

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.]  
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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           entitled the Local Solution Dropout Prevention and Recovery  
2           Fund.

3 *Be it enacted by the Legislature of West Virginia:*

4           That the Code of West Virginia, 1931, as amended, be amended  
5 by adding thereto a new section, designated §18-5B-11; and that  
6 §18-8-3 and §18-8-6 of said code be amended and reenacted, all to  
7 read as follows:

8 **ARTICLE 5B.   SCHOOL INNOVATION ZONES ACT.**

9 **§18-5B-11.       Local Solution Dropout Prevention and Recovery**  
10                         **Innovation Zone Act.**

11           (a) *Legislative findings, intent and purpose.*

12           The Legislature finds that:

13           (1) High school graduation is an essential milestone for all  
14 West Virginia students and impacts the future success of the  
15 individual, community and state;

16           (2) There are significant correlations between educational  
17 attainment and labor market outcomes, greater labor force  
18 participation rate, increased employment rates, improved health,  
19 and decreased levels of poverty and crime. The negative impact on  
20 these linkages is most evident in the absence of high school  
21 completion;

22           (3) Dropping out of school is a process, not an event, with  
23 factors building and compounding over time;

24           (4) Students at risk of not completing high school can be  
25 identified as early as sixth grade using the indicators of

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.