

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4228**

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

6
7 (Originating in the Committee on Finance)

8 [February 21, 2014]

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24 that are no longer applicable or are expired; repealing the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

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

1 periods; providing that the State Board of Education need only
2 file a single copy of a proposed rule with the Legislative
3 Oversight Commission; removing the requirement that the State
4 Board of Education contract with an independent agency to
5 evaluate the results of character education and biannual
6 reporting; and removing the requirement for semiannual
7 reporting on the effect of the increased compulsory attendance
8 age of students and the progress the state and county boards
9 have made in implementing its associated requirements.

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

11 That §11-8-16a of the Code of West Virginia, 1931, as amended,
12 be repealed; that §18-2-17 of said code be repealed; that §18-2E-5b
13 and §18-2E-8b of said code be repealed; that §18-2G-1, §18-2G-2 and
14 §18-2G-3 of said code be repealed; that §18-5-15e and §18-5-38 of
15 said code be repealed; that §18-7-1, §18-7-2 and §18-7-3 of said
16 code be repealed; that §18-9A-6b, §18-9A-14a and §18-9A-19 of said
17 code be repealed; that §18-9C-1, §18-9C-2, §18-9C-3, §18-9C-4, §18-
18 9C-5, §18-9C-6, §18-9C-7 and §18-9C-8 of said code be repealed;
19 that §18A-3-1c and §18A-3-1d of said code be repealed; that §18A-4-
20 10b and §18A-4-14a of said code be repealed; that §18-2-5a and §18-
21 2-13 of said code be amended and reenacted; that §18-2E-7 of said
22 code be amended and reenacted; that §18-8-1a of said code be
23 amended and reenacted, and that §18A-2-12 of said code be amended
24 and reenacted all to read as follows:

25 **CHAPTER 18. EDUCATION.**

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

1 **§18-2-5a. Board rules to be filed with Legislature.**

2 The State Board of Education shall file ~~twenty copies~~ a copy
3 of any rule that it proposes to promulgate, adopt, amend or repeal
4 under the authority of the Constitution or of this code with the
5 Legislative Oversight commission on education accountability
6 pursuant to article three-b, chapter twenty-nine-a of this code.
7 "Rule," as used herein, means a regulation, standard, statement of
8 policy, or interpretation of general application and future effect.

9 **§18-2-13. Character education integration.**

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

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

- 19 (1) Honesty;
- 20 (2) Caring;
- 21 (3) Citizenship;
- 22 (4) Justice;
- 23 (5) Fairness;
- 24 (6) Respect;
- 25 (7) Responsibility;
- 26 (8) Voting;

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

18 (c) Character education shall be integrated into each public

19 school curriculum by September 1, 2001.

20 (d) The state board shall assist county boards in developing

21 in-service training regarding integrated character education as

22 provided in this section.

23 ~~(e) The state board shall contract with an independent agency~~

24 ~~to evaluate the results of the character education as defined in~~

25 ~~this section, and report the results to the Legislative Oversight~~

26 ~~commission on education accountability during the September, 2003~~

1 ~~interim meeting period, and every two years thereafter.~~

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

9 ~~(g) Funding for this initiative shall be derived from the 0313~~
10 ~~unclassified account within the state Department of Education~~
11 ~~budget.~~

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

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

15 (a) The Legislature finds that:

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

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

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

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

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

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

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

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

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

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

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

1 annual county allocation. To the extent practicable, the
2 technology shall be used:

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

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

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

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

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

26 (3) Attainment of twenty-first century skills outcomes for all

1 students in the use of technology tools and learning skills;

2 (4) Proficiency in new, emerging twenty-first century content;

3 (5) Participation in relevant, contextual instruction that
4 uses dynamic, real-world contexts that are engaging and meaningful
5 for students, making learning relevant to life outside of school
6 and bridging the gap between how students live and how they learn
7 in school;

8 (6) Ability to use digital and emerging technologies to manage
9 information, communicate effectively, think critically, solve
10 problems, work productively as an individual and collaboratively as
11 part of a team and demonstrate personal accountability and other
12 self-directional skills;

