

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 3452**

By Delegates Ellington, Statler, D. Smith, Crouse,

Pritt, Hornby, and Willis

[Reported on March 24, 2025 in the Committee on  
Education]

1 A BILL to amend and reenact §18-2-6, §18-2-10, and §18-9A-2 of the Code of West Virginia, 1931,  
2 as amended, to amend the code by adding one new section, designated §18B-2B-10, and  
3 to repeal §18-5-19b of the code, relating to transferring administration of Advanced Career  
4 Education classes and programs from county boards of education to community and  
5 technical colleges; removing and repealing conflicting statutory language related to county  
6 board administration of Advanced Career Education classes and programs; adding a new  
7 section regarding the transfer of administration of Advanced Career Education classes and  
8 programs; establishing timeline for mutual agreement between county boards of education  
9 and the community and technical college's board of governors and effective date;  
10 establishing guidelines for transfer or termination of programs; requiring memorandum of  
11 understanding that establishes terms and conditions for use of facilities, transfer of use of  
12 equipment and supplies, personnel transfer and compensation, transfer provisions and  
13 retirement provisions; requiring Chancellor of Community and Technical College  
14 Education to develop guidelines and provide technical assistance for smooth and efficient  
15 transfer; and providing for dispute resolution by State Superintendent of Schools and  
16 Chancellor of Community and Technical College Education.

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

## **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) The state board shall promulgate rules for the accreditation, classification, and  
2 standardization of all schools in the state, except institutions of higher education, and shall  
3 determine the minimum standards for granting diplomas, advanced certifications, and certificates  
4 of proficiency by those schools.

5 (1) The certificates of proficiency shall include specific information regarding the

graduate's skills, competence, and readiness for employment, or honors and advanced education and shall be granted, along with the diploma, to every eligible high school graduate.

(2) The certificate of proficiency shall include the program of study major completed by the student only for those students who have completed the required major courses, or higher level courses, advanced placement courses, college courses, or other more rigorous substitutes related to the major, and the recommended electives.

~~(3) Students who have completed a secondary education program in a public, private, or home school and have continued to be enrolled in a program leading to an advanced certification or an advanced career education program shall be considered adults enrolled in regular secondary programs in accordance with §18-9A-2(i) of this code: *Provided*, That the The State Superintendent of Schools, the Chancellor for the Council for Community and Technical College Education, the Chancellor of the Higher Education Policy Commission, and the Secretary of the Department of Commerce may designate additional programs that provide valuable workplace credentials and students enrolled in such programs shall also be considered adults enrolled in regular secondary programs in accordance with §18-9A-2(i) of this code.~~

(b) An institution of less than collegiate or university status may not grant any diploma or certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board.

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

(d) The state board shall promulgate a rule for the approval of alternative education programs for disruptive students who are at risk of not succeeding in the traditional school structure.

(1) This rule may provide for the waiver of other policies of the state board, the establishment and delivery of a nontraditional curriculum, the establishment of licensure requirements for alternative education program teachers, and the establishment of performance measures for school accreditation.

(2) This rule shall provide uniform definitions of disruptive student behavior and uniform standards for the placement of students in alternative settings or providing other interventions including referrals to local juvenile courts to correct student behavior so that they can return to a regular classroom without engaging in further disruptive behavior.

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

(f) If a student attends an approved alternative education program or the Mountaineer Challenge Academy, which is designated as a special alternative education program pursuant to §15-1B-24 of this code, and the student graduates or passes the high school equivalency tests within five years of beginning ninth grade, that student shall be considered graduated for the purposes of calculating the high school graduation rate used for school accreditation and school system approval, subject to the following:

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

(2) If the state board determines that this is in conflict with a provision of federal law relating to graduation rates, the state board shall request a waiver from the United States Department of Education; and

(3) If the waiver is granted, notwithstanding the provisions of §18-2-6(f)(1) of this code, the student graduating or passing the high school equivalency tests within five years shall be considered graduated.

