

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4228**

5 (By Delegates M. Poling, Perry, Lawrence, Barrett, Young,
6 Tomblin, Barill, Moye, Campbell, Walker and Pethtel)

7
8 [Passed March 8, 2014; in effect ninety days from passage.]
9

10 AN ACT to repeal §11-8-16a of the Code of West Virginia, 1931, as
11 amended; to repeal §18-2-17 of said code; to repeal §18-2E-5b
12 and §18-2E-8b of said code; to repeal §18-2G-1, §18-2G-2 and
13 §18-2G-3 of said code; to repeal §18-5-15e and §18-5-38 of
14 said code; to repeal §18-7-1, §18-7-2 and §18-7-3 of said
15 code; to repeal §18-9A-6b, §18-9A-14a and §18-9A-19 of said
16 code; to repeal §18-9C-1, §18-9C-2, §18-9C-3, §18-9C-4, §18-
17 9C-5, §18-9C-6, §18-9C-7 and §18-9C-8 of said code; to repeal
18 §18A-3-1c and §18A-3-1d of said code; to repeal §18A-4-10b and
19 §18A-4-14a of said code; to amend and reenact §18-2-5a and
20 §18-2-13 of said code; to amend and reenact §18-2E-7 of said
21 code; to amend and reenact §18-8-1a of said code; and to amend
22 and reenact §18A-2-12 of said code, all relating to repealing
23 or removing certain portions of education-related statutes
24 that are no longer applicable or are expired; repealing the
25 authorization for county boards of education with an excess
26 levy in effect prior to Better Schools Amendment to propose an

1 additional excess levy not exceeding one hundred percent and
2 a period of five years; repealing an expired pilot program for
3 the delivery of leftover foods from schools and penal
4 institutions; repealing expired provisions for review of
5 system of education performance audits; repealing an expired
6 requirement for audit of state board policies; repealing the
7 library media improvement grant program; repealing an expired
8 requirement for study on school equity; repealing an expired
9 provision governing county board meetings; repealing an adult
10 literacy education program financed, in part, by a voluntary
11 state income tax return check-off; repealing the appropriation
12 and allocation, up to \$7 million, due to the increase in local
13 share to Teachers Retirement System; repealing the incentive
14 for administrative efficiency in public schools and its
15 associated funding to the county boards of education;
16 repealing a requirement for county boards of education to
17 request funds to which they may be entitled; repealing the
18 Better School Buildings Amendment and associated funding to
19 county boards of education; repealing an expired study on
20 training, certification, licensure and retraining of teachers;
21 repealing a study of alternative certification programs that
22 was required to be submitted to the Legislative Oversight
23 Commission on Education Accountability by December 31, 2013;
24 repealing the requirement to record and distribute exemplary
25 teaching techniques and its associated bonuses to certain
26 teachers; repealing an expired study on daily planning

1 periods; providing that the State Board of Education need only
2 file a single copy of a proposed rule with the Legislative
3 Oversight Commission; removing the requirement that the State
4 Board of Education contract with an independent agency to
5 evaluate the results of character education and biannual
6 reporting; changing the requirement from a school-by-school to
7 a countywide plan for provision of technology and services to
8 students as part of the twenty-first century strategic
9 learning plan; removing the requirement for semiannual
10 reporting on the effect of the increased compulsory attendance
11 age of students and the progress the state and county boards
12 have made in implementing its associated requirements; and
13 clarifying that the written evaluation system for employment
14 performance of personnel must be conducted at least annually
15 on professional personnel and removing related transitional
16 language.

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

18 That §11-8-16a of the Code of West Virginia, 1931, as amended,
19 be repealed; that §18-2-17 of said code be repealed; that §18-2E-5b
20 and §18-2E-8b of said code be repealed; that §18-2G-1, §18-2G-2 and
21 §18-2G-3 of said code be repealed; that §18-5-15e and §18-5-38 of
22 said code be repealed; that §18-7-1, §18-7-2 and §18-7-3 of said
23 code be repealed; that §18-9A-6b, §18-9A-14a and §18-9A-19 of said
24 code be repealed; that §18-9C-1, §18-9C-2, §18-9C-3, §18-9C-4, §18-
25 9C-5, §18-9C-6, §18-9C-7 and §18-9C-8 of said code be repealed;
26 that §18A-3-1c and §18A-3-1d of said code be repealed; that §18A-4-

