

HB 4593

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WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010



ENROLLED

House Bill No. 4593

(By Delegates Stowers, Perry, M. Poling, Paxton,
D. Walker and Duke)



Passed March 13, 2010

In Effect July 1, 2010

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H. B. 4593

OWEN D. BROWN, JR.
SECRETARY OF STATE

(BY DELEGATES STOWERS, PERRY, M. POLING, PAXTON,
D. WALKER AND DUKE)

[Passed March 13, 2010; in effect July 1, 2010.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-8-6; to amend and reenact §18-8-1, §18-8-1a and §18-8-4 of said code; to amend and reenact §18-9A-21 of said code; and to amend and reenact §62-15-4 of said code, all relating to improving student participation, success and high school graduation rates; increasing the minimum age for ending compulsory school attendance; reducing the number of days of unexcused absences at which proceedings to enforce attendance begin; establishing the "High School Graduation Improvement Act"; establishing legislative findings and intent; requiring county board of education plan for improving student retention and increasing graduation rate; requiring state board of education to develop, expand and assist certain programs; requiring certain state superintendent reports to Legislative Oversight Commission on Education Accountability; increasing funding for alternative education programs; and authorizing establishment of additional juvenile drug courts.

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 §18-8-6; that §18-8-1,

§18-8-1a and §18-8-4 of said code be amended and reenacted; that §18-9A-21 of said code be amended and reenacted; and that §62-15-4 of said code be amended and reenacted, all to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Compulsory school attendance; exemptions.

1 (a) Exemption from the requirements of compulsory
2 public school attendance established in section one-a of this
3 article shall be made on behalf of any child for the causes or
4 conditions set forth in this section. Each cause or condition
5 set forth in this section is subject to confirmation by the
6 attendance authority of the county.

7 (b) A child is exempt from the compulsory school
8 attendance requirement set forth in section one-a of this
9 article if the requirements of this subsection, relating to
10 instruction in a private, parochial or other approved school,
11 are met. The instruction shall be in a school approved by the
12 county board and for a time equal to the instructional term set
13 forth in section forty-five, article five of this chapter. In all
14 private, parochial or other schools approved pursuant to this
15 subsection it is the duty of the principal or other person in
16 control, upon the request of the county superintendent, to
17 furnish to the county board such information and records as
18 may be required with respect to attendance, instruction and
19 progress of students enrolled.

20 (c) A child is exempt from the compulsory school
21 attendance requirement set forth in section one-a of this
22 article if the requirements of either subdivision (1) or
23 subdivision (2) of this subsection, both relating to home
24 instruction, are met.

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board

27 and for a time equal to the instructional term set forth in
28 section forty-five, article five of this chapter. If the request
29 for home instruction is denied by the county board, good and
30 reasonable justification for the denial shall be furnished in
31 writing to the applicant by the county board. The instruction
32 shall be conducted by a person or persons who, in the
33 judgment of the county superintendent and county board, are
34 qualified to give instruction in subjects required to be taught
35 in public elementary schools in the state. The person or
36 persons providing the instruction, upon request of the county
37 superintendent, shall furnish to the county board information
38 and records as may be required periodically with respect to
39 attendance, instruction and progress of students receiving the
40 instruction. The state board shall develop guidelines for the
41 home schooling of special education students including
42 alternative assessment measures to assure that satisfactory
43 academic progress is achieved.

44 (2) The child meets the requirements set forth in this
45 subdivision: *Provided*, That the county superintendent
46 may seek from the circuit court of the county an order
47 denying home instruction of the child. The order may be
48 granted upon a showing of clear and convincing evidence
49 that the child will suffer neglect in his or her education or
50 that there are other compelling reasons to deny home
51 instruction.

