

H. B. 3199

(By Delegate Lawrence)

[Introduced February 18, 2011; referred to the
Committee on Education then Finance.]

**FISCAL
NOTE**

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §18-2E-11, relating
12 to creating a pathway to proficiency for third graders through
13 eleventh graders; setting forth legislative findings; granting
14 the State Board of Education with rule-making authority;
15 establishing minimum requirements for the rules; requiring
16 the state board to develop a Second Chance Option Test for
17 those students who do not achieve certain levels of
18 proficiency in two content areas of the state summative
19 assessment test; providing exceptions; requiring county boards
20 of education to implement critical skills building plans for
21 those students who do not increase their proficiencies by at
22 least one level after taking the Second Option Test; requiring
23 county boards to be provide suitable facilities for the plans
24 and programs; preserving teacher's judgment on student

1 retention decisions; and preserving individualized education
2 plans.

3 *Be it enacted by the Legislature of West Virginia:*

4 That the Code of West Virginia, 1931, as amended, be amended
5 by adding thereto a new section, designated §18-2E-11, to read as
6 follows:

7 **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

8 **§18-2E-11. Pathway to proficiency for third through eleventh**
9 **graders.**

10 (a) The Legislature finds that:

11 (1) In grades three through eleven each student should master
12 the content and skills needed for mastery at the next higher grade
13 level and mastery of those content areas and skills is critically
14 important for student success in both school and life;

15 (2) Students who do not demonstrate grade-level mastery in
16 reading, language arts and mathematics become increasingly less
17 likely to succeed at each successively higher grade level and later
18 in life;

19 (3) Grades three through eleven are critical transition points
20 for additional intervention strategies that reinforce the
21 preparation of students who are not prepared fully for success at
22 the next grade level and later in life.

23 (4) High-stakes testing is used to comply with federal

1 requirements and to help inform instructional decisions. West
2 Virginia uses the state summative assessment test to satisfy this
3 requirement. Students are required to take the state summative
4 assessment test at the end of each school year in grades three
5 through eleven.

6 (5) High stakes tests such as the state summative assessment
7 test, have implications on funding and resource allocations for
8 schools and county boards of education. Thus, there is a need to
9 have accurate data when making high stakes decisions using the
10 state summative assessment test. However, currently, schools, not
11 students, are held accountable for student performance on the state
12 summative assessment test. As a result, educators have expressed
13 concerns about student engagement during these assessments and
14 whether the students' scores accurately reflect their proficiencies
15 in the tested areas.

16 (b) It is the intent of this Legislature to use present
17 resources to provide additional tools to assist students in
18 increasing their proficiency levels in the areas of reading and the
19 language arts and mathematics.

20 (c) The state board shall, in accordance with the provisions
21 of article three-b, chapter twenty-nine-a of this code, promulgate
22 legislative rules as necessary to effectuate the provisions of this
23 section. The rules shall provide for at least the following:

24 (1) Those students who do not achieve the "Mastery" level in

1 the areas of reading and the language arts and mathematics are to
2 be given a Second Chance Option in the area or areas in which
3 Mastery was not achieved. The test shall be administered during the
4 first two weeks of the school year after the state summative
5 assessment test was given.

6 (2) The Second Chance Option test will be developed by the
7 state board to test the same levels of proficiencies as in the
8 state summative assessment test in a standardized setting. The
9 Second Chance Option Test shall be designed to assess these
10 proficiencies in an expedited format that is easily administered
11 and scored;

12 (3) The Second Chance Option test is to be administered at the
13 student's school by the student's teacher; and

14 (4) If, after taking the Second Chance Option Test, the
15 student has not raised his or her level of proficiency in a content
16 area by at least one level, the school is to administer a critical
17 skills building plan that addresses the student's academic needs at
18 the appropriate instructional level and that also maximizes
19 parental involvement. However, students who have either achieved
20 the Mastery level in a content area for the previous three
21 consecutive years or achieved a grade of "B" or higher in a content
22 area for the prior year are not required to participate in a
23 critical skills building plan in that content area.

24 (d) County boards of education shall develop and implement the

1 critical skills building plans required by this section. The plans
2 may include skills building approaches such as tutoring, skills
3 work books, in school and after school programs, and other
4 approaches as determined solely at the discretion of the county
5 board. County boards shall also provide suitable educational
6 facilities, equipment and services to support critical skills
7 instructional support programs established pursuant to this
8 section.

9 (e) This section does not prohibit the grade level retention
10 of a student based upon the sole judgment of the teacher of the
11 student's mastery of the subject matter and preparation for the
12 subject matter at the next higher grade level.

13 (f) This section may be not construed to affect the
14 individualized education plans of exceptional students.

15 (g) The state board shall submit a proposed rule in accordance
16 with this section to the Legislative Oversight Commission on
17 Education Accountability by July 1, 2011. The rule shall provide
18 for pilot testing and validation of the Second Option Test for
19 implementation during the 2012-2013 school year.

NOTE: The purpose of this bill is to create a pathway to proficiency for third graders through eleventh graders. The bill makes legislative findings. The bill grants the State Board of Education with rule-making authority and establishes minimum requirements for those rules. The bill requires the state board to develop a Second Chance Option test for those students who do not

achieve certain levels in two content areas of the state summative assessment test. The bill requires county boards of education to implement critical skills building plans for those students who do not increase their proficiencies by at least one level after taking the Second Option Test. The bill provides exceptions to this requirement. The bill requires suitable facilities to be provided by county boards in implementing the instructional programs. The bill preserves a teacher's judgment on student retention decisions and preserves individualized education plans.

This section is new; therefore, it has been completely underscored.