

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 228**

5 (BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,

6 BY REQUEST OF THE EXECUTIVE)

7 _____
8 [Passed March 12, 2011; in effect from passage.]
9 _____

10
11
12 AN ACT to amend the Code of West Virginia, 1931, as amended, by
13 adding thereto a new section, designated §18-5B-11; and to
14 amend and reenact §18-8-3 and §18-8-6 of said code, all
15 relating to school attendance; creating the Local Solution
16 Dropout Prevention and Recovery Act; providing legislative
17 findings and purpose; requiring the state board to propose
18 legislative and emergency rules; defining terms; providing
19 application process, contents, factors to be considered in
20 evaluating the applications and standards for review for
21 designation of schools or school districts; exempting certain
22 persons from certification as attendance directors under
23 specific circumstances; requiring the state board to implement
24 a statewide electronic system through the uniform integrated
25 regional computer information system with early warning
26 indicators; creating special revenue fund in State Treasury

1 attendance, behavior and course failures. Therefore, a
2 comprehensive graduation plan must include a comprehensive systemic
3 approach that emphasizes early interventions;

4 (5) Research identifies a number of effective strategies for
5 engaging students that have the most positive impact on improving
6 high school graduation rates. Some of these strategies are
7 school-community collaboration, safe learning environments, family
8 engagement, early literacy development, mentoring and tutoring
9 services, service learning opportunities, alternative and
10 nontraditional schooling, offering multiple pathways and settings
11 for attaining high school diplomas, after-school opportunities,
12 individualized instruction and career and technical education;

13 (6) Schools cannot solve the dropout problem alone. Research
14 shows when educators, parents, elected officials, business leaders,
15 faith-based leaders, human service personnel, judicial personnel
16 and civic leaders collectively work together they are often able to
17 find innovative solutions to address school and community problems;
18 and

19 (7) Increasing high school graduation rates is an important
20 factor in preparing a college and career-ready citizenry. Higher
21 education institutions, including community and technical colleges,
22 are essential partners in creating local and statewide solutions.

23 (b) Therefore, the intent of the Legislature is to provide a
24 separate category of innovation zones designated "Local Solution
25 Dropout Prevention and Recovery Innovation Zones" intended to
26 achieve the following purposes:

1 (1) Provide for the establishment of Local Solution Dropout
2 Prevention and Recovery Innovation Zones to increase graduation
3 rates and reduce the number of dropouts from West Virginia schools;

4 (2) Provide schools and communities with opportunities for
5 greater collaboration to plan and implement systemic approaches
6 that include evidence-based solutions for increasing graduation
7 rates and reducing the number of dropouts;

8 (3) Provide a testing ground for innovative graduation
9 programs, incentives and approaches to reducing the number of
10 dropouts;

11 (4) Provide information regarding the effects of specific
12 innovations, collaborations and policies on graduation rates and
13 dropout prevention and recovery; and

14 (5) Document educational strategies that increase graduation
15 rates, prevent dropouts and enhance student success.

16 (c) *Local Solution Dropout Prevention and Recovery Innovation*
17 *Zones.*

18 A school, a group of schools or a school district may be
19 designated as a Local Solution Dropout Prevention and Recovery
20 Innovation Zone in accordance with the provisions of this article,
21 subject to the provisions of this section. The state board shall
22 propose rules for legislative promulgation, including an emergency
23 rule if necessary, in accordance with article three-b chapter
24 twenty-nine of this code to implement the provisions of this
25 section. All provisions of this article apply to Local Solution
26 Dropout Prevention and Recovery Innovation Zones, including, but

1 not limited to, the designation, application, approval, waiver of
2 statutes, policies, rule and interpretations, employee approval,
3 employee transfers, progress reviews, reports and revocations, and
4 job postings, subject to the following:

5 (1) For purposes of this section, a "school, a group of
6 schools or a school district" means a high school, a group of
7 schools comprised of a high school and any of the elementary and
8 middle schools whose students will attend the high school, or a
9 school district whose graduation rate in the year in which an
10 application is made is less than ninety percent based on the latest
11 available school year data published by the Department of
12 Education;

13 (2) The contents of the application for designation as a Local
14 Solution Dropout Prevention and Recovery Innovation Zone must
15 include a description of the dropout prevention and recovery
16 strategies and that the school, group of schools or school district
17 plans to implement if designated as a Local Solution Dropout
18 Prevention and Recovery Innovation Zone, and any other information
19 the state board requires. The application also shall include a
20 list of all county and state board rules, policies and
21 interpretations, and all statutes, if any, identified as
22 prohibiting or constraining the implementation of the plan,
23 including an explanation of the specific exceptions to the rules,
24 policies and interpretations and statutes required for plan
25 implementation. A school, a group of schools, or school district
26 may not request an exception nor may an exception be granted from