52 (A) Annually, the person or persons providing home
53 instruction shall present to the county superintendent or
54 county board a notice of intent to provide home instruction
55 and the name, address, age and grade level of any child of
56 compulsory school age to be instructed: *Provided*, That if a
57 child is enrolled in a public school, notice of intent to provide
58 home instruction shall be given at least two weeks prior to
59 withdrawing the child from public school;

60 (B) The person or persons providing home instruction
61 shall submit satisfactory evidence of a high school diploma
62 or equivalent;

63 (C) The person or persons providing home instruction
64 shall outline a plan of instruction for the ensuing school year;
65 and

66 (D) On or before June 30 annually, the person or persons
67 providing home instruction shall obtain an academic
68 assessment of the child for the previous school year and
69 submit the results to the county superintendent. When the
70 academic assessment takes place outside of a public school,
71 the parent or legal guardian shall pay the cost. The
72 requirement of an academic assessment is satisfied in one of
73 the following ways:

74 (i) The child receiving home instruction takes a nationally
75 normed standardized achievement test to be administered
76 under standardized conditions as set forth by the published
77 instructions of the selected test in the subjects of reading,
78 language, mathematics, science and social studies. The
79 child's parent or legal guardian may not administer the test in
80 any event. The publication date of the chosen test may not be
81 more than ten years from the date the test is administered.
82 The child is considered to have made acceptable progress
83 when the mean of the child's test results in the required
84 subject areas for any single year meets or exceeds the fiftieth
85 percentile or, if below the fiftieth percentile, shows
86 improvement from the previous year's results;

87 (ii) The child participates in the testing program currently
88 in use in the state's public schools. The test shall be
89 administered to the child at a public school in the county of
90 residence. Determination of acceptable progress shall be
91 based on current guidelines of the state testing program;

92 (iii) The county superintendent is provided with a written
93 narrative indicating that a portfolio of samples of the child's
94 work has been reviewed and that the child's academic
95 progress for the year is in accordance with the child's
96 abilities. If the narrative indicates that the child's academic
97 progress for the year is in accordance with the child's
98 abilities, the child is considered to have made acceptable
99 progress. This narrative shall be prepared by a certified
100 teacher whose certification number shall be provided. The
101 narrative shall include a statement about the child's progress
102 in the areas of reading, language, mathematics, science and
103 social studies and shall note any areas which, in the
104 professional opinion of the reviewer, show need for
105 improvement or remediation; or

106 (iv) The child completes an alternative academic
107 assessment of proficiency that is mutually agreed upon by the
108 parent or legal guardian and the county superintendent.
109 Criteria for acceptable progress shall be mutually agreed
110 upon by the same parties; and

111 (E) When the annual assessment fails to show acceptable
112 progress as defined under the appropriate assessment option
113 set forth in paragraph (D) of this subdivision, the person or
114 persons providing home instruction shall initiate a remedial
115 program to foster acceptable progress. The county board
116 shall notify the parents or legal guardian of the child, in
117 writing, of the services available to assist in the assessment
118 of the child's eligibility for special education services.
119 Identification of a disability does not preclude the
120 continuation of home schooling. In the event that the child
121 does not achieve acceptable progress as defined under the
122 appropriate assessment option set forth in paragraph (D) of
123 this subdivision for a second consecutive year, the person or
124 persons providing instruction shall submit to the county
125 superintendent additional evidence that appropriate instruction is
126 being provided.

127 (3) This subdivision applies to both home instruction
128 exemptions set forth in subdivisions (1) and (2) of this
129 subsection. The county superintendent or a designee shall
130 offer such assistance, including textbooks, other teaching
131 materials and available resources, all subject to availability,
132 as may assist the person or persons providing home
133 instruction. Any child receiving home instruction may upon
134 approval of the county board exercise the option to attend any
135 class offered by the county board as the person or persons
136 providing home instruction may consider appropriate subject
137 to normal registration and attendance requirements.

