

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 228

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,
BY REQUEST OF THE EXECUTIVE)

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-11; and to amend and reenact §18-8-3 and §18-8-6 of said code, all relating to school attendance; creating the Local Solution Dropout Prevention and Recovery Act; providing legislative findings and purpose; requiring the state board to propose legislative and emergency rules; defining terms; providing application process, contents, factors to be considered in evaluating the applications and standards for review for designation of schools or school districts; exempting certain persons from certification as attendance directors under specific circumstances; requiring the state board to implement a statewide electronic system through the uniform integrated regional computer information system with early warning indicators; creating special revenue fund in State Treasury entitled the Local Solution Dropout Prevention and Recovery Fund.

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 §18-5B-11; and that §18-8-3 and §18-8-6 of said code be amended and reenacted, all to read as follows:

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

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

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

2 The Legislature finds that:

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

6 (2) There are significant correlations between educational
7 attainment and labor market outcomes, greater labor force
8 participation rate, increased employment rates, improved
9 health, and decreased levels of poverty and crime. The
10 negative impact on these linkages is most evident in the
11 absence of high school completion;

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

14 (4) Students at risk of not completing high school can be
15 identified as early as sixth grade using the indicators of
16 attendance, behavior and course failures. Therefore, a
17 comprehensive graduation plan must include a comprehen-
18 sive systemic approach that emphasizes early interventions;

19 (5) Research identifies a number of effective strategies for
20 engaging students that have the most positive impact on
21 improving high school graduation rates. Some of these
22 strategies are school-community collaboration, safe learning
23 environments, family engagement, early literacy develop-
24 ment, mentoring and tutoring services, service learning
25 opportunities, alternative and nontraditional schooling,
26 offering multiple pathways and settings for attaining high

27 school diplomas, after-school opportunities, individualized
28 instruction and career and technical education;

29 (6) Schools cannot solve the dropout problem alone.
30 Research shows when educators, parents, elected officials,
31 business leaders, faith-based leaders, human service person-
32 nel, judicial personnel and civic leaders collectively work
33 together they are often able to find innovative solutions to
34 address school and community problems; and

35 (7) Increasing high school graduation rates is an important
36 factor in preparing a college and career-ready citizenry.
37 Higher education institutions, including community and
38 technical colleges, are essential partners in creating local
39 and statewide solutions.

40 (b) Therefore, the intent of the Legislature is to provide a
41 separate category of innovation zones designated “Local
42 Solution Dropout Prevention and Recovery Innovation
43 Zones” intended to achieve the following purposes:

44 (1) Provide for the establishment of Local Solution Drop-
45 out Prevention and Recovery Innovation Zones to increase
46 graduation rates and reduce the number of dropouts from
47 West Virginia schools;

48 (2) Provide schools and communities with opportunities for
49 greater collaboration to plan and implement systemic
50 approaches that include evidence-based solutions for
51 increasing graduation rates and reducing the number of
52 dropouts;

53 (3) Provide a testing ground for innovative graduation
54 programs, incentives and approaches to reducing the number
55 of dropouts;

56 (4) Provide information regarding the effects of specific
57 innovations, collaborations and policies on graduation rates
58 and dropout prevention and recovery; and

59 (5) Document educational strategies that increase gradua-
60 tion rates, prevent dropouts and enhance student success.

61 (c) *Local Solution Dropout Prevention and Recovery*
62 *Innovation Zones.*

63 A school, a group of schools or a school district may be
64 designated as a Local Solution Dropout Prevention and
65 Recovery Innovation Zone in accordance with the provisions
66 of this article, subject to the provisions of this section. The
67 state board shall propose rules for legislative promulgation,
68 including an emergency rule if necessary, in accordance with
69 article three-b chapter twenty-nine of this code to implement
70 the provisions of this section. All provisions of this article
71 apply to Local Solution Dropout Prevention and Recovery
72 Innovation Zones, including but not limited to, the designa-
73 tion, application, approval, waiver of statutes, policies, rule
74 and interpretations, employee approval, employee transfers,
75 progress reviews, reports and revocations, and job postings,
76 subject to the following:

77 (1) For purposes of this section, a “school, a group of
78 schools or a school district” means a high school, a group of
79 schools comprised of a high school and any of the elementary
80 and middle schools whose students will attend the high
81 school, or a school district whose graduation rate in the year
82 in which an application is made is less than ninety percent
83 based on the latest available school year data published by
84 the Department of Education;

85 (2) The contents of the application for designation as a
86 Local Solution Dropout Prevention and Recovery Innovation
87 Zone must include a description of the dropout prevention
88 and recovery strategies and that the school, group of schools
89 or school district plans to implement if designated as a Local
90 Solution Dropout Prevention and Recovery Innovation Zone,
91 and any other information the state board requires. The
92 application also shall include a list of all county and state
93 board rules, policies and interpretations, and all statutes, if
94 any, identified as prohibiting or constraining the implemen-
95 tation of the plan, including an explanation of the specific
96 exceptions to the rules, policies and interpretations and
97 statutes required for plan implementation. A school, a group

98 of schools, or school district may not request an exception
99 nor may an exception be granted from any of the following:

100 (i) An assessment program administered by the West
101 Virginia Department of Education;

102 (ii) Any provision of law or policy required by the No Child
103 Left Behind Act of 2001, Public Law No. 107-110 or other
104 federal law; and

105 (iii) Section seven, article two and sections seven-a, seven-
106 b, eight and eight-b, article four, chapter eighteen-a of this
107 code, except as provided in section eight of this article;

108 (3) The factors to be considered by the state board when
109 evaluating an application shall include, but are not limited
110 to, the following:

111 (A) Evidence that other individuals or entities and commu-
112 nity organizations are involved as partners to collectively
113 work with the applicant to achieve the purposes as outlined
114 in the dropout prevention and recovery plan. These individu-
115 als or entities and community organizations may include, but
116 are not limited to, individuals or entities and community
117 organizations such as parents, local elected officials, busi-
118 ness leaders, faith-based leaders, human service personnel,
119 judicial personnel, civic leaders community and technical
120 colleges Higher education institutions;

121 (B) The level of commitment and support of staff, parents,
122 students, the county board of education, the local school
123 improvement council and the school's business partners as
124 determined in accordance with this article apply to become
125 a Local Solutions Dropout Prevention and Recovery Innova-
126 tion Zone;

127 (C) The potential for an applicant to be successful in
128 building community awareness of the high school dropout
129 problem and developing and implementing its dropout
130 prevention and recovery plan; and

131 (D) Implementation of the statewide system of easily
132 identifiable early warning indicators of students at risk of
133 not completing high school developed by the state board in

134 accordance with section six, article eight of this chapter,
135 known as The High School Graduation Improvement Act,
136 along with a plan of interventions to increase the number of
137 students earning a high school diploma;

138 (4) The rule shall provide standards for the state board to
139 review applications for designation as a Local Solutions
140 Dropout Prevention and Recovery Innovation Zones;

141 (5) The application for designation as a Local Solutions
142 Dropout Prevention and Recovery Innovation Zone under
143 this section is subject to approval in accordance with
144 sections five and six of this article. In addition to those
145 approval stages, the application, if approved by the school
146 employees, shall be presented to the local school improve-
147 ment council for approval prior to submission to county
148 superintendent and board. Approval by the local school
149 improvement council is obtain when at least eighty percent
150 of the local school improvement council members present
151 and voting after a quorum is established vote in favor of the
152 application; and

153 (6) Upon approval by the state board and state superinten-
154 dent of the application, all exceptions to county and state
155 board rules, policies and interpretations listed within the
156 plan are granted. The applicant school, group of schools or
157 school district shall proceed to implement the plan as set
158 forth in the approved application and no further plan
159 submissions or approval are required, except that if an
160 innovation zone plan, or a part thereof, may not be imple-
161 mented unless an exception to a statute is granted by Act of
162 the Legislature, the state board and state superintendent
163 may approve the plan, or the part thereof, only upon the
164 condition that the Legislature acts to grant the exception as
165 provided in this article.

