

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.**

(a) Legislative findings, intent and purpose.

The Legislature finds that:

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

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

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

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

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

opportunities, individualized instruction and career and technical education;

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

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

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

(1) Provide for the establishment of Local Solution Dropout Prevention and Recovery Innovation Zones to increase graduation rates and reduce the number of dropouts from West Virginia schools;

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

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

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

(5) Document educational strategies that increase graduation rates, prevent dropouts and enhance student success.

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

A school, a group of schools or a school district may be designated as a Local Solution Dropout Prevention and Recovery Innovation Zone in accordance with the provisions of this article, subject to the provisions of this section. The state board shall propose rules for legislative promulgation, including an emergency rule if necessary, in accordance with article three-b chapter twenty-nine of this code to implement

the provisions of this section. All provisions of this article apply to Local Solution Dropout Prevention and Recovery Innovation Zones, including but not limited to, the designation, application, approval, waiver of statutes, policies, rule and interpretations, employee approval, employee transfers, progress reviews, reports and revocations, and job postings, subject to the following:

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

(2) The contents of the application for designation as a Local Solution Dropout Prevention and Recovery Innovation Zone must include a description of the dropout prevention and recovery strategies and that the school, group of schools or school district plans to implement if designated as a Local Solution Dropout Prevention and Recovery Innovation Zone, and

any other information the state board requires. The application also shall include a list of all county and state board rules, policies and interpretations, and all statutes, if any, identified as prohibiting or constraining the implementation of the plan, including an explanation of the specific exceptions to the rules, policies and interpretations and statutes required for plan implementation. A school, a group of schools, or school district may not request an exception nor may an exception be granted from any of the following:

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

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

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

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

(A) Evidence that other individuals or entities and community organizations are involved as partners to collectively work with the applicant to achieve the purposes as outlined in the dropout prevention and recovery plan. These individuals or entities and community organizations may include, but are not limited to, individuals or entities and community organizations such as parents, local elected officials, business leaders, faith-based leaders, human service personnel, judicial personnel, civic leaders community and technical colleges Higher education institutions;

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

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

(D) Implementation of the statewide system of easily identifiable early warning indicators of students at risk of not

completing high school developed by the state board in accordance with section six, article eight of this chapter, known as The High School Graduation Improvement Act, along with a plan of interventions to increase the number of students earning a high school diploma;

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

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

(6) Upon approval by the state board and state superintendent of the application, all exceptions to county and

state board rules, policies and interpretations listed within the plan are granted. The applicant school, group of schools or school district shall proceed to implement the plan as set forth in the approved application and no further plan submissions or approval are required, except that if an innovation zone plan, or a part thereof, may not be implemented unless an exception to a statute is granted by Act of the Legislature, the state board and state superintendent may approve the plan, or the part thereof, only upon the condition that the Legislature acts to grant the exception as provided in this article.

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

There is hereby created in the State Treasury a special revenue fund to be known as the "Local Solutions Dropout Prevention and Recovery Fund." The fund shall consist of all moneys received from whatever source to further the purpose of this article. The fund shall be administered by the state board solely for the purposes of this section. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state's consolidated investment fund and any and all interest earnings on these investments shall be used solely for the purposes that moneys deposited 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.

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

(b) The county board of education may establish special and professional qualifications for attendance directors and assistants as are deemed expedient and proper and are consistent with regulations of the state Board of Education relating thereto: *Provided*, That if the position of attendance director has been posted and no fully certified applicant applies, the county may employ a person who holds a professional administrative certificate and meets the special and

professional qualifications established by the county board as attendance director and that person shall not be required to obtain attendance director certification.

(c) The attendance director or assistant director shall be paid a monthly salary as fixed by the county board. The attendance director or assistant director shall prepare attendance reports, and such other reports as the county superintendent may request.

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

§18-8-6. The High School Graduation Improvement Act.

(a) This section is known and may be cited as "The High School Graduation Improvement Act."

(b) The Legislature makes the following findings:

(1) West Virginia has a dire need to implement a comprehensive approach to addressing the high school drop-out crisis, and to develop policies and strategies that successfully assist at-risk students to stay in school, earn a high school

diploma, and ultimately become productively contributing members of society;

(2) The current demands for a highly skilled workforce require a high school diploma at the very minimum;

(3) The state has several dynamic programs that are capable of actively engaging students in learning, providing students with a sense of relevancy in academics, and motivating students to succeed in school and ultimately earn a high school diploma;

(4) Raising the compulsory school attendance age alone will neither increase the graduation rate nor decrease the drop-out rate. It is imperative that the state shift the focus from merely compelling students to attend school to instead providing vibrant and engaging programs that allow students to recognize the value of a high school diploma or workforce credential and inspire students to graduate from high school, especially those students who are at risk of dropping out of school;