1 any of the following:

2 (i) An assessment program administered by the West Virginia
3 Department of Education;

4 (ii) Any provision of law or policy required by the No Child
5 Left Behind Act of 2001, Public Law No. 107-110 or other federal
6 law; and

7 (iii) Section seven, article two and sections seven-a, seven-
8 b, eight and eight-b, article four, chapter eighteen-a of this
9 code, except as provided in section eight of this article;

10 (3) The factors to be considered by the state board when
11 evaluating an application shall include, but are not limited to,
12 the following:

13 (A) Evidence that other individuals or entities and community
14 organizations are involved as partners to collectively work with
15 the applicant to achieve the purposes as outlined in the dropout
16 prevention and recovery plan. These individuals or entities and
17 community organizations may include, but are not limited to,
18 individuals or entities and community organizations such as
19 parents, local elected officials, business leaders, faith-based
20 leaders, human service personnel, judicial personnel, civic leaders
21 community and technical colleges Higher education institutions;

22 (B) The level of commitment and support of staff, parents,
23 students, the county board of education, the local school
24 improvement council and the school's business partners as
25 determined in accordance with this article apply to become a Local
26 Solutions Dropout Prevention and Recovery Innovation Zone;

1 (C) The potential for an applicant to be successful in
2 building community awareness of the high school dropout problem and
3 developing and implementing its dropout prevention and recovery
4 plan; and

5 (D) Implementation of the statewide system of easily
6 identifiable early warning indicators of students at risk of not
7 completing high school developed by the state board in accordance
8 with section six, article eight of this chapter, known as The High
9 School Graduation Improvement Act, along with a plan of
10 interventions to increase the number of students earning a high
11 school diploma;

12 (4) The rule shall provide standards for the state board to
13 review applications for designation as a Local Solutions Dropout
14 Prevention and Recovery Innovation Zones;

15 (5) The application for designation as a Local Solutions
16 Dropout Prevention and Recovery Innovation Zone under this section
17 is subject to approval in accordance with sections five and six of
18 this article. In addition to those approval stages, the
19 application, if approved by the school employees, shall be
20 presented to the local school improvement council for approval
21 prior to submission to county superintendent and board. Approval
22 by the local school improvement council is obtain when at least
23 eighty percent of the local school improvement council members
24 present and voting after a quorum is established vote in favor of
25 the application; and

26 (6) Upon approval by the state board and state superintendent

1 of the application, all exceptions to county and state board rules,
2 policies and interpretations listed within the plan are granted.
3 The applicant school, group of schools or school district shall
4 proceed to implement the plan as set forth in the approved
5 application and no further plan submissions or approval are
6 required, except that if an innovation zone plan, or a part
7 thereof, may not be implemented unless an exception to a statute is
8 granted by Act of the Legislature, the state board and state
9 superintendent may approve the plan, or the part thereof, only upon
10 the condition that the Legislature acts to grant the exception as
11 provided in this article.

12 (d) *Local solutions dropout prevention and recovery fund.*

13 There is hereby created in the State Treasury a special
14 revenue fund to be known as the "Local Solutions Dropout Prevention
15 and Recovery Fund." The fund shall consist of all moneys received
16 from whatever source to further the purpose of this article. The
17 fund shall be administered by the state board solely for the
18 purposes of this section. Any moneys remaining in the fund at the
19 close of a fiscal year shall be carried forward for use in the next
20 fiscal year. Fund balances shall be invested with the state's
21 consolidated investment fund and any and all interest earnings on
22 these investments shall be used solely for the purposes that moneys
23 deposited in the fund may be used pursuant to this section.

24 **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

25 **§18-8-3. Employment of county director of school attendance and**

1 **assistants; qualifications; salary and traveling**
2 **expenses; removal.**

3 (a) The county board of education of every county, not later
4 than August 1, of each year, shall employ the equivalent of a full-
5 time county director of school attendance if such county has a net
6 enrollment of more than four thousand pupils, at least a half-time
7 director of school attendance if such county has a net enrollment
8 equal to or less than four thousand pupils and such assistant
9 attendance directors as deemed necessary. All persons to be
10 employed as attendance directors shall have the written
11 recommendation of the county superintendent.