1 10b and §18A-4-14a of said code be repealed; that §18-2-5a and §18-
2 2-13 of said code be amended and reenacted; that §18-2E-7 of said
3 code be amended and reenacted; that §18-8-1a of said code be
4 amended and reenacted, and that §18A-2-12 of said code be amended
5 and reenacted all to read as follows:

6 **CHAPTER 18. EDUCATION.**

7 **ARTICLE 2. STATE BOARD OF EDUCATION.**

8 **§18-2-5a. Board rules to be filed with Legislature.**

9 The State Board of Education shall file a copy of any rule
10 that it proposes to promulgate, adopt, amend or repeal under the
11 authority of the Constitution or of this code with the Legislative
12 Oversight commission on education accountability pursuant to
13 article three-b, chapter twenty-nine-a of this code. "Rule," as
14 used herein, means a regulation, standard, statement of policy, or
15 interpretation of general application and future effect.

16 **§18-2-13. Character education integration.**

17 (a) The state board shall establish a comprehensive approach
18 to integrate character education into all aspects of school
19 culture, school functions and existing curriculum.

20 (b) The state board shall require all public schools that
21 operate from preschool to grade twelve to develop and integrate
22 components of character development into their existing curriculum.
23 The schools may incorporate such programs as "life skills",
24 "responsible students", or any other program encompassing any of
25 the following components:

- 1 (1) Honesty;
- 2 (2) Caring;
- 3 (3) Citizenship;
- 4 (4) Justice;
- 5 (5) Fairness;
- 6 (6) Respect;
- 7 (7) Responsibility;
- 8 (8) Voting;
- 9 (9) Academic achievement;
- 10 (10) Completing homework assignments;
- 11 (11) Improving daily attendance;
- 12 (12) Avoiding and resolving conflicts;
- 13 (13) Alternatives to violence;
- 14 (14) Contributing to an orderly positive school environment;
- 15 (15) Participating in class;
- 16 (16) Resisting social peer pressures to smoke, drink and use
- 17 drugs;
- 18 (17) Developing greater self-esteem and self-confidence;
- 19 (18) Effectively coping with social anxiety;
- 20 (19) Increasing knowledge of the immediate consequences of
- 21 substance abuse;
- 22 (20) Increasing knowledge of the consequences of ones actions;
- 23 (21) The corrupting influence and chance nature of gambling;
- 24 and
- 25 (22) The value of decent, honest work.
- 26 (c) Character education shall be integrated into each public

1 school curriculum by September 1, 2001.

2 (d) The state board shall assist county boards in developing
3 in-service training regarding integrated character education as
4 provided in this section.

5 (e) The State Department of Education is encouraged to utilize
6 any existing moneys available to the department for existing
7 character development programs, along with any new funds
8 appropriated for the purposes of this section, to secure the
9 maximum amount of any federal funding available for which the state
10 department is eligible to receive for implementing character
11 development in the schools.

12 **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

13 **§18-2E-7. Providing for twenty-first century instruction and**
14 **learning in all public schools.**

15 (a) The Legislature finds that:

16 (1) The knowledge and skills children need to succeed in the
17 twenty-first century are changing dramatically and that West
18 Virginia students must develop proficiency in twenty-first century
19 content, technology tools and learning skills to succeed and
20 prosper in life, in school and on the job;

21 (2) Students must be equipped to live in a multitasking,
22 multifaceted, technology-driven world;

23 (3) The provision of twenty-first century technologies and
24 software resources in grades prekindergarten through twelve is
25 necessary to meet the goal that high school graduates will be

1 prepared fully for college, other post-secondary education or
2 gainful employment;

3 (4) This goal reflects a fundamental belief that the youth of
4 the state exit the system equipped with the skills, competencies
5 and attributes necessary to succeed, to continue learning
6 throughout their lifetimes and to attain self-sufficiency;

7 (5) To promote twenty-first century learning, teachers must be
8 competent in twenty-first century content and learning skills and
9 must be equipped to fully integrate technology to transform
10 instructional practice and to support twenty-first century skills
11 acquisition;

12 (6) For students to learn twenty-first century skills,
13 students and teachers must have equitable access to high quality,
14 twenty-first century technology tools and resources;

15 (7) When aligned with standards and curriculum, technology-
16 based assessments can be a powerful tool for teachers; and

17 (8) Teachers must understand how to use technology to create
18 classroom assessments for accurate, timely measurements of student
19 proficiency in attainment of academic content and twenty-first
20 century skills.