138 (d) A child is exempt from the compulsory school
139 attendance requirement set forth in section one-a of this
140 article if the requirements of this subsection, relating to
141 physical or mental incapacity, are met. Physical or mental
142 incapacity consists of incapacity for school attendance and
143 the performance of school work. In all cases of prolonged
144 absence from school due to incapacity of the child to attend,
145 the written statement of a licensed physician or authorized
146 school nurse is required., Incapacity shall be narrowly
147 defined and in any case the provisions of this article may not
148 allow for the exclusion of the mentally, physically,
149 emotionally or behaviorally handicapped child otherwise
150 entitled to a free appropriate education.

151 (e) A child is exempt from the compulsory school
152 attendance requirement set forth in section one-a of this
153 article if conditions rendering school attendance impossible
154 or hazardous to the life, health or safety of the child exist.

155 (f) A child is exempt from the compulsory school
156 attendance requirement set forth in section one-a of this
157 article upon regular graduation from a standard senior high
158 school or alternate secondary program completion as
159 determined by the state board.

160 (g) A child is exempt from the compulsory school
161 attendance requirement set forth in section one-a of this
162 article if the child is granted a work permit pursuant to the
163 subsection. After due investigation the county superintendent
164 may grant work permits to youths under the termination age
165 designated in section one-a of this article, subject to state and
166 federal labor laws and regulations. A work permit may not be
167 granted on behalf of any youth who has not completed the
168 eighth grade of school.

169 (h) A child is exempt from the compulsory school
170 attendance requirement set forth in section one-a of this
171 article if a serious illness or death in the immediate family of
172 the child has occurred. It is expected that the county
173 attendance director will ascertain the facts in all cases of such
174 absences about which information is inadequate and report
175 the facts to the county superintendent.

176 (i) A child is exempt from the compulsory school
177 attendance requirement set forth in section one-a of this
178 article if the requirements of this subsection, relating to
179 destitution in the home, are met. Exemption based on a
180 condition of extreme destitution in the home may be granted
181 only upon the written recommendation of the county
182 attendance director to the county superintendent following
183 careful investigation of the case. A copy of the report
184 confirming the condition and school exemption shall be
185 placed with the county director of public assistance. This
186 enactment contemplates every reasonable effort that may
187 properly be taken on the part of both school and public
188 assistance authorities for the relief of home conditions
189 officially recognized as being so destitute as to deprive
190 children of the privilege of school attendance. Exemption for
191 this cause is not allowed when the destitution is relieved
192 through public or private means.

193 (j) A child is exempt from the compulsory school
194 attendance requirement set forth in section one-a of this
195 article if the requirements of this subsection, relating to
196 church ordinances and observances of regular church
197 ordinances, are met. The county board may approve
198 exemption for religious instruction upon written request of
199 the person having legal or actual charge of a child or
200 children. This exemption is subject to the rules prescribed by
201 the county superintendent and approved by the county board.

202 (k) A child is exempt from the compulsory school
203 attendance requirement set forth in section one-a of this
204 article if the requirements of this subsection, relating to
205 alternative private, parochial, church or religious school
206 instruction, are met. Exemption shall be made for any child
207 attending any private school, parochial school, church school,
208 school operated by a religious order or other nonpublic
209 school which elects to comply with the provisions of article
210 twenty-eight of this chapter.

211 (l) Completion of the eighth grade does not exempt any
212 child under the termination age designated in section one-a of
213 this article from the compulsory attendance provision of this
214 article.

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

1 (a) Notwithstanding the provisions of section one of this
2 article, compulsory school attendance begins with the school
3 year in which the sixth birthday is reached prior to September
4 1 of such year or upon enrolling in a publicly supported
5 kindergarten program and, subject to subdivision (3) of this
6 subsection, continues to the sixteenth birthday or for as long
as the student continues to be enrolled in a school system
after the sixteenth birthday.

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

16 (2) The compulsory school attendance provision of this
17 article shall be enforced against a person eighteen years of
18 age or older for as long as the person continues to be enrolled
19 in a school system, and may not be enforced against the
20 parent, guardian, or custodian of the person.