12 (b) The county board of education may establish special and
13 professional qualifications for attendance directors and assistants
14 as are deemed expedient and proper and are consistent with
15 regulations of the state Board of Education relating thereto:
16 *Provided*, That if the position of attendance director has been
17 posted and no fully certified applicant applies, the county may
18 employ a person who holds a professional administrative certificate
19 and meets the special and professional qualifications established
20 by the county board as attendance director and that person shall
21 not be required to obtain attendance director certification.

22 (c) The attendance director or assistant director shall be
23 paid a monthly salary as fixed by the county board. The attendance
24 director or assistant director shall prepare attendance reports,
25 and such other reports as the county superintendent may request.

26 (d) The county board of education shall reimburse the

1 attendance directors or assistant directors for their necessary
2 traveling expenses upon presentation of a monthly, itemized, sworn
3 statement approved by the county superintendent.

4 **§18-8-6. The High School Graduation Improvement Act.**

5 (a) This section is known and may be cited as "The High School
6 Graduation Improvement Act."

7 (b) The Legislature makes the following findings:

8 (1) West Virginia has a dire need to implement a comprehensive
9 approach to addressing the high school drop-out crisis, and to
10 develop policies and strategies that successfully assist at-risk
11 students to stay in school, earn a high school diploma, and
12 ultimately become productively contributing members of society;

13 (2) The current demands for a highly skilled workforce require
14 a high school diploma at the very minimum;

15 (3) The state has several dynamic programs that are capable of
16 actively engaging students in learning, providing students with a
17 sense of relevancy in academics, and motivating students to succeed
18 in school and ultimately earn a high school diploma;

19 (4) Raising the compulsory school attendance age alone will
20 neither increase the graduation rate nor decrease the drop-out
21 rate. It is imperative that the state shift the focus from merely
22 compelling students to attend school to instead providing vibrant
23 and engaging programs that allow students to recognize the value of
24 a high school diploma or workforce credential and inspire students
25 to graduate from high school, especially those students who are at
26 risk of dropping out of school;

1 (5) Investing financially in this focus shift will result in
2 the need for fewer resources to be committed to enforcing
3 compulsory attendance laws and fewer incidents of disruptive
4 student behavior;

5 (6) Absenteeism is proven to be the highest predictor of
6 course failure. Truant students face low self-confidence in their
7 ability to succeed in school because their absences cause them to
8 fall behind their classmates, and the students find dropping out
9 easier than catching up;

10 (7) There is a strong relationship between truancy and
11 dropping out of high school. Frequent absences are one of the most
12 common indicators that a student is disengaging from the learning
13 process and likely to drop out of school early. Intervention after
14 fewer absences is likely to have a positive impact on a student's
15 persistence to graduation;

16 (8) Students cite many reasons for dropping out of school,
17 some of which include engaging in drug culture, lack of positive
18 influence, role model or parental involvement, absence of
19 boundaries and direction, lack of a positive home environment, peer
20 pressure, and poor community expectations;

21 (9) Dropping out of school has a profound negative impact on
22 an individual's future, resulting in limited job choices,
23 substantially lower wages and less earned over a life-time than
24 high school graduates, and a greater likelihood of depending on
25 public assistance and engaging in criminal activity;

26 (10) Career-technical education is a dynamic system in West

1 Virginia which offers numerous concentrations that provide students
2 with industry-recognized credentials, while also preparing them for
3 post-secondary education;

4 (11) All career-technical education students in the state have
5 an opportunity to earn free college credit through the Earn a
6 Degree-Graduate Early (EDGE) program;

7 (12) The current high school graduation rate for secondary
8 career-technical education completers is significantly higher than
9 the state graduation rate;

10 (13) Students involved in career-technical education learn a
11 marketable skill, are likely to find jobs, and become prepared for
12 post-secondary education;

13 (14) A significant number of students who could benefit from
14 participating in a career-technical program are denied access due
15 to a number of factors, such as dropping out of high school prior
16 to enrolling in career-technical education, requirements that
17 students repeat academic courses that they have failed, and
18 scheduling conflicts with the high schools;

19 (15) There has been a dramatic change over the years from
20 vocational education, which was very basic and lacked high level
21 skills, to the career-technical programs of today which are
22 computer based, require national tests and certification, and often
23 result in jobs with high salaries;

24 (16) West Virginia's employers and technical education job
25 placement rates show that the state needs graduates with technical
26 skills to compete in the current and future job markets;

1 (17) The job placement rate for students graduating from
2 career-technical programs statewide is greater than ninety-five
3 percent;

4 (18) Among the reasons students cite for dropping out of
5 school are feelings of hopelessness when they have failed classes
6 and can not recover credits in order to graduate;

