WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 4228

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

Passed March 8, 2014

In effect ninety days from passage.
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FOR

H. B. 4228

(BY DELEGATES M. POLING, PERRY, LAWRENCE,
BARRETT, YOUNG, TOMBLIN, BARILL, MOYE,
CAMPBELL, WALKER AND PETHTEL)

[Passed March 8, 2014; in effect ninety days from passage.]

AN ACT to repeal §11-8-16a of the Code of West Virginia, 1931, as amended; to repeal §18-2-17 of said code: to repeal §18-2E-5b and §18-2E-8b of said code; to repeal §18-2G-1, §18-2G-2 and §18-2G-3 of said code; to repeal §18-5-15e and §18-5-38 of said code; to repeal §18-7-1, §18-7-2 and §18-7-3 of said code; to repeal §18-9A-6b, §18-9A-14a and §18-9A-19 of said code; to repeal §18-9C-1, §18-9C-2, §18-9C-3, §18-9C-4, §18-9C-5, §18-9C-6, §18-9C-7 and §18-9C-8 of said code; to repeal §18A-3-1c and §18A-3-1d of said code; to repeal §18A-4-10b and §18A-4-14a of said code; to amend and reenact §18-2-5a and §18-2-13 of said code; to amend and reenact §18-2E-7 of said code; to amend and reenact §18-8-1a
of said code; and to amend and reenact §18A-2-12 of said code, all relating to repealing or removing certain portions of education-related statutes that are no longer applicable or are expired; repealing the authorization for county boards of education with an excess levy in effect prior to Better Schools Amendment to propose an additional excess levy not exceeding one hundred percent and a period of five years; repealing an expired pilot program for the delivery of leftover foods from schools and penal institutions; repealing expired provisions for review of system of education performance audits; repealing an expired requirement for audit of state board policies; repealing the library media improvement grant program; repealing an expired requirement for study on school equity; repealing an expired provision governing county board meetings; repealing an adult literacy education program financed, in part, by a voluntary state income tax return check-off; repealing the appropriation and allocation, up to $7 million, due to the increase in local share to Teachers Retirement System; repealing the incentive for administrative efficiency in public schools and its associated funding to the county boards of education; repealing a requirement for county boards of education to request funds to which they may be entitled; repealing the Better School Buildings Amendment and associated funding to county boards of education; repealing an expired study on training, certification, licensure and retraining of teachers; repealing a study of alternative certification programs that was required to be submitted to the Legislative Oversight Commission on Education Accountability by December 31, 2013; repealing the requirement to record and distribute exemplary teaching techniques and its associated bonuses to certain teachers; repealing an expired study on daily planning periods; providing that the State Board of Education need only file a single copy of a proposed rule with the Legislative Oversight Commission; removing the requirement that the State Board of Education contract with an independent agency to evaluate the results of character education and biannual reporting; changing the requirement from a school-by-school to a countywide plan for provision of technology and services to
students as part of the twenty-first century strategic learning plan; removing the requirement for semiannual reporting on the effect of the increased compulsory attendance age of students and the progress the state and county boards have made in implementing its associated requirements; and clarifying that the written evaluation system for employment performance of personnel must be conducted at least annually on professional personnel and removing related transitional language.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

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

1 The State Board of Education shall file a copy of any rule that it proposes to promulgate, adopt, amend or repeal under the authority of the Constitution or of this code with the Legislative Oversight commission on education accountability pursuant to article three-b, chapter twenty-nine-a of this code. "Rule," as

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

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

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

(c) Character education shall be integrated into each public school curriculum by September 1, 2001.
(d) The state board shall assist county boards in developing in-service training regarding integrated character education as provided in this section.
(e) The State Department of Education is encouraged to utilize any existing moneys available to the department for existing character development programs, along with any new funds appropriated for the purposes of this section, to secure the maximum amount of any federal funding available for which the state department is eligible to receive for implementing character development in the schools.
ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.


(a) The Legislature finds that:

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

2. Students must be equipped to live in a multitasking, multifaceted, technology-driven world;

3. The provision of twenty-first century technologies and software resources in grades prekindergarten through twelve is necessary to meet the goal that high school graduates will be prepared fully for college, other post-secondary education or gainful employment;

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

5. To promote twenty-first century learning, teachers must be competent in twenty-first century content and learning skills and must be equipped to fully integrate technology to transform instructional practice and to support twenty-first century skills acquisition;

6. For students to learn twenty-first century skills, students and teachers must have equitable access to high quality, twenty-first century technology tools and resources;

7. When aligned with standards and curriculum, technology-based assessments can be a powerful tool for teachers; and
(8) Teachers must understand how to use technology to create classroom assessments for accurate, timely measurements of student proficiency in attainment of academic content and twenty-first century skills.

