

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 19**

5 (Senator Plymale, *original sponsor*)

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7 [Passed March 13, 2015; in effect ninety days from passage.]  
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11 AN ACT to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating  
12 to minimum periods of instruction for early childhood education programs; setting forth  
13 minimum instructional days per week, minimum instructional minutes per week and  
14 minimum instructional days per year for early childhood education programs.

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

16 That §18-5-44 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
17 to read as follows:

18 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

19 **§18-5-44. Early childhood education programs.**

20 (a) For the purposes of this section, an “early childhood education program” means a program  
21 created under this section for children who have attained the age of four prior to September 1 of the  
22 school year in which the children enter the program.

1 (b) *Findings.* –

2 (1) Among other positive outcomes, early childhood education programs have been  
3 determined to:

4 (A) Improve overall readiness when children enter school;

5 (B) Decrease behavioral problems;

6 (C) Improve student attendance;

7 (D) Increase scores on achievement tests;

8 (E) Decrease the percentage of students repeating a grade; and

9 (F) Decrease the number of students placed in special education programs;

10 (2) Quality early childhood education programs improve school performance, and low-quality  
11 early childhood education programs may have negative effects, especially for at-risk children;

12 (3) West Virginia has the lowest percentage of its adult population twenty-five years of age  
13 or older with a bachelor’s degree, and the education level of parents is a strong indicator of how their  
14 children will perform in school;

15 (4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty  
16 states in the percentage of school children eligible for free and reduced lunches, and this percentage  
17 is a strong indicator of how the children will perform in school;

18 (5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a  
19 number equal to approximately sixty-three percent of the number of students enrolled in  
20 kindergarten;

21 (6) Excluding projected increases due to increases in enrollment in the early childhood  
22 education program, projections indicate that total student enrollment in West Virginia will decline

1 by one percent, or by approximately 2,704 students, by the school year 2012-2013;

2 (7) In part, because of the dynamics of the state aid formula, county boards will continue to  
3 enroll four-year-old students to offset the declining enrollments;

4 (8) West Virginia has a comprehensive kindergarten program for five-year-olds, but the  
5 program was established in a manner that resulted in unequal implementation among the counties,  
6 which helped create deficit financial situations for several county boards;

7 (9) Expansion of current efforts to implement a comprehensive early childhood education  
8 program should avoid the problems encountered in kindergarten implementation;

9 (10) Because of the dynamics of the state aid formula, counties experiencing growth are at  
10 a disadvantage in implementing comprehensive early childhood education programs; and

11 (11) West Virginia citizens will benefit from the establishment of quality comprehensive  
12 early childhood education programs.

13 (c) Beginning no later than the school year 2012-2013, and continuing thereafter, county  
14 boards shall provide early childhood education programs for all children who have attained the age  
15 of four prior to September 1 of the school year in which the children enter the early childhood  
16 education program. Beginning no later than the school year 2016-2017, and continuing thereafter,  
17 these early childhood education programs shall provide at least four days of instruction per week,  
18 provide at least one thousand two hundred minutes of instruction per week and include at least one  
19 hundred forty-six instructional days per year.

20 (d) The program shall meet the following criteria:

21 (1) It shall be voluntary, except that, upon enrollment, the provisions of section one-a, article  
22 eight of this chapter apply to an enrolled student, subject to subdivision (4) of this subsection;

1 (2) It shall be open to all children meeting the age requirement set forth in this section;

2 (3) It shall provide at least four days of instruction per week, provide at least one thousand  
3 two hundred minutes of instruction per week and include at least one hundred forty-six instructional  
4 days per year; and

5 (4) It shall permit a parent of an enrolled child to withdraw the child from that program for  
6 good cause by notifying the district. Good cause includes, but is not limited to, enrollment of the  
7 child in another program or the immaturity of the child. A child withdrawn under this section is not  
8 subject to the attendance provisions of this chapter until that child again enrolls in a public school  
9 in this state.

10 (e) Enrollment of students in Head Start, or in any other program approved by the state  
11 superintendent as provided in this section, may be counted toward satisfying the requirement of  
12 subsection (c) of this section.

13 (f) For the purposes of implementation financing, all counties are encouraged to make use  
14 of funds from existing sources, including:

15 (1) Federal funds provided under the Elementary and Secondary Education Act pursuant to  
16 20 U. S. C. §6301, *et seq.*;

17 (2) Federal funds provided for Head Start pursuant to 42 U. S. C. §9831, *et seq.*;

18 (3) Federal funds for temporary assistance to needy families pursuant to 42 U. S. C. §601,  
19 *et seq.*;

20 (4) Funds provided by the School Building Authority pursuant to article nine-d of this  
21 chapter;

22 (5) In the case of counties with declining enrollments, funds from the state aid formula above

1 the amount indicated for the number of students actually enrolled in any school year; and

2 (6) Any other public or private funds.

3 (g) Each county board shall develop a plan for implementing the program required by this  
4 section. The plan shall include the following elements:

5 (1) An analysis of the demographics of the county related to early childhood education  
6 program implementation;

7 (2) An analysis of facility and personnel needs;

8 (3) Financial requirements for implementation and potential sources of funding to assist  
9 implementation;

10 (4) Details of how the county board will cooperate and collaborate with other early childhood  
11 education programs including, but not limited to, Head Start, to maximize federal and other sources  
12 of revenue;

13 (5) Specific time lines for implementation; and

14 (6) Any other items the state board may require by policy.

