

**H. B. 4236**

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)  
[By Request of the Executive]  
[Introduced January 20, 2012; referred to the  
Committee on Education then Finance.]

A BILL to amend and reenact §18A-2-12 of the code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §18A-3C-1, §18A-3C-2 and §18A-3C-3, all relating to exclusions from the definition of professional personnel for evaluation purposes; new system of performance evaluations of professional personnel, specifically teachers, principals and assistant principals; instituting specific percentages for the evaluation score based on student performance and peer evaluations; implementing new standards for teacher mentoring program; and potential loss of funding for not instituting new teacher mentoring standards.

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

That §18A-2-12 of the code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new article, designated §18A-3C-1, §18A-3C-2 and

1 §18A-3C-3, all to read as follows:

2 **ARTICLE 2. SCHOOL PERSONNEL.**

3 **§18A-2-12. Performance evaluations of school personnel;**  
4 **professional personnel evaluation process.**

5 (a) The state board shall adopt a written system for the  
6 evaluation of the employment performance of personnel, which system  
7 shall be applied uniformly by county boards of education in the  
8 evaluation of the employment performance of personnel employed by  
9 the board.

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

13 (c) For purposes of this section, "professional personnel",  
14 "professional" or "professionals", means professional personnel as  
15 defined in section one, article one of this chapter but does not  
16 include professional personnel subject to the evaluation processes  
17 established pursuant to the provisions of section two, article  
18 three-c of this chapter.

19 (d) In developing the professional personnel performance  
20 evaluation system, and amendments thereto, the state board shall  
21 consult with the Center for Professional Development created in  
22 article three-a of this chapter. The center shall participate  
23 actively with the state board in developing written standards for  
24 evaluation which clearly specify satisfactory performance and the

1 criteria to be used to determine whether the performance of each  
2 professional meets such standards.

3 (e) The performance evaluation system shall contain, but ~~shall~~  
4 not be limited to, the following information:

5 (1) The professional personnel positions to be evaluated,  
6 whether they be teachers, substitute teachers, administrators,  
7 principals or others;

8 (2) The frequency and duration of the evaluations, which shall  
9 be on a regular basis and of such frequency and duration as to  
10 insure the collection of a sufficient amount of data from which  
11 reliable conclusions and findings may be drawn. ~~Provided, That~~ For  
12 school personnel with five or more years of experience who have not  
13 received an unsatisfactory rating, evaluations shall be conducted  
14 no more than once every three years unless the principal determines  
15 an evaluation for a particular school employee is needed more  
16 frequently. ~~Provided, however, That~~ For classroom teachers with  
17 five or more years of experience who have not received an  
18 unsatisfactory rating, an evaluation shall be conducted or  
19 professional growth and development plan required only when the  
20 principal determines it ~~to be~~ is necessary for a particular  
21 classroom teacher or when a classroom teacher exercises the option  
22 of being evaluated at more frequent intervals;

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

24 (A) Serve as a basis for the improvement of the performance of

1 the personnel in their assigned duties;

2 (B) Provide an indicator of satisfactory performance for  
3 individual professionals;

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

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

8 (4) The standards for satisfactory performance for  
9 professional personnel and the criteria to be used to determine  
10 whether the performance of each professional meets such standards  
11 and other criteria for evaluation for each professional position  
12 evaluated. ~~Effective July 1, 2003 and thereafter,~~ Professional  
13 personnel, as appropriate, shall demonstrate competency in the  
14 knowledge and implementation of the technology standards adopted by  
15 the state board. If a professional fails to demonstrate competency  
16 in the knowledge and implementation of these standards, he or she  
17 will be subject to an improvement plan to correct the deficiencies;  
18 and

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

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

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

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

9 (i) 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 (1) Teach and reteach strategies;  
19 (2) Write to learn activities;  
20 (3) Cultural diversity;  
21 (4) Color coding; or  
22 (5) Any other similar items which are not required to serve as  
23 a guide to the teacher or substitute for daily instruction; and

1 (j) The Legislature finds that classroom teachers must be free  
2 of unnecessary paper work so that they can focus their time on  
3 instruction. Therefore, classroom teachers may not be required to  
4 keep records or logs of routine contacts with parents or guardians.

5 (k) Nothing in this section may be construed to prohibit  
6 classroom teachers from voluntarily posting material on the  
7 Internet.