166 (d) *Local solutions dropout prevention and recovery fund.*

167 There is hereby created in the State Treasury a special
168 revenue fund to be known as the “Local Solutions Dropout
169 Prevention and Recovery Fund.” The fund shall consist of all

170 moneys received from whatever source to further the purpose
171 of this article. The fund shall be administered by the state
172 board solely for the purposes of this section. Any moneys
173 remaining in the fund at the close of a fiscal year shall be
174 carried forward for use in the next fiscal year. Fund balances
175 shall be invested with the state's consolidated investment
176 fund and any and all interest earnings on these investments
177 shall be used solely for the purposes that moneys deposited
178 in the fund may be used pursuant to this section.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-3. Employment of county director of school attendance and assistants; qualifications; salary and traveling expenses; removal.

1 (a) The county board of education of every county, not later
2 than August 1, of each year, shall employ the equivalent of
3 a full-time county director of school attendance if such
4 county has a net enrollment of more than four thousand
5 pupils, at least a half-time director of school attendance if
6 such county has a net enrollment equal to or less than four
7 thousand pupils and such assistant attendance directors as
8 deemed necessary. All persons to be employed as attendance
9 directors shall have the written recommendation of the
10 county superintendent.

11 (b) The county board of education may establish special
12 and professional qualifications for attendance directors and
13 assistants as are deemed expedient and proper and are
14 consistent with regulations of the state Board of Education
15 relating thereto: *Provided*, That if the position of attendance
16 director has been posted and no fully certified applicant
17 applies, the county may employ a person who holds a
18 professional administrative certificate and meets the special
19 and professional qualifications established by the county
20 board as attendance director and that person shall not be
21 required to obtain attendance director certification.

22 (c) The attendance director or assistant director shall be
23 paid a monthly salary as fixed by the county board. The

24 attendance director or assistant director shall prepare
25 attendance reports, and such other reports as the county
26 superintendent may request.

27 (d) The county board of education shall reimburse the
28 attendance directors or assistant directors for their necessary
29 traveling expenses upon presentation of a monthly, itemized,
30 sworn statement approved by the county superintendent.

§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 compre-
5 hensive approach to addressing the high school drop-out
6 crisis, and to develop policies and strategies that successfully
7 assist at-risk students to stay in school, earn a high school
8 diploma, and ultimately become productively contributing
9 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 moti-
15 vating students to succeed in school and ultimately earn a
16 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 stu-
22 dents to recognize the value of a high school diploma or
23 workforce credential and inspire students to graduate from
24 high school, especially those students who are at risk of
25 dropping out of school;

26 (5) Investing financially in this focus shift will result in the
27 need for fewer resources to be committed to enforcing
28 compulsory attendance laws and fewer incidents of disrup-
29 tive 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
33 cause them to fall behind their classmates, and the students
34 find 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 school,
42 some of which include engaging in drug culture, lack of
43 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 expecta-
46 tions;

47 (9) Dropping out of school has a profound negative impact
48 on an individual's future, resulting in limited job choices,
49 substantially lower wages and less earned over a life-time
50 than high school graduates, and a greater likelihood of
51 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 secondary
61 career-technical education completers is significantly higher
62 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
71 they have failed, and scheduling conflicts with the high
72 schools;

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

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

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

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

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

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

96 (21) Learning is increased and retained at a higher level if
97 the content is taught through a relevant and applied experi-

98 ence, and students who are able to experience academics
99 through real life projects have a higher probability of
100 mastering the appropriate concepts;

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

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

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

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

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

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

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

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

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

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

151 (32) The intense treatment and individual monitoring
152 provided through the state's juvenile drug courts have
153 proven 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,
158 juvenile and family counseling, heavy supervision by
159 probation officers including school-based probation officers
160 who 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
165 with 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 juve-
169 niles, along with the future costs to society of individuals
170 who remain substance abusers;

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

175 (37) Funding for the increased number of students enrolled
176 in school during the 2010-2011 school year due to the
177 compulsory school attendance age increase established by
178 this act will not be reflected in the state aid formula alloca-
179 tion 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;

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

200 (41) Schools cannot solve the dropout problem alone.
201 Research shows when educators, parents, elected officials,
202 business leaders, faith-based leaders, human service person-

203 nel, judicial personnel and civic leaders collectively work
204 together they are often able to find innovative solutions to
205 address school and community problems.