(g) The state board shall promulgate a rule to support the operation of the National Guard Youth Challenge Program operated by the Adjutant General and known as the Mountaineer Challenge Academy which is designated as a special alternative education program pursuant to §15-1B-24 of this code for students who are at risk of not succeeding in the traditional school structure. The rule shall set forth policies and procedures applicable only to the Mountaineer Challenge Academy that provide for, but are not limited to, the following:

(1) Implementation of provisions set forth in §15-1B-24 of this code;

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

(3) Consideration of a student participating in the Mountaineer Challenge Academy special alternative education program at full enrollment status in the referring county for the purposes of funding and calculating attendance and graduation rates, subject to the following:

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

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

(C) If the waiver is granted, notwithstanding the provisions of §18-2-6(g)(3)(A) of this code, the student shall be considered at full enrollment status in the referring county for the purposes of calculating attendance and graduation rates; and

(D) Consideration of the student at full enrollment status in the referring county is for the purposes of funding and calculating attendance and graduation rates only. For any other purpose,

a student participating in the academy is considered withdrawn from the public school system;

(4) Articulation of the knowledge, skills, and competencies gained through alternative education so that students who return to regular education may proceed toward attainment or may attain the standards for graduation without duplication;

(5) Consideration of eligibility to take the high school equivalency tests by qualifying within the extraordinary circumstances provisions established by state board rule for a student participating in the Mountaineer Challenge Academy special alternative education program who does not meet any other criteria for eligibility; and

(6) Payment of tuition by a county board to the Mountaineer Challenge Academy for each student graduating from the academy with a high school diploma that resides in that county board's school district. For purposes of this subdivision, "tuition" means an amount equal to 75 percent of the amount allotted per pupil under the school aid formula.

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

(i) The Legislature makes the following findings regarding students at risk:

(1) Defeated and discouraged learners. —

(A) Any child who is unlikely to graduate on schedule with both the skills and self-esteem necessary to exercise meaningful options in the areas of work, leisure, culture, civic affairs, and personal relationships may be defined as being an at-risk student;

(B) Problems associated with students at risk often begin for them in the early grades as they gradually fall further behind in the essential skills of reading, writing, and math;

(C) These problems may be accompanied by such behavior patterns as poor attendance, inattentiveness, negative attitudes, and acting out in class. These patterns are both symptoms of and added catalysts for students to become increasingly defeated and discouraged learners;

(D) By the middle grades, students with growing skill deficits usually know they are behind

other students and have good reason to feel discouraged. A growing lack of self-confidence and self-worth, limited optimism for the future, avoidance of school and adults, and a dimming view of the relationship between effort and achievement are among the characteristics of defeated and discouraged learners;

(E) Public schools are expected to address the needs of all students, minimizing the likelihood that they will become at risk and giving additional attention to those who do; however, the circumstances involved with a becoming at risk often are complex and may include influences both within and outside of the school environment; and

(F) In fragile homes, a child who is at risk and is becoming a discouraged and defeated learner often lacks adequate support and may develop peer relationships that further exacerbate the difficulty of reengaging him or her in learning, school, and responsible social behavior.

(2) The Legislature further finds that the public schools should not be deterred from seeking and assisting with enrollment of students in an alternative program that helps remedy the discouragement, lessens skill deficits, and facilitates a successful return to public school.

(j) For this purpose, subject to approval of the county superintendent, a student enrolled in the public schools of the county may continue to be enrolled while also enrolled in an alternative program subject to the following conditions:

(1) The alternative program is approved by the state board;

(2) The student meets the general description of an at-risk student and exhibits behaviors and characteristics associated with a discouraged and defeated learner;

(3) The alternative program complies with all requests of the county superintendent for information on the educational program and progress of the student;

(4) The alternative program includes a family involvement component in its program. This component shall include, but is not limited to, providing for student and parent participation in activities that help address the challenging issues that have hindered the student's engagement and progress in learning;

(5) The alternative program includes an on-site boarding option for students;

(6) The alternative program provides an individualized education program for students that is designed to prepare them for a successful transition back into the public schools; and

(7) The parents or legal guardian of the student make application for enrollment of the student in the alternative program, agree to the terms and conditions for enrollment, and enroll the student in the program.

**§18-2-10. Certificates and awards.**

The State Board shall promulgate rules and shall determine the minimum standards for the granting of certificates and awards for secondary vocational education, adult basic education, and adult occupational education ~~and adult technical preparatory education~~, subject to the provisions of §18-2B-2 and §18B-3A-1 *et seq.* of this code.