7 (19) The state offers full-day programs consisting of credit
8 recovery, hands on experiences in career-technical programs and
9 basic education, which are valuable resources for re-engaging
10 students who have dropped out of school, or have a potential for or
11 are at risk of dropping out;

12 (20) A student is significantly more likely to graduate from
13 high school if he or she completes four units of training in
14 technical education;

15 (21) Learning is increased and retained at a higher level if
16 the content is taught through a relevant and applied experience,
17 and students who are able to experience academics through real life
18 projects have a higher probability of mastering the appropriate
19 concepts;

20 (22) Programs such as "GED Option" and "Techademics" are
21 valuable resources for providing relevant and applied experience
22 for students;

23 (23) The Techademics programs administered by the department
24 of education has embedded math competencies in career-technical
25 program curricula whereby students simultaneously earn credit for
26 mastery of math competencies and career-technical courses;

1 (24) Students would greatly benefit if West Virginia were
2 designated as a "GED Option" state. Currently a student is
3 ineligible to take the General Educational Development (GED) exam
4 if he or she is enrolled in school, which requires the student to
5 drop out of high school in order to participate in a GED
6 preparation program or take the exam, even if the student desires
7 to remain enrolled;

8 (25) A GED Option state designation by the American Council on
9 Education would allow students in this state to remain enrolled in
10 school and continue acquiring academic and career-technical credits
11 while pursuing a GED diploma. The GED Option would be blended with
12 the West Virginia virtual schools or a career-technical education
13 pathway. Upon completion, rather than being a dropout, the student
14 would have a GED diploma and a certification in the chosen
15 career-technical or virtual school pathway;

16 (26) The Mountaineer Challenge Academy is a positive option
17 for students at risk of dropping out of school, as it provides
18 students with structure, stability, and a focus on positive change,
19 all in an environment where negative influences and distractions
20 can be left behind;

21 (27) Students attending the Mountaineer Challenge Academy
22 would greatly benefit if the GED Option were implemented at the
23 Academy;

24 (28) The Health Sciences and Technology Academy (HSTA) program
25 prepares rural, minority and economically disadvantaged students
26 for college and careers in the health sciences, and demonstrates

1 tremendous success in its high percentage of students who graduate
2 from high school and participate in post-secondary education.

3 (29) The West Virginia GEAR UP (Gaining Early Awareness and
4 Readiness for Undergraduate Programs) program is aimed at
5 increasing the academic performance and rigorous preparation of
6 students, increasing the number of high-poverty, at-risk students
7 who are prepared to enter and succeed in post-secondary education,
8 and increasing the high school graduation rate;

9 (30) The GEAR UP program successfully aids students in
10 planning, applying and paying for education and training beyond
11 high school;

12 (31) Each dropout involved in drugs or crime or dependent on
13 public assistance creates a huge fiscal burden on society;

14 (32) The intense treatment and individual monitoring provided
15 through the state's juvenile drug courts have proven to be highly
16 effective in treating drug addictions, and rehabilitating drug-
17 addicted youth and improving their educational outcomes;

18 (33) Services provided by juvenile drug courts include
19 substance abuse treatment, intervention, assessment, juvenile and
20 family counseling, heavy supervision by probation officers
21 including school-based probation officers who provide early
22 intervention and diversion services, and addressing some of the
23 underlying reasons why students are not successful in school;

24 (34) School participation and attendance are required for
25 students participating in juvenile drug courts, and along with
26 academic progress are closely monitored by the courts;

1 (35) Juvenile drug courts are an important strategy to improve
2 substance abuse treatment outcomes, and serve to save the state
3 significant cost on incarceration of the juveniles, along with the
4 future costs to society of individuals who remain substance
5 abusers;

6 (36) Juvenile drug courts produce greater cost benefits than
7 other strategies that address criminal activity related to
8 substance abuse and addiction that bring individuals into the
9 criminal justice system;

10 (37) Funding for the increased number of students enrolled in
11 school during the 2010-2011 school year due to the compulsory
12 school attendance age increase established by this act will not be
13 reflected in the state aid formula allocation until the 2011-2012
14 school year, which will require additional funds to be provided to
15 county boards for the 2010-2011 school year to accommodate the
16 increased enrollment;

17 (38) The state will benefit both fiscally and through improved
18 quality of life if scarce state resources are targeted toward
19 programs that result in providing a competitive advantage as adults
20 for those students who are at risk of dropping out of school;