206 (c) The Legislature intends as follows:

207 (1) The state will continue to explore diverse instructional
208 delivery strategies to accommodate various learning styles
209 and will focus on a state-wide dropout intervention and
210 prevention program to provide support for students having
211 academic difficulty;

212 (2) A general credit recovery program shall be imple-
213 mented statewide, including delivery through West Virginia
214 virtual schools;

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

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

220 (5) The state will invest additional state funds and other
221 resources in strategies and programs that engage discon-
222 nected and discouraged students in a positive learning
223 environment as a critical first step to ensuring that students
224 persist and graduate;

225 (6) County boards will develop plans to demonstrate how
226 they will use available funds to implement the intent of this
227 section; and

228 (7) The state board shall develop a statewide system in
229 electronic format that will provide schools with easily
230 identifiable early warning indicators of students at risk of
231 not graduating from high school. The system shall be
232 delivered through the uniform integrated regional computer
233 information system (commonly known as the West Virginia
234 Education Information System) and shall at a minimum
235 incorporate data on the attendance, academic performance
236 and disciplinary infractions of individual students. The state

237 board shall require implementation of the system in Local
238 Solution Dropout Prevention and Recovery Innovation Zones
239 along with a plan of interventions to increase the number of
240 students earning a high school diploma, and may utilize the
241 zones as a pilot test of the system.

242 (d) Each county board shall include in its alternative
243 education program plan required by section six, article two,
244 of this chapter a plan to improve student retention and
245 increase the graduation rate in the county. The plan is
246 subject to approval of the state board, and shall include
247 strategies the county board will implement to achieve the
248 following goals:

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

250 (2) Identifying at the earliest age possible those students
251 who are at risk of dropping out of school prior to graduation;
252 and

253 (3) Providing additional options for delivering to at-risk
254 students academic credentials and career-technical training
255 if appropriate or desired by the student. The options may
256 include such programs as Techademics, Earn a Degree-
257 Graduate Early (EDGE), Health Sciences and Technology
258 Academy (HSTA), Gaining Early Awareness and Readiness
259 for Undergraduate Programs (GEAR UP), truancy diversion,
260 early intervention, dropout prevention, prevention resource
261 officers, GED option, credit recovery, alternative learning
262 environments, or any other program or strategy approved by
263 the state board.

264 (e) As soon as is practicable the state superintendent or his
265 or her designee shall pursue designation of West Virginia as
266 a “GED Option” state by the American Council on Educa-
267 tion. If so designated, the state board shall:

268 (1) Develop and implement a program whereby a student
269 may pursue a GED diploma while remaining enrolled in high
270 school; and

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

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

274 (1) The Techademics program to include each major
275 academic subject and increase the academic credit available
276 through the program to students; and

277 (2) The Health Sciences and Technology Academy to
278 ensure that the program is available for any school contain-
279 ing any of the grade levels of eligible students.

280 (g) The state board shall ensure that the dropout informa-
281 tion required by section twenty-four, article one-b, chapter
282 fifteen of this code is provided annually to the Mountaineer
283 Challenge Academy.

284 (h) Some career and technical education programs only
285 accept students in certain upper high school grade levels due
286 to lack of capacity to accept the students in the lower high
287 school grade levels. This can be detrimental to efforts to keep
288 students identified as at risk of dropping out of school prior
289 to graduation in school. Therefore, those career and technical
290 education programs that limit enrollment to students in
291 certain upper high school grade levels may make exceptions
292 for those at risk students and enroll any of those at risk
293 students who are in grades nine and above.

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

.....
Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

.....
Clerk of the House of Delegates

.....
Acting President of the Senate

.....
Speaker of the House of Delegates

The within this the
Day of, 2011.

.....
Governor