21 (b) The state board shall ensure that the resources to be used
22 to provide technology services to students in grades
23 prekindergarten through twelve are included in a West Virginia 21st
24 Century Strategic Technology Learning Plan to be developed by the
25 Department of Education as an integral component of the county
26 electronic strategic improvement plan required in section five of

1 this article. The provision of technologies and services to
2 students and teachers shall be based on a county technology plan
3 developed by a team that includes school building-level
4 professional educators and is aligned with the goals and objectives
5 of the West Virginia 21st Century Strategic Technology Learning
6 Plan. This plan shall be an integral component of the county
7 electronic strategic improvement plan as required in section five
8 of this article. Funds shall be allocated equitably to county
9 school systems following peer review of the plans that includes
10 providing necessary technical assistance prior to submission and
11 allows timely review and approval by the West Virginia Department
12 of Education. Technology tools, including hardware, software,
13 network cabling, network electronics and related professional
14 development, shall be purchased pursuant to the provisions of
15 article three, chapter five-a of this code in the amount equal to
16 anticipated revenues being appropriated and based on the approved
17 county plans. County allocations that support this legislation
18 shall adhere to state contract prices: *Provided*, That contingent
19 upon approval of the county technology plan, counties that
20 identify, within that plan, specific software or peripheral
21 equipment not listed on the state contract, but necessary to
22 support implementation of twenty-first century skills, may request
23 the West Virginia Department of Education to secure state
24 purchasing prices for those identified items. Total expenditure to
25 purchase these additional items may not exceed ten percent of the
26 annual county allocation. To the extent practicable, the

1 technology shall be used:

2 (1) To maximize student access to learning tools and resources
3 at all times including during regular school hours, before and
4 after school or class, in the evenings, on weekends and holidays
5 and for public education, noninstructional days and during
6 vacations; and

7 (2) For student use for homework, remedial work, independent
8 learning, career planning and adult basic education.

9 (c) The implementation of this section should provide a
10 technology infrastructure capable of supporting multiple
11 technology-based learning strategies designed to enable students to
12 achieve at higher academic levels. The technology infrastructure
13 should facilitate student development by addressing the following
14 areas:

15 (1) Mastery of rigorous core academic subjects in grades
16 prekindergarten through eight by providing software, other
17 technology resources or both aligned with state standards in
18 reading, mathematics, writing, science, social studies, twenty-
19 first century learning skills and twenty-first century learning
20 tools;

21 (2) Mastery of rigorous core academic subjects in grades nine
22 through twelve by providing appropriate twenty-first century
23 technology tools aligned with state standards for learning skills
24 and technology tools;

25 (3) Attainment of twenty-first century skills outcomes for all
26 students in the use of technology tools and learning skills;

- 1 (4) Proficiency in new, emerging twenty-first century content;
- 2 (5) Participation in relevant, contextual instruction that
3 uses dynamic, real-world contexts that are engaging and meaningful
4 for students, making learning relevant to life outside of school
5 and bridging the gap between how students live and how they learn
6 in school;
- 7 (6) Ability to use digital and emerging technologies to manage
8 information, communicate effectively, think critically, solve
9 problems, work productively as an individual and collaboratively as
10 part of a team and demonstrate personal accountability and other
11 self-directional skills;
- 12 (7) Providing students with information on post-secondary
13 educational opportunities, financial aid and the skills and
14 credentials required in various occupations that will help them
15 better prepare for a successful transition following high school;
- 16 (8) Providing greater access to advanced and other curricular
17 offerings than could be provided efficiently through traditional
18 on-site delivery formats, including increasing student access to
19 quality distance learning curricula and online distance education
20 tools;
- 21 (9) Providing resources for teachers in differentiated
22 instructional strategies, technology integration, sample lesson
23 plans, curriculum resources and online staff development that
24 enhance student achievement; and
- 25 (10) Providing resources to support basic skills acquisition
26 and improvement at the above mastery and distinguished levels.