8 **ARTICLE 3C. IMPROVING TEACHING AND LEARNING.**

9 **§18A-3C-1. Purposes.**

10 (a) The purpose of this article is to create a comprehensive  
11 infrastructure that routinely supports a continuous process for  
12 improving teaching and learning. Its focus is on developing strong  
13 teaching and school leadership, without which effective learning  
14 does not occur. The general components of this infrastructure  
15 include the following:

16 (1) High-quality teacher preparation, induction and  
17 evaluation;

18 (2) Universal support for emerging teachers including  
19 comprehensive new teacher induction and support for student  
20 teachers, teachers teaching in assignments for which they have less  
21 than a full professional credential and teacher candidates pursuing  
22 certification through an alternative route;

1       (3) Evaluation of the performance of teachers and leaders in  
2 demonstrating high quality professional practice, leadership and  
3 collaboration and the resulting growth in student learning;

4       (4) Focused improvement in teaching and learning through the  
5 use of evaluation data to inform the delivery of professional  
6 development and additional supports to improve teaching based on  
7 the evaluation results and to inform the need for improvements in  
8 teacher preparation programs; and

9       (5) The creation of a leadership culture that seeks and builds  
10 powerful alliances among all stakeholders focused on continuous  
11 growth in student learning.

12       (b) For purposes of this article "professional personnel"  
13 includes, but is not limited to, classroom teachers, assistant  
14 principals and principals as defined in section one, article one  
15 chapter eighteen-a of this code.

16 **§18A-3C-2. Performance evaluations of professional personnel.**

17       (a) The intent of the Legislature is to allow for a multi-step  
18 statewide implementation of performance evaluations for  
19 professional personnel pursuant to this section consistent with  
20 sound educational practices and resources available resulting in  
21 full state-wide implementation by no later than the school year  
22 2013-2014. Beginning with the schools included in the evaluation  
23 processes for professional personnel piloted by the Department of  
24 Education during the 2011-2012 school year, additional schools or

1 school systems shall be subject to the provisions of this article  
2 in accordance with a plan established by the state board to achieve  
3 full statewide implementation by no later than the school year  
4 2013-2014. For schools and school systems subject to the  
5 provisions of this article, the provisions of this article shall  
6 govern when they are in conflict with other provisions of this  
7 chapter and chapter eighteen of this code. Specifically, the  
8 provisions of this article govern for the performance evaluation of  
9 classroom teachers, principals and assistant principals employed in  
10 these schools and school systems. To the extent that this article  
11 conflicts with the provisions of section twelve, article two of  
12 this chapter relating to professional personnel performance  
13 evaluations, this article shall govern. The state board shall  
14 submit a report on its plan for the phased implementation of this  
15 article to the Legislative Oversight Commission on Education  
16 Accountability at the Commission's July interim meeting in each  
17 year of the phased implementation. The report shall include the  
18 positions to be evaluated, the evaluation process and a list of the  
19 schools and school systems subject to the provisions of this  
20 article.

21 (b) Before July 1, 2013, the state board shall adopt a  
22 legislative rule in accordance with article three-b, chapter  
23 twenty-nine-a of this code, for evaluating the performance of each  
24 professional personnel each year. The rule shall provide for

1 performance evaluations of professional personnel to be conducted  
2 in accordance with this section in each school and school system  
3 beginning with the 2013-14 school year.

4 (c) The process adopted by the state board for evaluating the  
5 performance of classroom teachers shall incorporate at least the  
6 following:

7 (1) Alignment with the West Virginia professional teaching  
8 standards adopted by the state board that establish the foundation  
9 for educator preparation, teacher assessment and professional  
10 development throughout the state;

11 (2) Employment of the professional teaching standards to  
12 provide explicit and extensive measures of the work of teaching and  
13 what teachers must know and be able to do and provide evaluative  
14 measures of educator performance;

15 (C) The use of two pieces of evidence at two points in time  
16 over the instructional term to demonstrate student learning as an  
17 indicator of educator performance; and

18 (D) The use of school's school-wide student learning growth  
19 as measured by the state-wide summative assessment as an evaluative  
20 measure of all educators employed in the school.

21 Eighty percent of the evaluation shall be based on an  
22 appraisal of the educator's ability to perform the critical  
23 standard elements of the professional teaching standards. The  
24 appraisal shall include conferences with the evaluator reinforced

1 through observation. Twenty percent of the evaluation shall be  
2 based on the evidence of the student learning, of which fifteen  
3 percent shall be evidence of the student learning of students  
4 assigned to the educator and five percent shall be student learning  
5 growth measured by the school-wide score on the state summative  
6 assessment.

7 (d) The process adopted by the state board for evaluating the  
8 performance of principals and assistant principals shall include,  
9 but not be limited to, the following:

10 (1) Alignment with the West Virginia professional leadership  
11 standards adopted by the state board establishing the  
12 responsibility effective principals for the collective success of  
13 their school including the learning, growth and achievement of  
14 students, staff and self;

15 (2) Employment of the professional leadership standards to  
16 provide explicit and extensive measures of the work of school  
17 leadership focused on the continuous improvement of teaching and  
18 learning;

19 (3) The use of data, evidence and artifacts to confirm the  
20 principal's performance on achieving the goals established by the  
21 principal and superintendent based on the identified needs of the  
22 principal and the school including, but not limited to, the  
23 school's score on the state summative assessment; and

1       (4) The use of stakeholder surveys of students, parents and  
2 teachers regarding the overall effectiveness of the principal on  
3 elements of the school leader standards.