21 (3) Beginning with the 2011-2012 high school freshman
22 cohort class of students, and notwithstanding the provisions
23 of section one of this article, compulsory school attendance
24 begins with the school year in which the sixth birthday is
25 reached prior to September 1 of such year or upon enrolling
26 in a publicly supported kindergarten program and continues
27 to the seventeenth birthday or for as long as the student
28 continues to be enrolled in a school system after the
29 seventeenth birthday.

30 (4) Beginning with the December 2010 interim meeting
31 period, and semiannually thereafter, the state superintendent
32 shall report to the Legislative Oversight Commission on
33 Education Accountability on the impact of the increased age
34 requirement of subdivision (3) of this subsection, and the
35 progress of the state board and the county boards in
36 implementing the requirements of section six of this article.

37 (b) Attendance at a state-approved or Montessori
38 kindergarten, as provided in section eighteen, article five of
39 this chapter, is deemed school attendance for purposes of this
40 section. Prior to entrance into the first grade in accordance

41 with section five, article two of this chapter, each child must
42 have either:

43 (1) Successfully completed such publicly or privately
44 supported, state-approved kindergarten program or
45 Montessori kindergarten program; or

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

51 (c) Notwithstanding the provisions of this section and of
52 section five, article two of this chapter and section eighteen,
53 article five of this chapter, a county board may provide for
54 advanced entrance or placement under policies adopted by
55 said board for any child who has demonstrated sufficient
56 mental and physical competency for such entrance or
57 placement.

58 (d) This section does not prevent a student from another
59 state from enrolling in the same grade in a public school in
60 West Virginia as the student was enrolled at the school from
61 which the student transferred.

**§18-8-4. Duties of attendance director and assistant directors;
complaints, warrants and hearings.**

1 (a) The county attendance director and the assistants shall
2 diligently promote regular school attendance. The director
3 and assistants shall:

4 (1) Ascertain reasons for inexcusable absences from
5 school of students of compulsory school age and students
6 who remain enrolled beyond the compulsory school age as
7 defined under section one-a of this article; and

8 (2) Take such steps as are, in their discretion, best
9 calculated to correct attitudes of parents and students which
10 result in absences from school even though not clearly in
11 violation of law.

12 (b) In the case of five total unexcused absences of a
13 student during a school year, the attendance director or
14 assistant shall:

15 (1) Serve written notice to the parent, guardian or
16 custodian of the student that the attendance of the student at
17 school is required and that within ten days of receipt of the
18 notice the parent, guardian or custodian, accompanied by the
19 student, shall report in person to the school the student
20 attends for a conference with the principal or other
21 designated representative of the school in order to discuss
22 and correct the circumstances causing the inexcusable
23 absences of the student; and if the parent, guardian or
24 custodian does not comply with the provisions of this article,
25 then the attendance director or assistant shall make complaint
26 against the parent, guardian or custodian before a magistrate
27 of the county. If it appears from the complaint that there is
28 probable cause to believe that an offense has been committed
29 and that the accused has committed it, a summons or a
30 warrant for the arrest of the accused shall issue to any officer
31 authorized by law to serve the summons or to arrest persons
32 charged with offenses against the state. More than one
33 parent, guardian or custodian may be charged in a complaint.
34 Initial service of a summons or warrant issued pursuant to the
35 provisions of this section shall be attempted within ten
36 calendar days of receipt of the summons or warrant and
37 subsequent attempts at service shall continue until the
38 summons or warrant is executed or until the end of the school
39 term during which the complaint is made, whichever is later.

40 (c) The magistrate court clerk, or the clerk of the circuit
41 court performing the duties of the magistrate court as

42 authorized in section eight, article one, chapter fifty of this
43 code, shall assign the case to a magistrate within ten days of
44 execution of the summons or warrant. The hearing shall be
45 held within twenty days of the assignment to the magistrate,
46 subject to lawful continuance. The magistrate shall provide
47 to the accused at least ten days' advance notice of the date,
48 time and place of the hearing.