1 (d) Developed with input from appropriate stakeholder groups,
2 the West Virginia 21st Century Strategic Technology Learning Plan
3 shall be an integral component of the electronic strategic county
4 improvement plan as required in section five of this article. The
5 West Virginia 21st Century Strategic Technology Learning Plan shall
6 be comprehensive and shall address, but not necessarily be limited
7 to, the following provisions:

8 (1) Allocation of adequate resources to provide students with
9 equitable access to twenty-first century technology tools,
10 including instructional offerings and appropriate curriculum,
11 assessment and technology integration resources aligned to both the
12 content and rigor of state content standards as well as to learning
13 skills and technology tools;

14 (2) Providing students and staff with equitable access to a
15 technology infrastructure that supports the acquisition of twenty-
16 first century skills, including the ability to access information,
17 solve problems, communicate clearly, make informed decisions,
18 acquire new knowledge, construct products, reports and systems and
19 access online assessment systems;

20 (3) Inclusion of various technologies that enable and enhance
21 the attainment of twenty-first century skills outcomes for all
22 students;

23 (4) Collaboration with various partners, including parents,
24 community organization, higher education, schools of education in
25 colleges and universities, employers and content providers;

26 (5) Seeking of applicable federal government funds,

1 philanthropic funds, other partnership funds or any combination of
2 those types of funds to augment state appropriations and
3 encouraging the pursuit of funding through grants, gifts, donations
4 or any other sources for uses related to education technology;

5 (6) Sufficient bandwidth to support teaching and learning and
6 to provide satisfactorily for instructional management needs;

7 (7) Protection of the integrity and security of the network,
8 as well as student and administrative workstations;

9 (8) Flexibility to adjust the plan based on developing
10 technology, federal and state requirements and changing local
11 school and county needs;

12 (9) Incorporation of findings based upon validation from
13 research-based evaluation findings from previous West Virginia-
14 based evaluation projects;

15 (10) Continuing study of emerging technologies for application
16 in a twenty-first century learning environment and inclusion in the
17 technology plan, as appropriate;

18 (11) An evaluation component to determine the effectiveness of
19 the program and make recommendations for ongoing implementation;

20 (12) A program of embedded, sustained professional development
21 for teachers that is strategically developed to support a twenty-
22 first century education for all students and that aligns with state
23 standards for technology, integrates twenty-first century skills
24 into educational practice and supports the implementation of
25 twenty-first century software, technology and assessment resources
26 in the classroom;

1 (13) Providing for uniformity in technological hardware and
2 software standards and procedures;

3 (14) The strategy for ensuring that the capabilities and
4 capacities of the technology infrastructure is adequate for
5 acceptable performance of the technology being implemented in the
6 public schools;

7 (15) Providing for a comprehensive, statewide uniform,
8 integrated education management and information system for data
9 collection and reporting to the Department of Education as provided
10 in section twenty-six, article two of this chapter and commonly
11 referred to as the West Virginia Education Information System;

12 (16) Providing for an effective model for the distance
13 delivery, virtual delivery or both types of delivery of instruction
14 in subjects where there exists low student enrollment or a shortage
15 of certified teachers or where the delivery method substantially
16 improves the quality of an instructional program such as the West
17 Virginia Virtual School;

18 (17) Providing a strategy to implement, support and maintain
19 technology in the public schools;

20 (18) Providing a strategy to provide ongoing support and
21 assistance to teachers in integrating technology into twenty-first
22 century instruction such as with technology integration
23 specialists;

24 (19) A method of allowing public education to take advantage
25 of appropriate bulk purchasing abilities and to purchase from
26 competitively bid contracts initiated through the southern regional

1 education board educational technology cooperative and the America
2 TelEdCommunications Alliance;

3 (20) Compliance with United States Department of Education
4 regulations and Federal Communications Commission requirements for
5 federal E-rate discounts; and

6 (21) Other provisions as considered appropriate, necessary or
7 both to align with applicable guidelines, policies, rules,
8 regulations and requirements of the West Virginia Legislature, the
9 board of Education and the Department of Education.