4       (e) Evaluations of the performance of professional personnel  
5 shall serve the following purposes:

6       (1) Serve as a basis for the improvement of the performance of  
7 the professional personnel in their assigned duties;

8       (2) Serve as the basis for providing professional development  
9 specifically targeted on the area or areas identified through the  
10 evaluation process as needing improvement. If possible, this  
11 targeted professional development should be delivered at the  
12 school-site using collaborative processes, mentoring or coaching or  
13 other approaches that maximize use of the instructional setting;

14       (3) Serve as the basis for establishing priorities for the  
15 provision of county-level professional development when aggregate  
16 evaluation data from the county's schools indicates an area or  
17 areas of needed improvement;

18       (4) Serve as a basis for informing the teacher preparation  
19 programs in this state of an area or areas of needed improvement in  
20 the programs, or informing a specific program of needed  
21 improvement, when state-level aggregate evaluation data indicates  
22 that beginning teachers who have graduated from the program have  
23 specific weaknesses;

1       (5) Provide an indicator of level of performance of the  
2 professional personnel;

3       (6) Serve as a basis for programs to increase the professional  
4 growth and development of professional personnel; and

5       (7) Serve as documentation for a dismissal on the grounds of  
6 unsatisfactory performance.

7       (f) The rule adopted by the state board shall include  
8 standards for performance of professional personnel and the  
9 criteria to be used to determine whether their performance meets  
10 the standards. The rule also shall include guidance on best  
11 practices for providing time within the school day for teachers  
12 subject to performance evaluations under this section to  
13 participate in the collaborative, mentoring or coaching and  
14 planning processes necessary for execution of the performance  
15 evaluation process and achieving advanced levels of performance.

16       (g) The rule adopted by the state board shall include  
17 provisions for written improvement plans when necessary to improve  
18 the performance of the professional personnel. The written  
19 improvement plan shall be specific as to what improvements are  
20 needed in the performance of the professional personnel and shall  
21 clearly set forth recommendations for improvements including  
22 recommendations for additional education and training of  
23 professionals subject to recertification. Professional personnel  
24 whose performance evaluation includes a written improvement plan

1 shall be given an opportunity to improve his or her performance  
2 through the implementation of the plan.

3 (h) Professional personnel whose performance is considered to  
4 be unsatisfactory shall be given written notice of his or her  
5 deficiencies. A written improvement plan to correct these  
6 deficiencies shall be developed by the employing county board of  
7 education and the employee. The professional personnel shall be  
8 given a reasonable period of time, not exceeding twelve months, to  
9 accomplish the requirements of the improvement plan and shall  
10 receive a written statement of the resources and assistance  
11 available for the purposes of correcting the deficiencies. If the  
12 next performance evaluation shows that the professional is now  
13 performing satisfactorily, no further action may be taken  
14 concerning the original performance evaluation. If the evaluation  
15 shows that the professional is still not performing satisfactorily,  
16 the evaluator either shall make additional written recommendations  
17 for improvement or may recommend the dismissal of the professional  
18 personnel in accordance with the provisions of section eight,  
19 article two of this chapter.

20 (i) No person may evaluate professional personnel for the  
21 purposes of this section unless the person has an administrative  
22 certificate issued by the state superintendent and has successfully  
23 completed education and training in evaluation skills through the  
24 center for professional development, or equivalent education

1 training approved by the state board, which will enable the person  
2 to make fair, professional, and credible evaluations of the  
3 personnel whom the person is responsible for evaluating.

4 **§18A-3C-3. Comprehensive system for teacher induction and**  
5 **professional growth.**

6 (a) The intent of the Legislature is to allow for a multistep  
7 statewide implementation of a comprehensive system of support for  
8 building professional practice of beginning teachers, specifically  
9 those on the initial and intermediate progressions, consistent with  
10 sound educational practices and resources available. In this  
11 regard, it is the intent of the Legislature that the transition of  
12 schools and school systems to a comprehensive system of support  
13 that includes support for improved professional performance  
14 targeted on deficiencies identified through the evaluation process  
15 will be implemented concurrent with the first year that a school or  
16 system receives final evaluation results from the performance  
17 evaluation process pursuant to section two of this article.  
18 Further, because of significant variability among the counties, not  
19 only in the size of their teaching force, distribution of  
20 facilities and available resources, but also because of their  
21 varying needs, the Legislature intends for the implementation of  
22 this section to be accomplished in a manner that provides adequate  
23 flexibility to the counties to design and implement a comprehensive  
24 system of support for improving professional performance that best

1 achieves the goals of this section within the county. Finally,  
2 because of the critical importance of ensuring that all teachers  
3 perform at the accomplished level or higher in the delivery of  
4 instruction that at least meets the West Virginia professional  
5 teaching standards and because achieving this objective at a  
6 minimum entails providing assistance to address the needs as  
7 indicated by the data informed results of annual performance  
8 evaluations, including the self-assessed needs of the teachers  
9 themselves, the Legislature expects the highest priority for  
10 county, regional and state professional development will be on  
11 meeting these needs and that the transition to a comprehensive  
12 system of support for improving professional practice will reflect  
13 substantial redirection of existing professional development  
14 resources toward this highest priority.