49 (d) When any doubt exists as to the age of a student
50 absent from school, the attendance director has authority to
51 require a properly attested birth certificate or an affidavit
52 from the parent, guardian or custodian of the student, stating
53 age of the student. In the performance of his or her duties,
54 the county attendance director has authority to take without
55 warrant any student absent from school in violation of the
56 provisions of this article and to place the student in the school
57 in which he or she is or should be enrolled.

58 (e) The county attendance director shall devote such time
59 as is required by section three of this article to the duties of
60 attendance director in accordance with this section during the
61 instructional term and at such other times as the duties of an
62 attendance director are required. All attendance directors
63 hired for more than two hundred days may be assigned other
64 duties determined by the superintendent during the period in
65 excess of two hundred days. The county attendance director
66 is responsible under direction of the county superintendent
67 for efficiently administering school attendance in the county.

68 (f) In addition to those duties directly relating to the
69 administration of attendance, the county attendance director
70 and assistant directors also shall perform the following
71 duties:

72 (1) Assist in directing the taking of the school census to
73 see that it is taken at the time and in the manner provided by
74 law;

75 (2) Confer with principals and teachers on the
76 comparison of school census and enrollment for the detection
77 of possible nonenrollees;

78 (3) Cooperate with existing state and federal agencies
79 charged with enforcing child labor laws;

80 (4) Prepare a report for submission by the county
81 superintendent to the State Superintendent of Schools on
82 school attendance, at such times and in such detail as may be
83 required. The state board shall promulgate a legislative rule
84 pursuant to article three-b, chapter twenty-nine-a of this code
85 that sets forth student absences that are excluded for
86 accountability purposes. The absences that are excluded by
87 the rule include, but are not be limited to, excused student
88 absences, students not in attendance due to disciplinary
89 measures and absent students for whom the attendance
90 director has pursued judicial remedies to compel attendance
91 to the extent of his or her authority. The attendance director
92 shall file with the county superintendent and county board at
93 the close of each month a report showing activities of the
94 school attendance office and the status of attendance in the
95 county at the time;

96 (5) Promote attendance in the county by compiling data
97 for schools and by furnishing suggestions and
98 recommendations for publication through school bulletins
99 and the press, or in such manner as the county superintendent
100 may direct;

101 (6) Participate in school teachers' conferences with
102 parents and students;

103 (7) Assist in such other ways as the county
104 superintendent may direct for improving school attendance;

105 (8) Make home visits of students who have excessive
106 unexcused absences, as provided above, or if requested by
107 the chief administrator, principal or assistant principal; and

108 (9) Serve as the liaison for homeless children and youth.

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

1 (a) This section is known and may be cited as “The High
2 School Graduation Improvement Act.”

3 (b) The Legislature makes the following findings:

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

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

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

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

24 especially those students who are at risk of dropping out of
25 school;

26 (5) Investing financially in this focus shift will result in
27 the need for fewer resources to be committed to enforcing
28 compulsory attendance laws and fewer incidents of disruptive
29 student behavior;

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

35 (7) There is a strong relationship between truancy and
36 dropping out of high school. Frequent absences are one of
37 the most common indicators that a student is disengaging
38 from the learning process and likely to drop out of school
39 early. Intervention after fewer absences is likely to have a
40 positive impact on a student's persistence to graduation;

41 (8) Students cite many reasons for dropping out of
42 school, some of which include engaging in drug culture, lack
43 of positive influence, role model or parental involvement,
44 absence of boundaries and direction, lack of a positive home
45 environment, peer pressure, and poor community
46 expectations;

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

53 (10) Career-technical education is a dynamic system in
54 West Virginia which offers numerous concentrations that

55 provide students with industry-recognized credentials, while
56 also preparing them for post-secondary education;

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

60 (12) The current high school graduation rate for
61 secondary career-technical education completers is
62 significantly higher than the state graduation rate;

