739, eff. 7-16-14;  
24 98-1155, eff. 1-9-15; 99-78, eff. 7-20-15.)

25 (105 ILCS 5/27-5) (from Ch. 122, par. 27-5)

1           Sec. 27-5. Physical education and training. School boards  
2 of public schools and the Board of Governors of State Colleges  
3 and Universities may ~~shall~~ provide for the physical education  
4 and training of pupils of the schools and laboratory schools  
5 under their respective control, and may ~~shall~~ include physical  
6 education and training in the courses of study regularly taught  
7 therein. The physical education and training course offered in  
8 grades 5 through 10 may include the health education course  
9 required in the Critical Health Problems and Comprehensive  
10 Health Education Act.

11           (Source: P.A. 89-618, eff. 8-9-96.)

12           (105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

13           Sec. 27-6. Courses in physical education ~~required~~; special  
14 activities.

15           (a) Pupils enrolled in the public schools and State  
16 universities engaged in preparing teachers may ~~shall be~~  
17 ~~required to~~ engage daily during the school day, except on block  
18 scheduled days for those public schools engaged in block  
19 scheduling, in courses of physical education for such periods  
20 as are compatible with the optimum growth and developmental  
21 needs of individuals at the various age levels except when  
22 appropriate excuses are submitted to the school by a pupil's  
23 parent or guardian or by a person licensed under the Medical  
24 Practice Act of 1987 and except as provided in subsection (b)  
25 of this Section.

1       If a public school elects to provide physical education,  
2 special ~~Special~~ activities in physical education shall be  
3 provided for pupils whose physical or emotional condition, as  
4 determined by a person licensed under the Medical Practice Act  
5 of 1987, prevents their participation in the courses provided  
6 for normal children.

7       (b) A school board is authorized to excuse pupils enrolled  
8 in grades 11 and 12 from engaging in physical education courses  
9 if those pupils request to be excused for any of the following  
10 reasons: (1) for ongoing participation in an interscholastic  
11 athletic program; (2) to enroll in academic classes which are  
12 required for admission to an institution of higher learning,  
13 provided that failure to take such classes will result in the  
14 pupil being denied admission to the institution of his or her  
15 choice; or (3) to enroll in academic classes which are required  
16 for graduation from high school, provided that failure to take  
17 such classes will result in the pupil being unable to graduate.  
18 A school board may also excuse pupils in grades 9 through 12  
19 enrolled in a marching band program for credit from engaging in  
20 physical education courses if those pupils request to be  
21 excused for ongoing participation in such marching band  
22 program. In addition, a pupil in any of grades 3 through 12 who  
23 is eligible for special education may be excused if the pupil's  
24 parent or guardian agrees that the pupil must utilize the time  
25 set aside for physical education to receive special education  
26 support and services or, if there is no agreement, the

1 individualized education program team for the pupil determines  
2 that the pupil must utilize the time set aside for physical  
3 education to receive special education support and services,  
4 which agreement or determination must be made a part of the  
5 individualized education program. However, a pupil requiring  
6 adapted physical education must receive that service in  
7 accordance with the individualized education program developed  
8 for the pupil. If requested, a school board is authorized to  
9 excuse a pupil from engaging in a physical education course if  
10 the pupil has an individualized educational program under  
11 Article 14 of this Code, is participating in an adaptive  
12 athletic program outside of the school setting, and documents  
13 such participation as determined by the school board. A school  
14 board may also excuse pupils in grades 9 through 12 enrolled in  
15 a Reserve Officer's Training Corps (ROTC) program sponsored by  
16 the school district from engaging in physical education  
17 courses. School boards which choose to exercise this authority  
18 may ~~shall~~ establish a policy to excuse pupils on an individual  
19 basis.

20 (c) The provisions of this Section are subject to the  
21 provisions of Section 27-22.05.

22 (Source: P.A. 98-116, eff. 7-29-13.)

23 (105 ILCS 5/27-6.5)

24 Sec. 27-6.5. Physical fitness assessments in schools.

25 (a) As used in this Section, "physical fitness assessment"

1 means a series of assessments to measure aerobic capacity, body  
2 composition, muscular strength, muscular endurance, and  
3 flexibility.

4 (b) To measure the effectiveness of State Goal 20 of the  
5 Illinois Learning Standards for Physical Development and  
6 Health, beginning with the 2016-2017 school year and every  
7 school year thereafter, the State Board of Education may allow  
8 ~~shall require~~ all public schools to use a scientifically-based,  
9 health-related physical fitness assessment for grades 3  
10 through 12 and periodically report fitness information to the  
11 State Board of Education, as set forth in subsections (c) and  
12 (e) of this Section, to assess student fitness indicators.