The State Board shall provide a program of adult basic education at each state community and technical college campus where developmental education services are provided in cooperation with the West Virginia Council for Community and Technical College Education and the institutional board of governors of each college. This approach to providing adult basic education links these programs with developmental education and creates a simpler, clearer pathway for adults to enter college.

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-19b. Adult education classes and programs; tuition and student assistance loans; authority of county boards to contract with federal agencies.**

[Repealed.]

**ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

**§18-9A-2. Definitions.**

For the purpose of this article:

(a) "State board" means the West Virginia Board of Education.



(b) "County board" or "board" means a county board of education.

(c) "Professional salaries" means the state legally mandated salaries of the professional educators as provided in §18A-4-1 et seq. of this code.

(d) "Professional educator" shall be synonymous with and shall have the same meaning as "teacher" as defined in §18-1-1 of this code and includes technology integration specialists.

(e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist duties.

(f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to students, as well as professional personnel addressing chronic absenteeism. For all purposes except for the determination of the allowance for professional educators pursuant to §18-9A-4 of this code, professional student support personnel are professional educators.

(g) "Service personnel salaries" means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by 200: *Provided*, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall

be calculated as one-half an employment day.

(i) "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

~~(1) Adults enrolled in vocational programs: *Provided*, That net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in vocational programs counted on the basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;~~  
[Repealed]

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

(4) The enrollment shall be modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than 1,400, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in §18-9A-2(i)(5)(A) of this code by the

55 difference between 1,400 and the county's actual net enrollment;

56 (C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the  
57 county's actual net enrollment and increase that total amount by 10 percent; and

58 (D) If the net enrollment as determined under this subdivision is greater than 1,400, the  
59 calculated net enrollment shall be reduced to 1,400; and

60 (E) During the 2008-2009 interim period and every three interim periods thereafter, the  
61 Legislative Oversight Commission on Education Accountability shall review this subdivision to  
62 determine whether these provisions properly address the needs of counties with low enrollment  
63 and a sparse population density.

64 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any  
65 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
66 of "net enrollment", to the square miles of the county is less than five.

67 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any  
68 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
69 of "net enrollment", to the square miles of the county is equal to or greater than five but less than  
70 10.

71 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any  
72 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
73 of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.

74 (m) "High-density county" means a county whose ratio of net enrollment, excluding any  
75 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition  
76 of "net enrollment", to the square miles of the county is equal to or greater than 20.

77 (n) "Levies for general current expense purposes" means 85 percent of the levy rate for  
78 county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

79 (o) "Technology integration specialist" means a professional educator who has expertise  
80 in the technology field and is assigned as a resource teacher to provide information and guidance

to classroom teachers on the integration of technology into the curriculum.

(p) "State aid eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution, or other specific funding source not listed.

(q) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for funding years prior to the 2019-2020 funding year.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 2B. WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION.**

#### **§18B-2B-10. Advanced Career Education classes and programs.**

(a) Between July 1, 2025, and June 30, 2026, all Advanced Career Education (ACE) courses and programs, as established in §18-2E-11 of this code, currently administered by county boards of education shall be transferred to a community and technical college within their respective consortium service district, as defined in §18B-3C-4(c) of this code. The effective date of each program transfer shall be determined by mutual agreement between the county board of education and the community and technical college's board of governors but shall occur no later than July 1, 2026.

(b) The transfer of administrative control, personnel, and resources shall be conducted in accordance with the terms established under this section and any additional guidelines set forth by the Chancellor for community and technical college education.

(c) Transfer or termination of transferred programs:

(1) The community and technical colleges and county boards of education shall make

every reasonable effort to continue offering the programs transferred under the provisions of this section at their current locations to ensure continuity of services for students and the community.

(2) When considering the termination or relocation of any program transferred under the provisions of this section, the community and technical college shall prioritize maintaining affordable access to higher education for affected students and communities. Any decision to terminate or relocate a program shall take into account the best interests of students, taxpayers, the community, and the local career and technical education center.

