

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **ENGROSSED**

#### **Introduced**

### **House Bill 4422**

By Delegates Gearheart, Ellington, Cooper, Linville,  
Hott, Pritt, Stephens, Brooks, Roop, Butler, and  
Campbell

[Introduced January 16, 2026; referred to the  
Committee on Education]



1 A BILL to amend and reenact §18-5-39 of the Code of West Virginia, 1931, as amended, relating to  
2 permitting students in eighth and ninth grades to attend summer school in order to raise  
3 their grades and establish academic eligibility to play sports in the fall.

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

**ARTICLE 5. COUNTY BOARD OF EDUCATION**

**§18-5-39. Establishment of summer school programs; tuition.**

1 (a) Inasmuch as the present county school facilities for the most part lie dormant and  
2 unused during the summer months, and inasmuch as there are many students who are in need of  
3 remedial instruction and others who desire accelerated instruction, it is the purpose of this section  
4 to provide for the establishment of a summer school program, which is to be separate and apart  
5 from the full school term as established by each county.

6 (b) The board of any county has the authority to establish a summer school program  
7 utilizing the public-school facilities and to charge tuition for students who attend the summer  
8 school. The tuition may not exceed in any case the actual cost of operation of the summer school  
9 program: *Provided*, That any deserving pupil whose parents, in the judgment of the board, are  
10 unable to pay the tuition, may attend the summer school program at a reduced charge or without  
11 charge. The county board may determine the term and curriculum of the summer schools based  
12 upon the particular needs of the individual county. The curriculum may include, but is not limited to,  
13 remedial instruction, accelerated instruction and the teaching of manual arts. The term of the  
14 summer school program may not be established in such a manner as to interfere with the regular  
15 school term.

16 (c) The county boards may employ any certified teacher as teachers for this summer  
17 school program. Certified teachers employed by the county board to teach in the summer school  
18 program shall be paid an amount to be determined by the county board and shall enter into a  
19 contract of employment in such form as is prescribed by the county board: *Provided*, That teachers  
20 who teach summer courses of instruction which are offered for credit and which are taught during

the regular school year shall be paid at the same daily rate they would receive if paid in accordance with the then current minimum monthly salary in effect for teachers in that county.

(d) Any funds accruing from the tuitions shall be credited to and expended within the existing framework of the general current expense fund of the county board.

(e) Notwithstanding any other provision of this code to the contrary, the board shall fill professional positions established pursuant to the provisions of this section on the basis of certification and length of time the professional has been employed in the county's summer school program. In the event that no employee who has been previously employed in the summer school program holds a valid certification or licensure, a board shall fill the position as a classroom teaching position in accordance with §18A-4-7a of this code.

(f) Notwithstanding any other provision of the code to the contrary, the county board may employ school service personnel to perform any related duties outside the regular school term as defined in §18A-4-8 of this code. An employee who was employed in any service personnel job or position during the previous summer shall have the option of retaining the job or position if the job or position exists during any succeeding summer. If the employee is unavailable or if the position is newly created, the position shall be filled pursuant to section §18A-4-8b of this code. When any summer employee is absent, qualified regular employees within the same classification category who are not working because their employment term for the school year has ended or has not yet begun the succeeding school employment term, shall be given first opportunity to substitute for the absent summer employee on a rotating and seniority basis. When any summer employee who is employed in a summer position is granted a leave of absence for the summer months, the board shall give regular employment status to the employee for that summer position which shall be filled under the procedure set forth in §18A-4-8b of this code. The summer employee on leave of absence has the option of returning to that summer position if the position exists the succeeding summer or whenever the position is reestablished if it were abolished. The salary of a summer employee shall be in accordance with the salary schedule of persons regularly employed in the

47 same position in the county where employed and persons employed in those positions are entitled  
48 to all rights, privileges and benefits provided in §18A-4-5b, §18A-4-8, §18A-4-8a, §18A-4-10 and  
49 §18A-4-14 of this code: *Provided*, That those persons are not entitled to a minimum employment  
50 term of two hundred days for their summer position.

51 (g) If a county board reduces in force the number of employees to be employed in a  
52 particular summer program or classification from the number employed in that position in previous  
53 summers, the reductions in force and priority in reemployment to that summer position shall be  
54 based upon the length of service time in the particular summer program or classification.

55 (h) For the purpose of this section, summer employment for service personnel includes,  
56 but is not limited to, filling jobs and positions as defined in §18A-4-8 of this code and especially  
57 established for and which are to be predominantly performed during the summer months to meet  
58 the needs of a county board.

59 (i) Students in eighth and ninth grades shall be permitted to attend summer school in order  
60 to improve their grades so that they are academically eligible for extracurricular activities the  
61 following year.