(b) The state board shall ensure that the resources to be used to provide technology services to students in grades prekindergarten through twelve are included in a West Virginia 21st Century Strategic Technology Learning Plan to be developed by the Department of Education as an integral component of the county electronic strategic improvement plan required in section five of this article. The provision of technologies and services to students and teachers shall be based on a county technology plan developed by a team that includes school building-level professional educators and is aligned with the goals and objectives of the West Virginia 21st Century Strategic Technology Learning Plan. This plan shall be an integral component of the county electronic strategic improvement plan as required in section five of this article. Funds shall be allocated equitably to county school systems following peer review of the plans that includes providing necessary technical assistance prior to submission and allows timely review and approval by the West Virginia Department of Education. Technology tools, including hardware, software, network cabling, network electronics and related professional development, shall be purchased pursuant to the provisions of article three, chapter five-a of this code in the amount equal to anticipated revenues being appropriated and based on the approved county plans. County allocations that support this legislation shall adhere to state contract prices: Provided, That contingent upon approval of the county technology plan, counties that identify, within that plan, specific software or peripheral equipment not listed on the state contract, but necessary to support implementation of twenty-first century skills, may request the West Virginia Department of Education to secure state purchasing prices for those identified items. Total expenditure to purchase these additional items may not exceed
ten percent of the annual county allocation. To the extent practicable, the technology shall be used:

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

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

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

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

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

(3) Attainment of twenty-first century skills outcomes for all students in the use of technology tools and learning skills;

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

(5) Participation in relevant, contextual instruction that uses dynamic, real-world contexts that are engaging and meaningful
(6) Ability to use digital and emerging technologies to manage information, communicate effectively, think critically, solve problems, work productively as an individual and collaboratively as part of a team and demonstrate personal accountability and other self-directional skills;

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

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

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

(10) Providing resources to support basic skills acquisition and improvement at the above mastery and distinguished levels.

(d) Developed with input from appropriate stakeholder groups, the West Virginia 21st Century Strategic Technology Learning Plan shall be an integral component of the electronic strategic county improvement plan as required in section five of this article. The West Virginia 21st Century Strategic Technology Learning Plan shall be comprehensive and shall address, but not necessarily be limited to, the following provisions:
127  (1) Allocation of adequate resources to provide students with
equitable access to twenty-first century technology tools,
including instructional offerings and appropriate curriculum,
assessment and technology integration resources aligned to both
the content and rigor of state content standards as well as to
learning skills and technology tools;

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

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

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

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

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

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

155  (8) Flexibility to adjust the plan based on developing
technology, federal and state requirements and changing local
school and county needs;
(9) Incorporation of findings based upon validation from research-based evaluation findings from previous West Virginia-based evaluation projects;

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

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

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

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

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

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

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

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

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

198 (19) A method of allowing public education to take advantage of appropriate bulk purchasing abilities and to purchase from competitively bid contracts initiated through the southern regional education board educational technology cooperative and the America TelEdCommunications Alliance;

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

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

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

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

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

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

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

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

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

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

(1) Successfully completed such publicly or privately supported, state-approved kindergarten program or Montessori kindergarten program; or
(2) Successfully completed an entrance test of basic readiness skills approved by the county in which the school is located. The test may be administered in lieu of kindergarten attendance only under extraordinary circumstances to be determined by the county board.

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

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

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

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

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

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

(c) For purposes of this section, "professional personnel", "professional" or "professionals", means professional personnel
and other professional employees, as defined in section one, article one of this chapter but does not include classroom teachers, principals and assistant principals subject to the evaluation processes established pursuant to section two, article three-c of this chapter.

(d) In developing the professional personnel performance evaluation system, and amendments thereto, the state board shall consult with the Center for Professional Development created in article three-a of this chapter. The center shall participate actively with the state board in developing written standards for evaluation which clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each professional meets those standards.

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

(1) The professional personnel positions to be evaluated;

(2) The frequency and duration of the evaluations. which shall be of such frequency and duration as to insure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn. but at least annually;

(3) The evaluation shall serve the following purposes:

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

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

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

(D) Serve as a basis for programs to increase the professional growth and development of professional personnel;
(4) The standards for satisfactory performance for professional personnel and the criteria to be used to determine whether the performance of each professional meets those standards and other criteria for evaluation for each professional position evaluated. Professional personnel, as appropriate, shall demonstrate competency in the knowledge and implementation of the technology standards adopted by the state board. If a professional fails to demonstrate competency in the knowledge and implementation of these standards, he or she will be subject to an improvement plan to correct the deficiencies; and

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

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

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

(h) Any professional whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action may be taken concerning the original performance evaluation. If the evaluation shows that the professional is still not performing satisfactorily, the evaluator either shall make additional recommendations for improvement or may recommend the dismissal of the professional in accordance with the provisions of section eight of this article.

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

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

(A) Teach and reteach strategies;

(B) Write to learn activities;

(C) Cultural diversity;
(D) Color coding; or

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

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

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

(4) Nothing in article three-c of this chapter may be construed to negate the provisions of this subsection.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Member — Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 31st day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 28 2014

Time 10:45 AM