

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5126

**FISCAL
NOTE**

By Delegate Young

[Introduced February 03, 2026; referred to the
Committee on Finance]

1 A BILL to amend and reenact §18-5-44 of the Code of West Virginia, 1931, as amended, relating to
2 early childhood education programs; and providing that funds from the Lottery Education
3 Fund, the State Lottery fund, and the Excess Lottery Fund be used for childhood education
4 in the state.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

4 (b) For the purposes of this section beginning in the school year 2018-2019, an "early
5 childhood education program" means a program created under this section for children who have
6 attained the age of four prior to July 1 of the school year in which the children enter the program.

7 (c) Findings. –

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

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

11 (B) Decrease behavioral problems;

12 (C) Improve student attendance;

13 (D) Increase scores on achievement tests;

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

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

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

19 (3) West Virginia has the lowest percentage of its adult population 25 years of age or older

with a bachelor's degree and the education level of parents is a strong indicator of how their children will perform in school;

(4) During the 2006-2007 school year, West Virginia ranked 39th among the 50 states in the percentage of school children eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

(5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a number equal to approximately 63 percent of the number of students enrolled in kindergarten;

(6) Excluding projected increases due to increases in enrollment in the early childhood education program, projections indicate that total student enrollment in West Virginia will decline by one percent, or by approximately 2,704 students, by the school year 2012-2013;

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

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

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

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

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

(d) County boards shall provide early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the children enter the early childhood education program. These early childhood education programs shall provide at least 48,000 minutes annually and no less than 1,500 minutes of instruction per week.

(e) Beginning in the school year 2018-2019, county boards shall provide early childhood

education programs for all children who have attained the age of four prior to July 1 of the school year in which the children enter the early childhood education program.

(f) The program shall meet the following criteria:

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

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

(3) It shall provide no less than 1,500 minutes of instruction per week, in a full-day program with at least 48,000 minutes of instruction annually; and

(4) It shall permit a parent of an enrolled child to withdraw the child from that program by notifying the district in writing. A child withdrawn under this section is not subject to the attendance provisions of this chapter until that child again enrolls in a public school in this state.

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

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

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

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

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

(4) Funds provided by the School Building Authority pursuant to §18-9D-1 *et seq.* of this code;

(5) In the case of counties with declining enrollments, funds from the state aid formula above the amount indicated for the number of students actually enrolled in any school year; and

(6) Any other public or private funds.

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

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

(2) An analysis of facility and personnel needs;

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

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

(5) Specific time lines for implementation; and

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

(j) A county board shall submit its plan to the Secretary of the Department of Human Services. The secretary shall approve the plan if the following conditions are met:

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

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

(3) The secretary finds that, if the county board has not met one or more of the requirements of this subsection, the county board has acted in good faith and the failure to comply was not the primary fault of the county board. Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.

(k) The county board shall submit its plan for approval to the state board. The state board shall approve the plan if the county board has complied substantially with the requirements of

subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

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

(m) A county board may not increase the total number of students enrolled in the county in an early childhood program until its program is approved by the Secretary of the Department of Human Services and the state board.

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

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

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

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

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

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

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

(o) The provisions of §18-5-18 (b), (c) and (d) of this code relating to kindergarten apply to early childhood education programs in the same manner in which they apply to kindergarten programs.

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

(q) Except as required by federal law or regulation, beginning in the school year 2018-2019, no county board may enroll students who will be less than four years of age prior to July 1 for the year they enter school.

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

(s) The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code for the purposes of implementing the provisions of this section. The state board shall consult with the Secretary of the Department of Human Services in the preparation of the rule. The rule shall contain the following:

(1) Standards for curriculum;

(2) Standards for preparing students;

(3) Attendance requirements;

(4) Standards for personnel; and

(5) Any other terms necessary to implement the provisions of this section.

(t) The rule shall include the following elements relating to curriculum standards:

(1) A requirement that the curriculum be designed to address the developmental needs of four-year-old children consistent with prevailing research on how children learn;

(2) A requirement that the curriculum be designed to achieve long-range goals for the social, emotional, physical and academic development of young children;

(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;

(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience,

maturation rates and learning styles that young children bring to the classroom;

(5) A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;

(6) A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;

(7) A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

(8) A requirement that the curriculum emphasize the development of thinking, reasoning, decision making and problem-solving skills;

(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

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

(u) After the school year 2012-2013, on or before July 1 of each year, each county board shall report the following information to the Secretary of the Department of Human Services and the state superintendent:

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

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to §18-9A-1 *et seq.* of this code, documentation that the county board is equitably distributing funding for all children regardless of setting.

(v) Notwithstanding any other provision of this code to the contrary, funds from the Lottery Education Fund, The Lottery fund and the Excess Lottery fund may be used for early childhood education in the state.

NOTE: The purpose of this bill is to provide that funds from the Lottery Education Fund, the State Lottery fund, and the Excess Lottery Fund be used for childhood education in the state.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.