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

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

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

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

81 (17) The job placement rate for students graduating from
82 career-technical programs statewide is greater than ninety-
83 five percent;

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

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

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

95 (21) Learning is increased and retained at a higher level
96 if the content is taught through a relevant and applied
97 experience, and students who are able to experience
98 academics through real life projects have a higher probability
99 of mastering the appropriate concepts;

100 (22) Programs such as “GED Option” and
101 “Techademics” are valuable resources for providing relevant
102 and applied experience for students;

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

108 (24) Students would greatly benefit if West Virginia were
109 designated as a “GED Option” state. Currently a student is
110 ineligible to take the General Educational Development
111 (GED) exam if he or she is enrolled in school, which requires
112 the student to drop out of high school in order to participate
113 in a GED preparation program or take the exam, even if the
114 student desires to remain enrolled;

115 (25) A GED Option state designation by the American
116 Council on Education would allow students in this state to
117 remain enrolled in school and continue acquiring academic
118 and career-technical credits while pursuing a GED diploma.
119 The GED Option would be blended with the West Virginia
120 virtual schools or a career-technical education pathway.
121 Upon completion, rather than being a dropout, the student
122 would have a GED diploma and a certification in the chosen
123 career-technical or virtual school pathway;

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

129 (27) Students attending the Mountaineer Challenge
130 Academy would greatly benefit if the GED Option were
131 implemented at the Academy;

132 (28) The Health Sciences and Technology Academy
133 (HSTA) program prepares rural, minority and economically
134 disadvantaged students for college and careers in the health
135 sciences, and demonstrates tremendous success in its high
136 percentage of students who graduate from high school and
137 participate in post-secondary education.

138 (29) The West Virginia GEAR UP (Gaining Early
139 Awareness and Readiness for Undergraduate Programs)
140 program is aimed at increasing the academic performance
141 and rigorous preparation of students, increasing the number
142 of high-poverty, at-risk students who are prepared to enter
143 and succeed in post-secondary education, and increasing the
144 high school graduation rate;

145 (30) The GEAR UP program successfully aids students
146 in planning, applying and paying for education and training
147 beyond high school;

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

151 (32) The intense treatment and individual monitoring
152 provided through the state's juvenile drug courts have proven
153 to be highly effective in treating drug addictions, and
154 rehabilitating drug addicted youth and improving their
155 educational outcomes;

156 (33) Services provided by juvenile drug courts include
157 substance abuse treatment, intervention, assessment, juvenile
158 and family counseling, heavy supervision by probation
159 officers including school-based probation officers who
160 provide early intervention and diversion services, and
161 addressing some of the underlying reasons why students are
162 not successful in school;

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

166 (35) Juvenile drug courts are an important strategy to
167 improve substance abuse treatment outcomes, and serve to
168 save the state significant cost on incarceration of the
169 juveniles, along with the future costs to society of individuals
170 who remain substance abusers;

171 (36) Juvenile drug courts produce greater cost benefits
172 than other strategies that address criminal activity related to
173 substance abuse and addiction that bring individuals into the
174 criminal justice system;

175 (37) Funding for the increased number of students
176 enrolled in school during the 2010-2011 school year due to
177 the compulsory school attendance age increase established by

178 this act will not be reflected in the state aid formula allocation
179 until the 2011-2012 school year, which will require
180 additional funds to be provided to county boards for the
181 2010-2011 school year to accommodate the increased
182 enrollment;

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

188 (39) Funds invested toward education and ensuring that
189 students complete high school pay tremendous dividends
190 through the moneys saved on incarceration, unemployment
191 and underemployment as those students reach adulthood; and

192 (40) Increasing the compulsory school attendance age
193 will have little effect in aiding students to complete high
194 school if additional resources, both fiscal and programmatic,
195 are not dedicated to supporting student achievement,
196 providing real-life relevancy in curriculum, and engaging
197 students in learning, particularly for those students who have
198 become so disengaged from school and learning that they are
199 at risk of dropping out of school.