13 Public schools may ~~shall~~ integrate health-related fitness  
14 testing into the curriculum as an instructional tool, except in  
15 grades before the 3rd grade. Fitness tests must be appropriate  
16 to students' developmental levels and physical abilities. The  
17 testing must be used to teach students how to assess their  
18 fitness levels, set goals for improvement, and monitor progress  
19 in reaching their goals. Fitness scores shall not be used for  
20 grading students or evaluating teachers.

21 (c) On or before October 1, 2014, the State Superintendent  
22 of Education shall appoint a 15-member stakeholder and expert  
23 task force, including members representing organizations that  
24 represent physical education teachers, school officials,  
25 principals, health promotion and disease prevention advocates  
26 and experts, school health advocates and experts, and other

1 experts with operational and academic expertise in the  
2 measurement of fitness. The task force shall make  
3 recommendations to the State Board of Education on the  
4 following:

5 (1) methods for ensuring the validity and uniformity of  
6 reported physical fitness assessment scores, including  
7 assessment administration protocols and professional  
8 development approaches for physical education teachers;

9 (2) how often physical fitness assessment scores  
10 should be reported to the State Board of Education;

11 (3) the grade levels within elementary, middle, and  
12 high school categories for which physical fitness  
13 assessment scores should be reported to the State Board of  
14 Education;

15 (4) the minimum fitness indicators that should be  
16 reported to the State Board of Education, including, but  
17 not limited to, a score for aerobic capacity (for grades 4  
18 through 12); muscular strength; endurance; and  
19 flexibility;

20 (5) the demographic information that should accompany  
21 the scores, including, but not limited to, grade and  
22 gender;

23 (6) the development of protocols regarding the  
24 protection of students' confidentiality and individual  
25 information and identifiers; and

26 (7) how physical fitness assessment data should be

1 reported by the State Board of Education to the public,  
2 including potential correlations with student academic  
3 achievement, attendance, and discipline data and other  
4 recommended uses of the reported data.

5 The State Board of Education shall provide administrative  
6 and other support to the task force.

7 The task force shall submit its recommendations on physical  
8 fitness assessments on or before April 1, 2015. The task force  
9 may also recommend methods for assessing student progress on  
10 State Goals 19 and 21 through 24 of the Illinois Learning  
11 Standards for Physical Development and Health. The task force  
12 is dissolved on April 30, 2015.

13 The provisions of this subsection (c), other than this  
14 sentence, are inoperative after March 31, 2016.

15 (d) On or before December 31, 2015, the State Board of  
16 Education shall use the recommendations of the task force under  
17 subsection (c) of this Section to adopt rules for the  
18 implementation of physical fitness assessments by each public  
19 school, electing to participate, for the 2016-2017 school year  
20 and every school year thereafter.

21 (e) On or before September 1, 2016, the State Board of  
22 Education may ~~shall~~ adopt rules for data submission by school  
23 districts and develop a system for collecting and reporting the  
24 aggregated fitness information from the physical fitness  
25 assessments. This system may ~~shall~~ also support the collection  
26 of data from school districts that use a fitness testing



1 software program.

2 (f) School districts may report the aggregate findings of  
3 physical fitness assessments by grade level and school to  
4 parents and members of the community through typical  
5 communication channels, such as Internet websites, school  
6 newsletters, school board reports, and presentations.  
7 Districts may also provide individual fitness assessment  
8 reports to students' parents.

9 (g) Nothing in this Section precludes schools from  
10 implementing a physical fitness assessment before the  
11 2016-2017 school year or from implementing more robust forms of  
12 a physical fitness assessment.

13 (Source: P.A. 98-859, eff. 8-4-14.)

14 (105 ILCS 5/27-7) (from Ch. 122, par. 27-7)

15 Sec. 27-7. Physical education course of study. A physical  
16 education course of study may ~~shall~~ include a developmentally  
17 planned and sequential curriculum that fosters the development  
18 of movement skills, enhances health-related fitness, increases  
19 students' knowledge, offers direct opportunities to learn how  
20 to work cooperatively in a group setting, and encourages  
21 healthy habits and attitudes for a healthy lifestyle. A  
22 physical education course of study may ~~shall~~ provide students  
23 with an opportunity for an appropriate amount of daily physical  
24 activity. A physical education course of study may ~~must~~ be part  
25 of the regular school curriculum ~~and not extra curricular in~~

1 ~~nature or organization.~~

2 ~~The State Board of Education shall prepare and make~~  
3 ~~available guidelines for the various grades and types of~~  
4 ~~schools in order to make effective the purposes set forth in~~  
5 ~~this section and the requirements provided in Section 27-6, and~~  
6 ~~shall see that the general provisions and intent of Sections~~  
7 ~~27-5 to 27-9, inclusive, are enforced.~~

8 (Source: P.A. 94-189, eff. 7-12-05; 94-200, eff. 7-12-05.)