(d) Each county board of education operating ACE classes and programs as of the effective date of this section shall enter into a memorandum of agreement with the community and technical college within the relevant consortium service district. These agreements shall establish the terms and conditions under which the transfer of programs, equipment, supplies, and personnel shall be conducted, and shall include, at a minimum, the following provisions:

(1) Use of Facilities – Terms under which the community and technical college may continue to utilize instructional space and other county-owned facilities currently used for the programs transferred under the provisions of this section. The county board of education may charge the community and technical college for its proportional share of utilities, maintenance, and other reasonable and customary costs directly associated with the use of the facilities, as mutually agreed upon by the parties in the memorandum of agreement. However, the county board of education may not impose fees or charges beyond those necessary to cover actual costs related to facility usage;

(2) Transfer and Use of Equipment and Supplies – Procedures for identifying and transferring equipment, instructional materials, and supplies necessary for the continued delivery of programs transferred under the provisions of this section. All equipment and supplies used primarily for the delivery of courses or programs being transferred to the community and technical college shall become the property of the community and technical college.

(A) Any equipment and supplies utilized by the county career and technical education

center for the delivery of programs or courses for high school students that were in effect prior to the effective date of this legislation may be retained by the county board of education.

(B) Alternatively, the county board of education and the community and technical college may enter into a mutually agreed-upon arrangement for the fair distribution or shared use of said equipment and supplies.

(3) Personnel Transfer and Compensation – Specific terms related to the transfer of personnel, including salaries, benefits, accrued leave, and other employment terms:

(A) The date of transfer for all employees of county boards of education whose primary duties involve the provision of classes and programs transferred under the provisions of this section shall be defined in the memorandum of understanding between the community and technical college within the consortium service district and the county board of education but shall occur no later than July 1, 2026.

(B) The following terms shall apply to the personnel transfer at the time of transfer:

(i) All employees shall be transferred at a rate of pay that is no less than their existing hourly rate and to comparable equivalent categories of positions at the respective community and technical college.

(ii) For non-teachers, employee accumulated sick and annual leave hours may be transferred as agreed upon in the memorandum of understanding: *Provided*, That the maximum number of annual leave hours transferred may not exceed 112.50 hours The value of any excess annual leave that does not transfer shall be paid to the employee by the county board of education. The county board of education shall also pay the respective community and technical college the value of the accumulated sick and annual leave transferred with each employee.

(iii) For teachers that are transferred to a community and technical college as faculty, the county board of education shall pay the value of the employee's accumulated sick and annual leave to the employee at the time of their transfer and no sick or annual leave may transfer with the employee.

65       (4) Each county board of education shall provide the community and technical college with  
66 a list of employees subject to transfer, along with any other information necessary to facilitate the  
67 transfer, as defined in the memorandum of understanding. The county board of education shall  
68 also provide each identified employee with written notice of the transfer at least six months prior to  
69 the effective date of the transfer.

70       (5) All full-time, permanent employees transferred pursuant to this section shall be eligible,  
71 beginning on the effective date of the transfer, to participate in the Higher Education Retirement  
72 Plan provided to employees of the community and technical college, pursuant to §18B-7-5 of this  
73 Code.

74       (A) Any employee who was a member of the Teachers Retirement System (TRS) as of  
75 June 30, 2025, may elect to remain a member of TRS while employed by the community and  
76 technical college: *Provided That*, the employee shall make this election in writing no later than  
77 August 1, 2026.

78       (B) For employees who elect to remain in TRS, both the community and technical college  
79 and the employee shall contribute their respective shares as required by §18-7A-1 *et seq.* of this  
80 code.

81       (C) The decision to remain in TRS is permanent. Employees may not switch to the West  
82 Virginia Higher Education Retirement Plan after their transfer is complete. However, they may  
83 participate in the voluntary supplemental plans offered by higher education.

84       (D) Notwithstanding any other provision of code to the contrary, neither the council nor the  
85 community and technical college shall assume any liability for benefits accrued by the employee  
86 while he or she was employed by a county board of education.

87       (e) The Chancellor for Community and Technical College Education shall develop  
88 guidelines and provide technical assistance to facilitate a smooth and efficient transfer of  
89 programs, equipment, and personnel, ensuring minimal disruption to services and continuity of  
90 educational programming.

91           (f) Any disputes arising from the transfer of programs, personnel, equipment, supplies, or  
92           facilities that cannot be resolved between the county board of education and the community and  
93           technical college shall be settled by mutual agreement between the State Superintendent of  
94           Schools and the Chancellor for Community and Technical College Education.