200 (c) The Legislature intends as follows:

201 (1) The state will continue to explore diverse instructional
202 delivery strategies to accommodate various learning styles
203 and will focus on a state-wide dropout intervention and
204 prevention program to provide support for students having
205 academic difficulty;

206 (2) A general credit recovery program shall be
207 implemented statewide, including delivery through West
208 Virginia virtual schools;

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

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

214 (5) The state will invest additional state funds and other
215 resources in strategies and programs that engage
216 disconnected and discouraged students in a positive learning
217 environment as a critical first step to ensuring that students
218 persist and graduate; and

219 (6) County boards will develop plans to demonstrate how
220 they will use available funds to implement the intent of this
221 section.

222 (d) Each county board shall include in its alternative
223 education program plan required by section six, article two,
224 of this chapter a plan to improve student retention and
225 increase the graduation rate in the county. The plan is subject
226 to approval of the state board, and shall include strategies the
227 county board will implement to achieve the following goals:

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

229 (2) Identifying at the earliest age possible those students
230 who are at risk of dropping out of school prior to graduation;
231 and

232 (3) Providing additional options for delivering to at-risk
233 students academic credentials and career-technical training if
234 appropriate or desired by the student. The options may
235 include such programs as Techademics, Earn a Degree-
236 Graduate Early (EDGE), Health Sciences and Technology
237 Academy (HSTA), Gaining Early Awareness and Readiness

238 for Undergraduate Programs (GEAR UP), truancy diversion,
239 early intervention, dropout prevention, prevention resource
240 officers, GED option, credit recovery, alternative learning
241 environments, or any other program or strategy approved by
242 the state board.

243 (e) As soon as is practicable the state superintendent or
244 his or her designee shall pursue designation of West Virginia
245 as a “GED Option” state by the American Council on
246 Education. If so designated, the state board shall:

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

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

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

253 (1) The Techademics program to include each major
254 academic subject and increase the academic credit available
255 through the program to students; and

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

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

263 (h) Some career and technical education programs only
264 except students in certain upper high school grade levels due
265 to lack of capacity to accept the students in the lower high

266 school grade levels. This can be detrimental to efforts to keep
267 students identified as at risk of dropping out of school prior
268 to graduation in school. Therefore, those career and technical
269 education programs that only students in certain upper high
270 school grade levels to enroll may make exceptions for those
271 at risk students and enroll any of those at risk students who
272 are in grades nine and above.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-21. Funding for alternative education programs.

1 (a) An appropriation may be made to the state department
2 to be distributed to county boards for the operation of
3 alternative education and prevention programs established in
4 accordance with policies and procedures adopted by the state
5 board under section six, article two of this chapter. The
6 appropriation shall be an amount equal to eighteen dollars per
7 student in net enrollment, subject to appropriation by the
8 Legislature. The state board shall distribute ninety-eight
9 percent of the total appropriation to the county boards
10 proportionate to each county's net enrollment. The
11 remaining two percent of the appropriation shall be retained
12 by the state department to support the provision of services
13 to the county boards in administering programs established
14 in accordance with policies and procedures adopted by the
15 state board under section six, article two of this chapter.

16 (b) Nothing in this section may be construed to require
17 any specific level of funding by the Legislature.

18 (c) The increase from \$12 per student in net enrollment
19 to \$18 per student in net enrollment pursuant to the
20 amendment and enactment of this section during the 2010
21 regular session of the Legislature is not subject to the
22 provisions of section three-a.

**ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND
TREATMENT ACT.**

§62-15-4. Court authorization and structure.

1 (a) Each judicial circuit or two or more adjoining judicial
2 circuits may establish a drug court or regional drug court
3 program under which drug offenders will be processed to
4 address appropriately, the identified substance abuse problem
5 as a condition of pretrial release, probation, incarceration,
6 parole or other release from a correctional facility.