21 (39) Funds invested toward education and ensuring that
22 students complete high school pay tremendous dividends through the
23 moneys saved on incarceration, unemployment and underemployment as
24 those students reach adulthood;

25 (40) Increasing the compulsory school attendance age will have
26 little effect in aiding students to complete high school if

1 additional resources, both fiscal and programmatic, are not
2 dedicated to supporting student achievement, providing real-life
3 relevancy in curriculum, and engaging students in learning,
4 particularly for those students who have become so disengaged from
5 school and learning that they are at risk of dropping out of
6 school; and

7 (41) Schools cannot solve the dropout problem alone. Research
8 shows when educators, parents, elected officials, business leaders,
9 faith-based leaders, human service personnel, judicial personnel
10 and civic leaders collectively work together they are often able to
11 find innovative solutions to address school and community problems.

12 (c) The Legislature intends as follows:

13 (1) The state will continue to explore diverse instructional
14 delivery strategies to accommodate various learning styles and will
15 focus on a state-wide dropout intervention and prevention program
16 to provide support for students having academic difficulty;

17 (2) A general credit recovery program shall be implemented
18 statewide, including delivery through West Virginia virtual
19 schools;

20 (3) The state board will continue to improve the way career-
21 technical education is offered, including expansion of the
22 Techademics program;

23 (4) Up to five additional juvenile drug courts shall be
24 established by January 1, 2012;

25 (5) The state will invest additional state funds and other
26 resources in strategies and programs that engage disconnected and

1 discouraged students in a positive learning environment as a
2 critical first step to ensuring that students persist and graduate;

3 (6) County boards will develop plans to demonstrate how they
4 will use available funds to implement the intent of this section;
5 and

6 (7) The state board shall develop a statewide system in
7 electronic format that will provide schools with easily
8 identifiable early warning indicators of students at risk of not
9 graduating from high school. The system shall be delivered through
10 the uniform integrated regional computer information system
11 (commonly known as the West Virginia Education Information System)
12 and shall at a minimum incorporate data on the attendance, academic
13 performance and disciplinary infractions of individual students.
14 The state board shall require implementation of the system in Local
15 Solution Dropout Prevention and Recovery Innovation Zones along
16 with a plan of interventions to increase the number of students
17 earning a high school diploma, and may utilize the zones as a pilot
18 test of the system.

19 (d) Each county board shall include in its alternative
20 education program plan required by section six, article two, of
21 this chapter a plan to improve student retention and increase the
22 graduation rate in the county. The plan is subject to approval of
23 the state board, and shall include strategies the county board will
24 implement to achieve the following goals:

25 (1) Increasing the graduation rate for the county;

26 (2) Identifying at the earliest age possible those students

1 who are at risk of dropping out of school prior to graduation; and

2 (3) Providing additional options for delivering to at-risk
3 students academic credentials and career-technical training if
4 appropriate or desired by the student. The options may include
5 such programs as Techademics, Earn a Degree-Graduate Early (EDGE),
6 Health Sciences and Technology Academy (HSTA), Gaining Early
7 Awareness and Readiness for Undergraduate Programs (GEAR UP),
8 truancy diversion, early intervention, dropout prevention,
9 prevention resource officers, GED option, credit recovery,
10 alternative learning environments, or any other program or strategy
11 approved by the state board.

12 (e) As soon as is practicable the state superintendent or his
13 or her designee shall pursue designation of West Virginia as a "GED
14 Option" state by the American Council on Education. If so
15 designated, the state board shall:

16 (1) Develop and implement a program whereby a student may
17 pursue a GED diploma while remaining enrolled in high school; and

18 (2) Ensure that the GED Option is offered to students
19 attending the Mountaineer Challenge Academy.

20 (f) The state board shall continue to expand:

21 (1) The Techademics program to include each major academic
22 subject and increase the academic credit available through the
23 program to students; and

24 (2) The Health Sciences and Technology Academy to ensure that
25 the program is available for any school containing any of the grade
26 levels of eligible students.

1 (g) The state board shall ensure that the dropout information
2 required by section twenty-four, article one-b, chapter fifteen of
3 this code is provided annually to the Mountaineer Challenge
4 Academy.

5 (h) Some career and technical education programs only accept
6 students in certain upper high school grade levels due to lack of
7 capacity to accept the students in the lower high school grade
8 levels. This can be detrimental to efforts to keep students
9 identified as at risk of dropping out of school prior to graduation
10 in school. Therefore, those career and technical education
11 programs that limit enrollment to students in certain upper high
12 school grade levels may make exceptions for those at risk students
13 and enroll any of those at risk students who are in grades nine and
14 above.