15 (h) A county board shall submit its plan to the Secretary of the Department of Health and  
16 Human Resources. The secretary shall approve the plan if the following conditions are met:

17 (1) The county board has maximized the use of federal and other available funds for early  
18 childhood programs; and

19 (2) The county board has provided for the maximum implementation of Head Start programs  
20 and other public and private programs approved by the state superintendent pursuant to the terms of  
21 this section; or

22 (3) The secretary finds that, if the the county board has not met one or more of the

1 requirements of this subsection, the county board has acted in good faith and the failure to comply  
2 was not the primary fault of the county board. Any denial by the secretary may be appealed to the  
3 circuit court of the county in which the county board is located.

4 (i) The county board shall submit its plan for approval to the state board. The state board  
5 shall approve the plan if the county board has complied substantially with the requirements of  
6 subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

7 (j) Every county board shall submit its plan for reapproval by the Secretary of the Department  
8 of Health and Human Resources and by the state board at least every two years after the initial  
9 approval of the plan and until full implementation of the early childhood education program in the  
10 county. As part of the submission, the county board shall provide a detailed statement of the  
11 progress made in implementing its plan. The standards and procedures provided for the original  
12 approval of the plan apply to any reapproval.

13 (k) A county board may not increase the total number of students enrolled in the county in  
14 an early childhood program until its program is approved by the Secretary of the Department of  
15 Health and Human Resources and the state board.

16 (l) The state board annually may grant a county board a waiver for total or partial  
17 implementation if the state board finds that all of the following conditions exist:

18 (1) The county board is unable to comply either because:

19 (A) It does not have sufficient facilities available; or

20 (B) It does not and has not had available funds sufficient to implement the program;

21 (2) The county has not experienced a decline in enrollment at least equal to the total number  
22 of students to be enrolled; and

1 (3) Other agencies of government have not made sufficient funds or facilities available to  
2 assist in implementation.

3 Any county board seeking a waiver shall apply with the supporting data to meet the criteria  
4 for which they are eligible on or before March 25 for the following school year. The state  
5 superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

6 (m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating to  
7 kindergarten apply to early childhood education programs in the same manner in which they apply  
8 to kindergarten programs.

9 (n) Annually, the state board shall report to the Legislative Oversight Commission on  
10 Education Accountability on the progress of implementation of this section.

11 (o) Except as required by federal law or regulation, no county board may enroll students who  
12 will be less than four years of age prior to September 1 for the year they enter school.

13 (p) Neither the state board nor the state department may provide any funds to any county  
14 board for the purpose of implementing this section unless the county board has a plan approved  
15 pursuant to subsections (h), (i) and (j) of this section.

16 (q) The state board shall promulgate a rule in accordance with the provisions of article  
17 three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this  
18 section. The state board shall consult with the Secretary of the Department of Health and Human  
19 Resources in the preparation of the rule. The rule shall contain the following:

20 (1) Standards for curriculum;

21 (2) Standards for preparing students;

22 (3) Attendance requirements;

- 1 (4) Standards for personnel; and
- 2 (5) Any other terms necessary to implement the provisions of this section.
- 3 (r) The rule shall include the following elements relating to curriculum standards:
- 4 (1) A requirement that the curriculum be designed to address the developmental needs of
- 5 four-year-old children, consistent with prevailing research on how children learn;
- 6 (2) A requirement that the curriculum be designed to achieve long-range goals for the social,
- 7 emotional, physical and academic development of young children;
- 8 (3) A method for including a broad range of content that is relevant, engaging and meaningful
- 9 to young children;
- 10 (4) A requirement that the curriculum incorporate a wide variety of learning experiences,
- 11 materials and equipment, and instructional strategies to respond to differences in prior experience,
- 12 maturation rates and learning styles that young children bring to the classroom;
- 13 (5) A requirement that the curriculum be designed to build on what children already know
- 14 in order to consolidate their learning and foster their acquisition of new concepts and skills;
- 15 (6) A requirement that the curriculum meet the recognized standards of the relevant subject
- 16 matter disciplines;
- 17 (7) A requirement that the curriculum engage children actively in the learning process and
- 18 provide them with opportunities to make meaningful choices;
- 19 (8) A requirement that the curriculum emphasize the development of thinking, reasoning,
- 20 decision-making and problem-solving skills;
- 21 (9) A set of clear guidelines for communicating with parents and involving them in decisions
- 22 about the instructional needs of their children; and



1 (10) A systematic plan for evaluating program success in meeting the needs of young children  
2 and for helping them to be ready to succeed in school.

3 (s) The secretary and the state superintendent shall submit a report to the Legislative  
4 Oversight Commission on Education Accountability and the Joint Committee on Government and  
5 Finance which addresses, at a minimum, the following issues:

6 (1) A summary of the approved county plans for providing the early childhood education  
7 programs pursuant to this section;

8 (2) An analysis of the total cost to the state and county boards of implementing the plans;

9 (3) A separate analysis of the impact of the plans on counties with increasing enrollment; and

10 (4) An analysis of the effect of the programs on the maximization of the use of federal funds  
11 for early childhood programs.

12 The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible  
13 manner and make any necessary program improvements based on reported information prior to  
14 implementation of the early childhood education programs.

15 (t) After the school year 2012-2013, on or before July 1 of each year, each county board shall  
16 report the following information to the Secretary of the Department of Health and Human Resources  
17 and the state superintendent:

18 (1) Documentation indicating the extent to which county boards are maximizing resources  
19 by using the existing capacity of community-based programs, including, but not limited to, Head  
20 Start and child care; and

21 (2) For those county boards that are including eligible children attending approved,  
22 contracted community-based programs in their net enrollment for the purposes of calculating state

1 aid pursuant to article nine-a of this chapter, documentation that the county board is equitably

2 distributing funding for all children regardless of setting.

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