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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
SECOND EXTRAORDINARY SESSION, 2010

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 2010

(BY SENATORS TOMBLIN (MR. PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)

[Passed July 21, 2010; in effect from passage.]

010292
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(BY SENATORS TOMBLIN (MR. PRESIDENT) AND HALL,
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[Passed July 21, 2010; in effect from passage.]

AN ACT to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to establishing pilot projects for alternative schools or other placements at elementary and middle school levels; requiring uniform definitions and standards for disruptive behavior and placement; and requiring reports.

Be it enacted by the Legislature of West Virginia:

That §18-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs.

- 1 (a) (1) The state board shall promulgate rules for the
- 2 accreditation, classification and standardization of all

3 schools in the state, except institutions of higher educa-
4 tion, and shall determine the minimum standards for the
5 granting of diplomas and certificates of proficiency by
6 those schools. The certificates of proficiency shall include
7 specific information regarding the graduate's skills,
8 competence and readiness for employment or honors and
9 advanced education and shall be granted, along with the
10 diploma, to every eligible high school graduate. The
11 certificate of proficiency shall include the program of
12 study major completed by the student only for those
13 students who have completed the required major courses,
14 or higher level courses, advanced placement courses,
15 college courses or other more rigorous substitutes related
16 to the major, and the recommended electives.

17 (2) An institution of less than collegiate or university
18 status may not grant any diploma or certificate of profi-
19 ciency on any basis of work or merit below the minimum
20 standards prescribed by the state board.

21 (3) A charter or other instrument containing the right to
22 issue diplomas or certificates of proficiency may not be
23 granted by the State of West Virginia to any institution or
24 other associations or organizations of less than collegiate
25 or university status within the state until the condition of
26 granting or issuing the diplomas or other certificates of
27 proficiency has first been approved in writing by the state
28 board.

29 (b) The state board shall promulgate a rule for the
30 approval of alternative education programs for disruptive
31 students who are at risk of not succeeding in the tradi-
32 tional school structure. This rule may provide for the
33 waiver of other policies of the state board, the establish-
34 ment and delivery of a nontraditional curriculum, the
35 establishment of licensure requirements for alternative
36 education program teachers, and the establishment of
37 performance measures for school accreditation. This rule

38 shall provide uniform definitions of disruptive student
39 behavior and uniform standards for the placement of
40 students in alternative settings or providing other inter-
41 ventions including referrals to local juvenile courts to
42 correct student behavior so that they can return to a
43 regular classroom without engaging in further disruptive
44 behavior.

45 (c) The state board shall establish up to five pilot
46 projects at the elementary or middle school levels, or both,
47 that employ alternative schools or other placements for
48 disruptive students to learn appropriate behaviors so they
49 can return to the regular classroom without further
50 disrupting the learning environment. The state board
51 shall report to the Legislative Oversight Commission on
52 Education Accountability by December 1, 2010, on its
53 progress in establishing the pilot projects and by Decem-
54 ber 1 in each year after that for the duration of the pilot
55 projects on the effect of the projects on maintaining
56 student discipline.

57 (d) If a student attends an approved alternative educa-
58 tion program or the Mountaineer Challenge Academy,
59 which is designated as a special alternative education
60 program pursuant to section twenty-four, article one-b,
61 chapter fifteen of this code, and the student graduates or
62 passes the General Equivalency Development (GED) Tests
63 within five years of beginning ninth grade, that student
64 shall be considered graduated for the purposes of calculat-
65 ing the high school graduation rate used for school accred-
66 itation and school system approval, subject to the follow-
67 ing:

68 (1) The student shall only be considered graduated to the
69 extent that this is not in conflict with any provision of
70 federal law relating to graduation rates;

71 (2) If the state board determines that this is in conflict
72 with a provision of federal law relating to graduation

73 rates, the state board shall request a waiver from the
74 United States Department of Education; and

75 (3) If the waiver is granted, notwithstanding the provi-
76 sions of subdivision (1) of this subsection, the student
77 graduating or passing the General Educational Develop-
78 ment (GED) Tests within five years shall be considered
79 graduated.

80 (e) The state board shall promulgate a rule to support the
81 operation of the National Guard Youth Challenge Program
82 operated by the Adjutant General and known as the
83 "Mountaineer Challenge Academy" which is designated as
84 a special alternative education program pursuant to
85 section twenty-four, article one-b, chapter fifteen of this
86 code, for students who are at risk of not succeeding in the
87 traditional school structure. The rule shall set forth
88 policies and procedures applicable only to the Mountain-
89 eer Challenge Academy that provide for, but are not
90 limited to, the following:

91 (1) Implementation of provisions set forth in section
92 twenty-four, article one-b, chapter fifteen of this code;

93 (2) Precedence of the policies and procedures designated
94 by the National Guard Bureau for the operation of the
95 Mountaineer Challenge Academy special alternative
96 education program;

97 (3) Consideration of a student participating in the
98 Mountaineer Challenge Academy special alternative
99 education program at full enrollment status in the refer-
100 ring county for the purposes of funding and calculating
101 attendance and graduation rates, subject to the following:

102 (A) The student shall only be considered at full enroll-
103 ment status for the purposes of calculating attendance and
104 graduation rates to the extent that this is not in conflict
105 with any provision of federal law relating to attendance or
106 graduation rates;

107 (B) If the state board determines that this is in conflict
108 with a provision of federal law relating to attendance or
109 graduation rates, the state board shall request a waiver
110 from the United States Department of Education;

111 (C) If the waiver is granted, notwithstanding the provi-
112 sions of paragraph (A) of this subdivision, the student
113 shall be considered at full enrollment status in the refer-
114 ring county for the purposes of calculating attendance and
115 graduation rates; and

116 (D) Consideration of the student at full enrollment status
117 in the referring county is for the purposes of funding and
118 calculating attendance and graduation rates only. For any
119 other purpose, a student participating in the academy is
120 considered withdrawn from the public school system;

121 (4) Articulation of the knowledge, skills and competen-
122 cies gained through alternative education so that students
123 who return to regular education may proceed toward
124 attainment or attain the standards for graduation without
125 duplication; and

126 (5) Consideration of eligibility to take the General
127 Educational Development (GED) Tests by qualifying
128 within the extraordinary circumstances provisions estab-
129 lished by state board rule of a student participating in the
130 Mountaineer Challenge Academy special alternative
131 education program who does not meet any other criteria
132 for eligibility.

133 (f) Nothing in this section or the rules promulgated
134 under this section compels the Mountaineer Challenge
135 Academy to be operated as a special alternative education
136 program or to be subject to any other laws governing the
137 public schools except by its consent.

138 (g) The state board shall report to the Legislative
139 Oversight Commission on Education Accountability on or

140 before January 1 of each year on its efforts to cooperate
141 with and support the Mountaineer Challenge Academy
142 pursuant to this section and section twenty-four, article
143 one-b, chapter fifteen of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Erik P. Wells

Member ~~Chairman~~ Senate Committee

Darius Wells

Chairman House Committee

Originated in the Senate.

In effect from passage.

Nancy E. Sisk

Clerk of the Senate

Suzanne M. Paul

Clerk of the House of Delegates

Carl Roy Tomblin

President of the Senate

Robert A. Aycock

Speaker House of Delegates

The within *is approved* this the *26th*

Day of *July*, 2010.

[Signature]

Governor

OFFICE OF THE
SECRETARY OF STATE

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FILED

PRESENTED TO THE
GOVERNOR

JUL 26 2010

Time 9:10am