10 (e) Any state code and budget references to the Basic
11 Skills/Computer Education Program and the SUCCESS Initiative will
12 be understood to refer to the statewide technology initiative
13 referenced in this section, commonly referred to as the 21st
14 Century Tools for 21st Century Schools Technology Initiative.

15 **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

16 **§18-8-1a. Commencement and termination of compulsory school**
17 **attendance; public school entrance requirements;**
18 **exceptions.**

19 (a) Notwithstanding the provisions of section one of this
20 article, compulsory school attendance begins with the school year
21 in which the sixth birthday is reached prior to September 1 of such
22 year or upon enrolling in a publicly supported kindergarten program
23 and, subject to subdivision (3) of this subsection, continues to
24 the sixteenth birthday or for as long as the student continues to
25 be enrolled in a school system after the sixteenth birthday.

1 (1) A child may be removed from such kindergarten program when
2 the principal, teacher and parent or guardian concur that the best
3 interest of the child would not be served by requiring further
4 attendance: *Provided*, That the principal shall make the final
5 determination with regard to compulsory school attendance in a
6 publicly supported kindergarten program.

7 (2) The compulsory school attendance provision of this article
8 shall be enforced against a person eighteen years of age or older
9 for as long as the person continues to be enrolled in a school
10 system, and may not be enforced against the parent, guardian, or
11 custodian of the person.

12 (3) Beginning with the 2011-2012 high school freshman cohort
13 class of students, and notwithstanding the provisions of section
14 one of this article, compulsory school attendance begins with the
15 school year in which the sixth birthday is reached prior to
16 September 1 of such year or upon enrolling in a publicly supported
17 kindergarten program and continues to the seventeenth birthday or
18 for as long as the student continues to be enrolled in a school
19 system after the seventeenth birthday.

20 (b) Attendance at a state-approved or Montessori kindergarten,
21 as provided in section eighteen, article five of this chapter, is
22 deemed school attendance for purposes of this section. Prior to
23 entrance into the first grade in accordance with section five,
24 article two of this chapter, each child must have either:

25 (1) Successfully completed such publicly or privately
26 supported, state-approved kindergarten program or Montessori

1 kindergarten program; or

2 (2) Successfully completed an entrance test of basic readiness
3 skills approved by the county in which the school is located. The
4 test may be administered in lieu of kindergarten attendance only
5 under extraordinary circumstances to be determined by the county
6 board.

7 (c) Notwithstanding the provisions of this section and of
8 section five, article two of this chapter and section eighteen,
9 article five of this chapter, a county board may provide for
10 advanced entrance or placement under policies adopted by said board
11 for any child who has demonstrated sufficient mental and physical
12 competency for such entrance or placement.

13 (d) This section does not prevent a student from another state
14 from enrolling in the same grade in a public school in West
15 Virginia as the student was enrolled at the school from which the
16 student transferred.

17 **CHAPTER 18A. SCHOOL PERSONNEL.**

18 **ARTICLE 2. SCHOOL PERSONNEL.**

19 **§18A-2-12. Performance evaluations of school personnel;**
20 **professional personnel evaluation process;**
21 **restrictions on requirements on lesson plans and**
22 **record keeping by classroom teachers.**

23 (a) The state board shall adopt a written system for the
24 evaluation of the employment performance of personnel, which system
25 shall be applied uniformly by county boards in the evaluation of

1 the employment performance of personnel employed by the board.

2 (b) The system adopted by the state board for evaluating the
3 employment performance of professional personnel shall be in
4 accordance with the provisions of this section.

5 (c) For purposes of this section, "professional personnel",
6 "professional" or "professionals", means professional personnel and
7 other professional employees, as defined in section one, article
8 one of this chapter but does not include classroom teachers,
9 principals and assistant principals subject to the evaluation
10 processes established pursuant to section two, article three-c of
11 this chapter.

12 (d) In developing the professional personnel performance
13 evaluation system, and amendments thereto, the state board shall
14 consult with the Center for Professional Development created in
15 article three-a of this chapter. The center shall participate
16 actively with the state board in developing written standards for
17 evaluation which clearly specify satisfactory performance and the
18 criteria to be used to determine whether the performance of each
19 professional meets those standards.