15 (b) On or before July 1, 2012, the state board shall publish  
16 guidelines on the design and implementation of a comprehensive  
17 system of support for improving professional practice. The purpose  
18 of the guidelines is to assist the county board with the design and  
19 implementation of a system that best achieves the goals of this  
20 section within the county. The guidelines may include examples of  
21 best practices and resources available to county boards to assist  
22 them with the design and implementation of a comprehensive system.

23 (c) Effective for the school year beginning July 1, 2013, and  
24 thereafter, a county board is not eligible to receive state funding

1 appropriated for the purposes of this section or any other  
2 provision of law related to beginning teacher internships and  
3 mentor teachers unless it has adopted a plan for implementation of  
4 a comprehensive system of support for improving professional  
5 practice, the plan has been verified by the state board as meeting  
6 the requirements of this section and the county is implementing the  
7 plan. The plan shall address the following:

8       (1) The manner in which the county will provide the strong  
9 school-based support and supervision that will assist beginning  
10 teachers develop instructional and management strategies,  
11 procedural and policy expertise, and other professional practices  
12 they need to be successful in the classroom and perform at the  
13 accomplished level. Nothing in this subdivision prohibits a school  
14 or school system that was granted an exception or waiver from  
15 section two-c, article three of this chapter prior to the effective  
16 date of this section from continuing implementation of the program  
17 in accordance with the exception or waiver;

18       (2) The manner in which the county will provide strong  
19 school-based support and assistance necessary in cooperation with  
20 teacher preparation programs in this state to make student teaching  
21 a productive learning experience;

22       (3) The manner in which the county will use the data from the  
23 educator performance evaluation system to serve as the basis for  
24 providing professional development specifically targeted on the

1 area or areas identified through the evaluation process as needing  
2 improvement. If possible, this targeted professional development  
3 should be delivered at the school-site using collaborative  
4 processes, mentoring or coaching or other approaches that maximize  
5 use of the instructional setting;

6 (4) The manner in which the county will use the data from the  
7 educator performance evaluation system to serve as the basis for  
8 establishing priorities for the provision of county-level  
9 professional development when aggregate evaluation data from the  
10 county's schools indicates an area or areas of needed improvement;

11 (5) If a county utilizes master teachers, mentors, academic  
12 coaches or any other approaches utilizing individual employees to  
13 provide support, supervision or other professional development or  
14 training to other employees for the purpose of improving their  
15 professional practice, the manner in which the county will select  
16 each of these individual employees based on demonstrated superior  
17 performance and competence as well as the manner in which the  
18 county will coordinate support for these employees;

19 (6) The manner in which the county will utilize local  
20 resources available including, but not limited to, funds for  
21 professional development and academic coaches, to focus on the  
22 priority professional development goals of this section;

23 (7) The manner in which the county will adjust its scheduling,  
24 use of substitutes, collaborative planning time, calendar or other

1 measures as may be necessary to provide sufficient time for  
2 professional personnel to accomplish the goals of this section as  
3 set forth in the county's plan; and

4 (8) The manner in which the county will monitor and evaluate  
5 the effectiveness of implementation and outcomes of the county  
6 system of support for improving professional practice.

7 (d) Effective the school year beginning July 1, 2013, and  
8 thereafter, appropriations for beginning teacher mentors and any  
9 new appropriation which may be made for the purposes of this  
10 section shall be expended by county boards only to accomplish the  
11 activities as set forth in their county plan pursuant to this  
12 section. Effective the school year beginning July 1, 2013, and  
13 thereafter, no specific level of compensation is guaranteed for any  
14 employee service or employment as a mentor and such service or  
15 employment is not subject to the provisions of this code governing  
16 extra duty contracts.

17 (e) The Legislative Oversight Commission on Education  
18 Accountability shall review the progress of the implementation of  
19 this article and may make any recommendations it deems necessary to  
20 the Legislature during the 2013 regular legislative session.

NOTE: The purpose of this bill is to phase-in a new evaluation process for professional personnel and institute a comprehensive teacher mentoring system in West Virginia.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.

Article 3C is new; therefore, it has been completely underscored.