WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2005

ENROLLED

House Bill No. 3018
(By Delegates Williams, Stemple, Beach, Poling, Stevens, Perry and Campbell)

Passed April 9, 2005

In Effect Ninety Days from Passage
AN ACT to amend and reenact §15-1B-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-2-6 of said code, all relating to cooperation of the State Board of Education with the Mountaineer Challenge Academy; mandating a rule for the approval of alternative education programs; diplomas and certificates of proficiency; designation of Academy as special alternative education program; calculation of graduation rate for student attending an approved alternative education program or the Academy; requiring State Board rule to support the operation of the Academy; providing minimum provisions to be included in the rule; application limited to Academy consent; requiring report to Legislative Oversight Commission on Education Accountability; and technical amendments.

Be it enacted by the Legislature of West Virginia:

That §15-1B-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §18-2-6 of said code be amended and reenacted, all to read as follows:
CHAPTER 15. PUBLIC SAFETY.

ARTICLE 1B. NATIONAL GUARD.


The Mountaineer Challenge Academy, operated by the Adjutant General at Camp Dawson, is hereby acknowledged to be a program of great value in meeting the educational needs of at-risk youth throughout the state. Further, the Mountaineer Challenge Academy is hereby designated as a special alternative education program as is further provided pursuant to section six, article two, chapter eighteen of this code. It is, therefore, the intent of the Legislature that the Mountaineer Challenge Academy should enjoy the full cooperation of the executive agencies of state government in carrying out its program.

To this end, the State Board of Education shall, notwithstanding any other provision in this code to the contrary:

1. Include the Mountaineer Challenge Academy in the child nutrition program;

2. Provide the names and mailing addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy annually; and

3. Provide for Mountaineer Challenge Academy graduates to participate in the adult basic education program.

Further cooperation with the Mountaineer Challenge Academy is encouraged by the Legislature for the purpose of assisting the Mountaineer Challenge Academy to achieve its mission and help prepare young people for productive adulthood.
CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

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

(a) The State Board shall promulgate rules for the accreditation, classification and standardization of all schools in the state, except institutions of higher education, and shall determine the minimum standards for the granting of diplomas and certificates of proficiency by those schools. 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. 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.

(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 such 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. 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.

(e) 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 section twenty-four, article one-b, chapter fifteen of this code, and the student graduates or passes the General Equivalency Development (GED) 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 only be considered graduated 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 subdivision (1) of this subsection, the student graduating or passing the General Educational Development (GED) tests within five years shall be considered graduated.

(f) 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 "Mountain-
eer Challenge Academy” which is designated as a special alternative education program pursuant to section twenty-four, article one-b, chapter fifteen 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 section twenty-four, article one-b, chapter fifteen 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 only be considered at full enrollment status 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 paragraph (A) of this subdivision, 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 attain the standards for graduation without duplication; and

(5) Consideration of eligibility to take the General Educational Development (GED) Tests by qualifying within the extraordinary circumstances provisions established by State Board rule of a student participating in the Mountaineer Challenge Academy special alternative education program who does not meet any other criteria for eligibility.

(g) Nothing in this section or the rules promulgated hereunder 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.

(h) The State Board shall report to the Legislative Oversight Commission on Education Accountability on or before the first day of January of each year on its efforts to cooperate with and support the Mountaineer Challenge Academy pursuant to this section and section twenty-four, article one-b, chapter fifteen of this code.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the __ day of May, 2005.

Governor