7 (b) The structure, method, and operation of each drug
8 court program may differ and should be based upon the
9 specific needs of and resources available to the judicial
10 circuit or circuits where the drug court program is located.

11 (c) A drug court program may be preadjudication or post-
12 adjudication for an adult offender.

13 (d) Participation in drug court, with the consent of the
14 prosecution and the court, shall be pursuant to a written
15 agreement.

16 (e) A drug court may grant reasonable incentives under
17 the written agreement if it finds that the drug offender:

18 (1) Is performing satisfactorily in drug court;

19 (2) Is benefitting from education, treatment and
20 rehabilitation;

21 (3) Has not engaged in criminal conduct; or

22 (4) Has not violated the terms and conditions of the
23 agreement.

24 (f) A drug court may impose reasonable sanctions on the
25 drug offender, including incarceration for the underlying
26 offense or expulsion from the program, pursuant to the
27 written agreement, if it finds that the drug offender:

28 (1) Is not performing satisfactorily in drug court;

29 (2) Is not benefitting from education, treatment or
30 rehabilitation;

31 (3) Has engaged in conduct rendering him or her
32 unsuitable for the program;

33 (4) Has otherwise violated the terms and conditions of the
34 agreement; or

35 (5) Is for any reason unable to participate.

36 (g) Upon successful completion of drug court, a drug
37 offender's case shall be disposed of by the judge in the
38 manner prescribed by the agreement and by the applicable
39 policies and procedures adopted by the drug court. This may
40 include, but is not limited to, withholding criminal charges,
41 dismissal of charges, probation, deferred sentencing,
42 suspended sentencing, split sentencing, or a reduced period
43 of incarceration.

44 (h) Drug court shall include the Ten Key Components
45 and the drug court team shall act to ensure compliance with
46 them.

47 (i) Nothing contained in this article confers a right or an
48 expectation of a right to participate in a drug court nor does
49 it obligate a drug court to accept every drug offender.

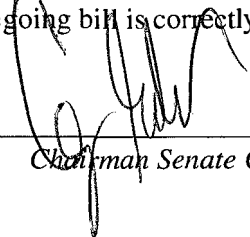
50 (j) Neither the establishment of a drug court nor anything
51 herein may be construed as limiting the discretion of the

52 jurisdiction's prosecutor to act on any criminal case which he
53 or she deems advisable to prosecute.

54 (k) Each drug court judge may establish rules and may
55 make special orders as necessary that do not conflict with
56 rules and orders promulgated by the Supreme Court of
57 Appeals which has administrative authority over the courts.
58 The Supreme Court of Appeals shall provide uniform
59 referral, procedure and order forms that shall be used in all
60 drug courts in this state.

61 (l) In addition to the number of juvenile drug courts
62 operating on the effective date of this section, up to five
63 additional juvenile drug courts or regional juvenile drug court
64 programs may be established by January 1, 2012, as
65 determined by the Supreme Court of Appeals.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



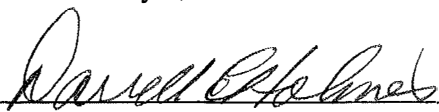
Chairman Senate Committee



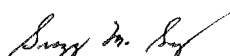
Chairman House Committee

Originating in the House.

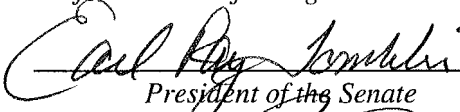
In effect July 1, 2010.



Clerk of the Senate



Clerk of the House of Delegates

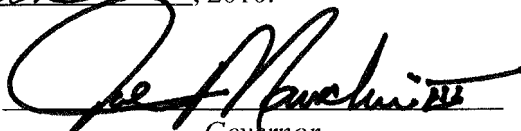


President of the Senate



Speaker of the House of Delegates

The within is approved this the 26th
day of March, 2010.



Governor

PRESENTED TO THE
GOVERNOR

MAR 22 2010

Time 3:40pm