

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 3452**

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

Pritt, Hornby, and Willis

[Introduced March 17, 2025; referred to 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, relating to transferring administration of Advanced Career Education  
4 (ACE) classes and programs from county boards of education to community and technical  
5 colleges.

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

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

12 ~~(3) Students who have completed a secondary education program in a public, private, or~~  
13 ~~home school and have continued to be enrolled in a program leading to an advanced certification~~  
14 ~~or an advanced career education program shall be considered adults enrolled in regular~~  
15 ~~secondary programs in accordance with §18-9A-2(i) of this code: *Provided*, That the The State~~  
16 Superintendent of Schools, the Chancellor for the Council for Community and Technical College

17 Education, the Chancellor of the Higher Education Policy Commission, and the Secretary of the  
18 Department of Commerce may designate additional programs that provide valuable workplace  
19 credentials and students enrolled in such programs shall also be considered adults enrolled in  
20 regular secondary programs in accordance with §18-9A-2(i) of this code.

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

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

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

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

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

40 (e) The state board shall establish up to five pilot projects at the elementary or middle  
41 school levels, or both, that employ alternative schools or other placements for disruptive students  
42 to learn appropriate behaviors so they can return to the regular classroom without further

43 disrupting the learning environment. The state board shall report to the Legislative Oversight  
44 Commission on Education Accountability by December 1, 2010, on its progress in establishing the  
45 pilot projects and by December 1 in each year after that for the duration of the pilot projects on the  
46 effect of the projects on maintaining student discipline.

47 (f) If a student attends an approved alternative education program or the Mountaineer  
48 Challenge Academy, which is designated as a special alternative education program pursuant to  
49 §15-1B-24 of this code, and the student graduates or passes the high school equivalency tests  
50 within five years of beginning ninth grade, that student shall be considered graduated for the  
51 purposes of calculating the high school graduation rate used for school accreditation and school  
52 system approval, subject to the following:

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

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

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

61 (g) The state board shall promulgate a rule to support the operation of the National Guard  
62 Youth Challenge Program operated by the Adjutant General and known as the Mountaineer  
63 Challenge Academy which is designated as a special alternative education program pursuant to  
64 §15-1B-24 of this code for students who are at risk of not succeeding in the traditional school  
65 structure. The rule shall set forth policies and procedures applicable only to the Mountaineer  
66 Challenge Academy that provide for, but are not limited to, the following:

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

68 (2) Precedence of the policies and procedures designated by the National Guard Bureau

69 for the operation of the Mountaineer Challenge Academy special alternative education program;

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

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

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

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

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

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

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

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

95 percent of the amount allotted per pupil under the school aid formula.

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

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

100 (1) Defeated and discouraged learners. —

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

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

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

109 (D) By the middle grades, students with growing skill deficits usually know they are behind  
110 other students and have good reason to feel discouraged. A growing lack of self-confidence and  
111 self-worth, limited optimism for the future, avoidance of school and adults, and a dimming view of  
112 the relationship between effort and achievement are among the characteristics of defeated and  
113 discouraged learners;

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

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

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

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

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

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

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

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

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

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

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

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

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

5           The State Board shall provide a program of adult basic education at each state community  
 6 and technical college campus where developmental education services are provided in  
 7 cooperation with the West Virginia Council for Community and Technical College Education and  
 8 the institutional board of governors of each college. This approach to providing adult basic  
 9 education links these programs with developmental education and creates a simpler, clearer  
 10 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.**

1           [Repealed.]

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

### **§18-9A-2.**

### **Definitions.**

1           For the purpose of this article:

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

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

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

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

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

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

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

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

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

33 ~~(1) Adults enrolled in vocational programs: *Provided*, That net enrollment includes no~~  
34 ~~more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned~~  
35 ~~annually to each county to support Advanced Career Education programs, as provided in §18-2E-~~  
36 ~~11 of this code, in proportion to the adults participating in vocational programs counted on the~~  
37 ~~basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every~~  
38 ~~year thereafter, a career technical education center may only receive the funding for enrollment as~~  
39 ~~authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;~~

40           ~~(2)~~ (1) Students enrolled in early childhood education programs as provided in §18-5-44 of  
41 this code, counted on the basis of full-time equivalency;

42           ~~(3)~~ (2) A pupil may not be counted more than once by reason of transfer within the county  
43 or from another county within the state, and a pupil may not be counted who attends school in this  
44 state from another state;

