

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3207

BY DELEGATES THOMPSON AND BARACH

[Introduced March 16, 2021; Referred to the
Committee on Education]

1 A BILL to amend and reenact §18-2-5 of the Code of West Virginia, 1931, as amended, relating
 2 to providing that teachers using in-person teaching, distance learning, and virtual teaching
 3 may not be required to teach these modes at the same time.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5. Powers and duties generally; specific powers and duties for alternatives that improve student learning.

1 (a) Subject to and in conformity with the Constitution and laws of this state, the state Board
 2 of Education shall exercise general supervision of the public schools of the state, and shall
 3 promulgate rules in accordance with the provisions of §29A-3B-1 *et seq.* of this code for carrying
 4 into effect the laws and policies of the state relating to education. The rules shall relate to the
 5 following:

- 6 (1) Standards for performance and measures of accountability;
- 7 (2) Physical welfare of students;
- 8 (3) Education of all children of school age;
- 9 (4) School attendance;
- 10 (5) Evening and continuation or part-time day schools;
- 11 (6) School extension work;
- 12 (7) Classification of schools;
- 13 (8) Issuing certificates based upon credentials;
- 14 (9) Distribution and care of instructional resources by county boards;
- 15 (10) General powers and duties of county boards, teachers, principals, supervisors, and
 16 superintendents; and
- 17 (11) Such other matters pertaining to the public schools of the state as the state board
 18 considers necessary and expedient.

19 (b) The state board, in exercising its constitutional responsibility for the general

20 supervision of public schools, must do so as provided by general law. Included within the general
21 law is the process for improving education which has been recognized by the court as the method
22 chosen by the Legislature to measure whether a thorough and efficient education is being
23 provided. The court further recognized that the resulting student learning is the ultimate measure
24 of a thorough education and that it must be achieved in an efficient manner. To achieve this result,
25 the state board must have reasonable discretion to balance the local autonomy and flexibility
26 needed by schools to deliver a thorough and efficient education with the letter of the laws as
27 enacted for school operations.

28 (c) The purpose of this subsection is to authorize the state board to approve alternatives
29 to the letter of the laws enacted for school operations in the areas enumerated in this subsection.
30 The state board may approve such alternatives as proposed by a county board or school if, in the
31 sole judgment of the state board, the alternatives meet the spirit and intent of the applicable
32 statutes and are intended solely to optimize student learning.

33 (1) The Legislature finds that alternatives are warranted and may be approved by the state
34 board on a case-by-case basis when a county board submits to the state board a comprehensive
35 plan for optimizing student learning that:

36 (A) Achieves the spirit and intent of the laws for an instructional term that provide the
37 instructional time necessary for students to meet or exceed the high quality standards for student
38 performance adopted by the state board;

39 (B) Ensures sufficient time within the instructional term to promote the improvement of
40 instruction and instructional practices;

41 (C) Incorporates a school calendar approved in accordance with the approval process
42 required by §18-5-45 of this code;

43 (D) Allows for school-level determination of alternatives affecting time within the school
44 day that preserve the spirit and intent of providing teachers with: (i) Sufficient planning time to
45 develop engaging, differentiated instruction for all students in all classes, which includes at least

46 40 minutes in length for the elementary level and as required by §18A-4-14 of this code for the
47 secondary level; and (ii) collaborative time for teachers to undertake and sustain instructional
48 improvement. This determination may be made only in the form of a school policy that is part of
49 the school's strategic improvement plan and is approved by a vote of the faculty senate; and

50 (E) Has the sole purpose of improving student learning and that improvement is evident
51 within a reasonable period: Provided, That the Legislature finds that in-person teaching, distance
52 learning, and virtual teaching require equal amounts of work in preparation, creation of materials,
53 presentation, student interaction, and grading. Teachers may not be required to teach through
54 these modes at the same time. Each mode of instruction shall be recognized as the equivalent of
55 one class for the purpose of scheduling and demands upon the teacher's time.

56 (2) The Legislature makes the following findings for consideration by the state board with
57 respect to optimizing student learning:

58 (A) Maximizing learning time is a critical factor needed to improve student learning and
59 requires multiple strategies and policies that support great teaching and learning;

60 (B) Learning time is that portion of instructional time in the school day during which a
61 student is paying attention and receiving instruction that is appropriately leveled, and learning is
62 taking place. Learning time must not be assumed to be the time that a student is seated at a desk,
63 but may be achieved through a variety of methods that actively engage students in learning;

64 (C) A student's time engaged in learning is maximized when the student is allowed to
65 progress and acquire competency at a pace which challenges his or her interest and intellect
66 while receiving guidance and assistance when needed. Instructional strategies to help
67 personalize student learning in this manner are frequently assisted by technology;

68 (D) Providing teachers with the resources and support needed to engage students in
69 meaningful, appropriately leveled learning for as much time as is possible during the school day
70 may be as important as facilities, equipment and staff development for maximizing learning time
71 and improving student learning;

72 (E) Successful schools are distinguishable from unsuccessful schools by the frequency
73 and extent to which teachers discuss professional practices, collectively design materials and
74 inform and critique one another;

75 (F) Even successful schools must be self-renewing systems and learning organizations
76 marked by deliberate effort to identify helpful knowledge and spread its use within the
77 organization;

78 (G) Unless teachers are collectively involved in planning and implementing school
79 improvement, it is unlikely to be sustained; and

80 (H) Given sufficient control over their own programs and supportive district leadership and
81 policies, schools themselves may best be suited to determine the variety of methods through
82 which time during the school day is allocated for teachers to plan individually and collectively to
83 maximize learning time. Examples of methods used by successful schools include, but are not
84 limited to, scheduling, using special subject teachers and guest presenters, dedicating time set
85 aside for staff development, implementing alternative staff utilization patterns, providing
86 opportunities for administrators to teach, and utilizing accrued instructional time.

NOTE: The purpose of this bill is to provide that teachers using in-person teaching, distance learning, and virtual teaching may not be required to teach these modes at the same time.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.