20 (e) The performance evaluation system shall contain, but not
21 be limited to, the following information:

22 (1) The professional personnel positions to be evaluated;

23 (2) The frequency and duration of the evaluations, which shall
24 be of such frequency and duration as to insure the collection of a
25 sufficient amount of data from which reliable conclusions and
26 findings may be drawn, but at least annually;

1 (3) The evaluation shall serve the following purposes:

2 (A) Serve as a basis for the improvement of the performance of
3 the personnel in their assigned duties;

4 (B) Provide an indicator of satisfactory performance for
5 individual professionals;

6 (C) Serve as documentation for a dismissal on the grounds of
7 unsatisfactory performance; and

8 (D) Serve as a basis for programs to increase the professional
9 growth and development of professional personnel;

10 (4) The standards for satisfactory performance for
11 professional personnel and the criteria to be used to determine
12 whether the performance of each professional meets those standards
13 and other criteria for evaluation for each professional position
14 evaluated. Professional personnel, as appropriate, shall
15 demonstrate competency in the knowledge and implementation of the
16 technology standards adopted by the state board. If a professional
17 fails to demonstrate competency in the knowledge and implementation
18 of these standards, he or she will be subject to an improvement
19 plan to correct the deficiencies; and

20 (5) Provisions for a written improvement plan, which shall be
21 specific as to what improvements, if any, are needed in the
22 performance of the professional and shall clearly set forth
23 recommendations for improvements, including recommendations for
24 additional education and training during the professional's
25 recertification or license renewal process.

26 (f) A professional whose performance is considered to be

1 unsatisfactory shall be given notice of deficiencies. A
2 remediation plan to correct deficiencies shall be developed by the
3 employing county board and the professional. The professional
4 shall be given a reasonable period of time for remediation of the
5 deficiencies and shall receive a statement of the resources and
6 assistance available for the purposes of correcting the
7 deficiencies.

8 (g) No person may evaluate professional personnel for the
9 purposes of this section or professional educator for the purposes
10 of section two, article three-c of this chapter unless the person
11 has an administrative certificate issued by the state
12 superintendent and has successfully completed education and
13 training in evaluation skills through the center for professional
14 development, or equivalent education training approved by the state
15 board, which will enable the person to make fair, professional, and
16 credible evaluations of the personnel whom the person is
17 responsible for evaluating. After July 1, 1994, no person may be
18 issued an administrative certificate or have an administrative
19 certificate renewed unless the state board determines that the
20 person has successfully completed education and training in
21 evaluation skills through the center for professional development
22 or equivalent education and training approved by the state board.

23 (h) Any professional whose performance evaluation includes a
24 written improvement plan shall be given an opportunity to improve
25 his or her performance through the implementation of the plan. If
26 the next performance evaluation shows that the professional is now

1 performing satisfactorily, no further action may be taken
2 concerning the original performance evaluation. If the evaluation
3 shows that the professional is still not performing satisfactorily,
4 the evaluator either shall make additional recommendations for
5 improvement or may recommend the dismissal of the professional in
6 accordance with the provisions of section eight of this article.

7 (i) This subsection applies to all classroom teachers
8 irrespective of the process under which they are evaluated.

9 (1) Lesson plans are intended to serve as a daily guide for
10 teachers and substitutes for the orderly presentation of the
11 curriculum. Lesson plans may not be used as a substitute for
12 observations by an administrator in the performance evaluation
13 process. A classroom teacher, as defined in section one, article
14 one of this chapter, may not be required to post his or her lesson
15 plans on the Internet or otherwise make them available to students
16 and parents or to include in his or her lesson plans any of the
17 following:

18 (A) Teach and reteach strategies;

19 (B) Write to learn activities;

20 (C) Cultural diversity;

21 (D) Color coding; or

22 (E) Any other similar items which are not required to serve as
23 a guide to the teacher or substitute for daily instruction;

24 (2) The Legislature finds that classroom teachers must be free
25 of unnecessary paper work so that they can focus their time on
26 instruction. Therefore, classroom teachers may not be required to

1 keep records or logs of routine contacts with parents or guardians;

2 (3) Nothing in this subsection may be construed to prohibit
3 classroom teachers from voluntarily posting material on the
4 Internet; and

5 (4) Nothing in article three-c of this chapter may be
6 construed to negate the provisions of of this subsection.