45           ~~(4)~~ (3) The enrollment shall be modified to the equivalent of the instructional term and in  
46 accordance with the eligibility requirements and rules established by the state board; and

47           ~~(5)~~ (4) For the purposes of determining the county's basic foundation program only, for any  
48 county whose net enrollment as determined under all other provisions of this definition is less than  
49 1,400, the net enrollment of the county shall be increased by an amount to be determined in  
50 accordance with the following:

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

53           (B) Multiply the amount derived from the calculation in ~~§18-9A-2(i)(5)(A)~~ §18-9A-2(i)(4)(A)  
54 of this code by the difference between 1,400 and the county's actual net enrollment;

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

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

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

63           (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any  
64 increase in the net enrollment of counties, pursuant to ~~§18-9A-2(i)(5)~~ §18-9A-2(i)(4) of this code,  
65 of the definition of "net enrollment", to the square miles of the county is less than five.

66 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any  
67 increase in the net enrollment of counties, pursuant to ~~§18-9A-2(i)(5)~~ §18-9A-2(i)(4) of this code,  
68 of the definition of "net enrollment", to the square miles of the county is equal to or greater than five  
69 but less than 10.

70 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any  
71 increase in the net enrollment of counties, pursuant to ~~§18-9A-2(i)(5)~~ §18-9A-2(i)(4) of this code,  
72 of the definition of "net enrollment", to the square miles of the county is equal to or greater than 10  
73 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)~~ §18-9A-2(i)(4) of this code,  
76 of the definition 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  
81 to classroom teachers on the integration of technology into the curriculum.

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

86 (q) The amendments to this section during the 2019 First Extraordinary Session of the  
87 Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section  
88 existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in  
89 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.**

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

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

11        (c) Transfer or termination of transferred programs:

12        (1) The community and technical colleges and county boards of education shall make  
13 every reasonable effort to continue offering the programs transferred under the provisions of this  
14 section at their current locations to ensure continuity of services for students and the community.

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

20        (d) Each county board of education operating ACE classes and programs as of the  
21 effective date of this section shall enter into a memorandum of agreement with the community and  
22 technical college within the relevant consortium service district. These agreements shall establish

23 the terms and conditions under which the transfer of programs, equipment, supplies, and  
24 personnel shall be conducted, and shall include, at a minimum, the following provisions:

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

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

38 (A) Any equipment and supplies utilized by the county career and technical education  
39 center for the delivery of programs or courses for high school students that were in effect prior to  
40 the effective date of this legislation may be retained by the county board of education.

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

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

46 (A) The date of transfer for all employees of county boards of education whose primary  
47 duties involve the provision of classes and programs transferred under the provisions of this  
48 section shall be defined in the memorandum of understanding between the community and

49 technical college within the consortium service district and the county board of education but shall  
50 occur no later than July 1, 2026. The following terms shall apply to the personnel transfer:

51 (B) Employees shall be transferred at rate of pay no less than their existing hourly rate, with  
52 all transferable accrued benefits, and shall become at-will employees of the community and  
53 technical college.

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

59 (5) All full-time, permanent employees transferred pursuant to this subsection shall be  
60 eligible, beginning on the effective date of the transfer, to participate in the Higher Education  
61 Retirement Plan provided to employees of the community and technical college, pursuant to  
62 §18B-7-5 of this Code.

63 (A) Any employee who was a member of the Teachers Retirement System (TRS) as of  
64 June 30, 2025, may elect to remain a member of TRS while employed by the community and  
65 technical college. The employee must make this election in writing no later than August 1, 2026.

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

69 (C) Employees who elect to remain in TRS shall be ineligible to participate in any  
70 retirement plan offered by the community and technical college.

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

74 (e) The Chancellor for community and technical college education shall develop guidelines

75 and provide technical assistance to facilitate a smooth and efficient transfer of programs,  
76 equipment, and personnel, ensuring minimal disruption to services and continuity of educational  
77 programming.

78 (f) Any disputes arising from the transfer of programs, personnel, equipment, supplies, or  
79 facilities that cannot be resolved between the county board of education and the community and  
80 technical college shall be settled by mutual agreement between the State Superintendent of  
81 Schools and the Chancellor for community and technical college education.

NOTE: The purpose of this bill is to transfer administration of the Advanced Career Education (ACE) programs from county boards of education to community and technical colleges.

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