WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
FIRST EXTRAORDINARY SESSION, 2009

ENROLLED

Senate Bill No. 1001
(BY SENATORS TOMBLIN (MR. PRESIDENT)
AND CARUTH, BY REQUEST OF THE EXECUTIVE)

[Passed June 2, 2009; to take effect July 1, 2009.]
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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2E-10, relating to critical skills instructional support programs for students in grades three and eight; setting forth legislative findings; providing for the promulgation of rules; establishing minimum provisions of rules; providing condition for promotion for certain students under certain circumstances; precluding county from charging tuition for program; requiring suitable facilities by county boards; preserving ability to retain students; preserving individualized education plans from effect of section; providing for county board preparation; providing that implementation is contingent upon funding; and requiring reports by State Board of Education.

Be it enacted by the Legislature of West Virginia:
That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-2E-10, to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.
§18-2E-10. Critical skills instructional support programs for third and eighth graders.

1 (a) The Legislature finds that:

2 (1) In the early childhood through intermediate grade levels, ensuring that each student masters the content and skills needed for mastery at the next grade level is critically important for student success;

6 (2) Students who do not demonstrate grade-level mastery in reading, language arts and mathematics become increasingly less likely to succeed at each successive grade level;

10 (3) State board policy requires every school to establish a student assistance team that reviews student academic needs that have persisted despite being addressed by instruction and intervention and requires every school to implement, in an equitable manner, programs during and after the instructional day at the appropriate instructional levels that contribute to the success of students; and

17 (4) Grades three and eight are critical transition points for additional intervention strategies that reinforce the preparation of students who are not prepared fully for success at the next grade level.

21 (b) The state board shall, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code, promulgate legislative rules as necessary to effectuate the provisions of this section. The rules shall provide for at least the following:
(1) Encouraging and assisting county boards in establishing and operating critical skills instructional support programs during and after the instructional day and during the summer for students in grades three and eight who, in the judgment of the student assistance team or the student's classroom teacher, are not mastering the content and skills in reading, language arts and mathematics adequately for success at the next grade level and who are recommended by the student assistance team or the student's classroom teacher for additional academic help through the programs;

(2) Maximizing parental involvement in supporting the critical skills development of their children in reading, language arts and mathematics through critical skills instructional support programs;

(3) Ensuring the employment of qualified teachers and service personnel in accordance with the provisions of section thirty-nine, article five of this chapter and section seven-c, article four, chapter eighteen-a of this code to provide instruction to students enrolled in critical skills instructional support programs;

(4) Creating a formula or grant-based program for the distribution of funds appropriated specifically for the purposes of this section or otherwise available for the support of in-school, after-school and summer critical skills instructional support programs;

(5) Providing transportation and healthy foods for students required to attend after-school and summer critical skills instructional support programs and supervision at the school that accommodates the typical work schedules of parents; and

(6) Receiving from county boards any applications and annual reports required by rule of the state board.
(c) A student in grades three or eight who is recommended by the student assistance team or the student's classroom teacher for additional academic help in one or more of the subjects of reading, language arts and mathematics through a critical skills instructional support program may be required to attend a summer critical skills instructional support program as a condition for promotion if:

(1) The student has been provided additional academic help through an in-school or after-school critical skills instructional support program and, prior to the end of the school year, the student assistance team or the student's classroom teacher recommends that further additional academic help is needed for the student to be successful at the next grade level; and

(2) The county board has established a critical skills instructional support program during the summer months for the student's grade level.

(d) County boards shall provide suitable educational facilities, equipment and services to support critical skills instructional support programs established pursuant to this section. Summer programs may be provided at a central location for third and eighth graders who qualify for the program.

(e) This section may not be construed to prohibit a classroom teacher from recommending the grade level retention of a student based upon the student's lack of mastery of the subject matter and preparation for the subject matter at the next grade level.

(f) This section may not be construed to affect the individualized education plans of exceptional students.

(g) This section may not be construed to limit the authority of the county board to establish a summer school
program in accordance with section thirty-nine, article five of this chapter. County boards may not charge tuition for enrollment in critical skills instructional support programs established pursuant to this section.

(h) Each county board shall prepare to implement the provisions of this section and the provisions of the state board rule required by subsection (b) of this section. The preparations shall at least include planning, ensuring the student assistance teams are established as currently required by state board policy and performing a needs assessment.

(i) The state board shall provide a report describing the proposed implementation of the critical skills instructional support program to be instituted for the summer of 2010 to the Legislative Oversight Commission on Education Accountability on or before May 1, 2010.

(j) The state board shall provide a comprehensive report regarding the status of the critical skills instructional support program to the Legislative Oversight Commission on Education Accountability, the Joint Committee on Government and Finance, and the Governor on November 1, 2010, and annually on November 1 on each year thereafter. The report shall address, at a minimum, the progress of the program throughout the state, its effect on student achievement and the sources of the funding both available to and used by the program.

(k) The provisions of this section shall be subject to the availability of funds from legislative appropriation or other sources specifically designated for the purposes of this section. If a county board determines that adequate funds are not available for full implementation of a critical skills instructional support program in the county, the county board may implement its program in phases by first establishing a critical skills instructional support
program in the third grade and then establishing a critical skills instructional support program for the eighth grade once the county board determines that adequate funds are available.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2009.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 7th Day of June, 2009.

Governor