13 (7) Providing students with information on post-secondary
14 educational opportunities, financial aid and the skills and
15 credentials required in various occupations that will help them
16 better prepare for a successful transition following high school;

17 (8) Providing greater access to advanced and other curricular
18 offerings than could be provided efficiently through traditional
19 on-site delivery formats, including increasing student access to
20 quality distance learning curricula and online distance education
21 tools;

22 (9) Providing resources for teachers in differentiated
23 instructional strategies, technology integration, sample lesson
24 plans, curriculum resources and online staff development that
25 enhance student achievement; and

26 (10) Providing resources to support basic skills acquisition

1 and improvement at the above mastery and distinguished levels.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 in the classroom;

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

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

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

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

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

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

25 (19) A method of allowing public education to take advantage
26 of appropriate bulk purchasing abilities and to purchase from

1 competitively bid contracts initiated through the southern regional
2 education board educational technology cooperative and the America
3 TelEdCommunications Alliance;

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

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

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

16 **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

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

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

1 be enrolled in a school system after the sixteenth birthday.

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

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

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

21 ~~(4) Beginning with the December 2010 interim meeting period,~~
22 ~~and semiannually thereafter, the state superintendent shall report~~
23 ~~to the Legislative Oversight Commission on Education Accountability~~
24 ~~on the impact of the increased age requirement of subdivision (3)~~
25 ~~of this subsection, and the progress of the state board and the~~
26 ~~county boards in implementing the requirements of section six of~~

1 ~~this article.~~

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

7 (1) Successfully completed such publicly or privately
8 supported, state-approved kindergarten program or Montessori
9 kindergarten program; or

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

15 (c) Notwithstanding the provisions of this section and of
16 section five, article two of this chapter and section eighteen,
17 article five of this chapter, a county board may provide for
18 advanced entrance or placement under policies adopted by said board
19 for any child who has demonstrated sufficient mental and physical
20 competency for such entrance or placement.

21 (d) This section does not prevent a student from another state
22 from enrolling in the same grade in a public school in West
23 Virginia as the student was enrolled at the school from which the
24 student transferred.

25 **CHAPTER 18A. SCHOOL PERSONNEL.**

26 **ARTICLE 2. SCHOOL PERSONNEL.**

1 §18A-2-12. Performance evaluations of school personnel;
2 professional personnel evaluation process;
3 restrictions on requirements on lesson plans and
4 record keeping by classroom teachers.

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 in the evaluation of
8 the employment performance of personnel employed by the board.

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

12 (c) For purposes of this section, "professional personnel",
13 "professional" or "professionals", means professional personnel and
14 other professional employees, as defined in section one, article
15 one of this chapter but does not include classroom teachers,
16 principals and assistant principals subject to the evaluation
17 processes established pursuant to ~~the provisions of section two,~~
18 ~~article three-c of this chapter.~~ ~~when the school at which these~~
19 ~~professional personnel are employed is selected to participate in~~
20 ~~those evaluation processes as part of the multi-step implementation~~
21 ~~leading to full statewide implementation by school year 2013-2014.~~

22 (d) In developing the professional personnel performance
23 evaluation system, and amendments thereto, the state board shall
24 consult with the Center for Professional Development created in
25 article three-a of this chapter. The center shall participate

1 actively with the state board in developing written standards for
2 evaluation which clearly specify satisfactory performance and the
3 criteria to be used to determine whether the performance of each
4 professional meets those standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 ~~(1)~~ (A) Teach and reteach strategies;

19 ~~(2)~~ (B) Write to learn activities;

20 ~~(3)~~ (C) Cultural diversity;

21 ~~(4)~~ (D) Color coding; or

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

25 ~~(j)~~ (2) The Legislature finds that classroom teachers must be
26 free of unnecessary paper work so that they can focus their time on

1 instruction. Therefore, classroom teachers may not be required to
2 keep records or logs of routine contacts with parents or guardians;

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

6 (4) Nothing in article three-c of this chapter may be
7 construed to negate the provisions of ~~subsections (i) and (j)~~ of
8 this ~~section~~ subsection.