(5) Investing financially in this focus shift will result in the need for fewer resources to be committed to enforcing compulsory attendance laws and fewer incidents of disruptive student behavior;

(6) Absenteeism is proven to be the highest predictor of course failure. Truant students face low self-confidence in their ability to succeed in school because their absences cause them to fall behind their classmates, and the students find dropping out easier than catching up;

(7) There is a strong relationship between truancy and dropping out of high school. Frequent absences are one of the most common indicators that a student is disengaging from the learning process and likely to drop out of school early. Intervention after fewer absences is likely to have a positive impact on a student's persistence to graduation;

(8) Students cite many reasons for dropping out of school, some of which include engaging in drug culture, lack of positive influence, role model or parental involvement, absence of boundaries and direction, lack of a positive home environment, peer pressure, and poor community expectations;

(9) Dropping out of school has a profound negative impact on an individual's future, resulting in limited job choices, substantially lower wages and less earned over a life-time than high school graduates, and a greater likelihood of depending on public assistance and engaging in criminal activity;

(10) Career-technical education is a dynamic system in West Virginia which offers numerous concentrations that provide students with industry-recognized credentials, while also preparing them for post-secondary education;

(11) All career-technical education students in the state have an opportunity to earn free college credit through the Earn a Degree-Graduate Early (EDGE) program;

(12) The current high school graduation rate for secondary career-technical education completers is significantly higher than the state graduation rate;

(13) Students involved in career-technical education learn a marketable skill, are likely to find jobs, and become prepared for post-secondary education;

(14) A significant number of students who could benefit from participating in a career-technical program are denied access due to a number of factors, such as dropping out of high school prior to enrolling in career-technical education, requirements that students repeat academic courses that they have failed, and scheduling conflicts with the high schools;

(15) There has been a dramatic change over the years from vocational education, which was very basic and lacked high level

skills, to the career-technical programs of today which are computer based, require national tests and certification, and often result in jobs with high salaries;

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

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

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

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

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

(21) Learning is increased and retained at a higher level if the content is taught through a relevant and applied experience, and students who are able to experience academics through real life projects have a higher probability of mastering the appropriate concepts;

(22) Programs such as "GED Option" and "Techademics" are valuable resources for providing relevant and applied experience for students;

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

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

(25) A GED Option state designation by the American Council on Education would allow students in this state to remain

enrolled in school and continue acquiring academic and career-technical credits while pursuing a GED diploma. The GED Option would be blended with the West Virginia virtual schools or a career-technical education pathway. Upon completion, rather than being a dropout, the student would have a GED diploma and a certification in the chosen career-technical or virtual school pathway;

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

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

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

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

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

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

(32) The intense treatment and individual monitoring provided through the state's juvenile drug courts have proven to be highly effective in treating drug addictions, and rehabilitating drug addicted youth and improving their educational outcomes;

(33) Services provided by juvenile drug courts include substance abuse treatment, intervention, assessment, juvenile and family counseling, heavy supervision by probation officers including school-based probation officers who provide early

intervention and diversion services, and addressing some of the underlying reasons why students are not successful in school;

(34) School participation and attendance are required for students participating in juvenile drug courts, and along with academic progress are closely monitored by the courts;

(35) Juvenile drug courts are an important strategy to improve substance abuse treatment outcomes, and serve to save the state significant cost on incarceration of the juveniles, along with the future costs to society of individuals who remain substance abusers;

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

(37) Funding for the increased number of students enrolled in school during the 2010-2011 school year due to the compulsory school attendance age increase established by this act will not be reflected in the state aid formula allocation until the 2011-2012 school year, which will require additional funds to be provided to county boards for the 2010-2011 school year to accommodate the increased enrollment;

(38) The state will benefit both fiscally and through improved quality of life if scarce state resources are targeted toward programs that result in providing a competitive advantage as adults for those students who are at risk of dropping out of school;

(39) Funds invested toward education and ensuring that students complete high school pay tremendous dividends through the moneys saved on incarceration, unemployment and underemployment as those students reach adulthood;

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

(41) Schools cannot solve the dropout problem alone. Research shows when educators, parents, elected officials, business leaders, faith-based leaders, human service personnel, judicial personnel and civic leaders collectively work together

they are often able to find innovative solutions to address school and community problems. (c) The Legislature intends as follows:

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

(2) A general credit recovery program shall be implemented statewide, including delivery through West Virginia virtual schools;

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

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

(5) The state will invest additional state funds and other resources in strategies and programs that engage disconnected and discouraged students in a positive learning environment as a critical first step to ensuring that students persist and graduate;

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

(7) The state board shall develop a statewide system in electronic format that will provide schools with easily identifiable early warning indicators of students at risk of not graduating from high school. The system shall be delivered through the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) and shall at a minimum incorporate data on the attendance, academic performance and disciplinary infractions of individual students. The state board shall require implementation of the system in Local Solution Dropout Prevention and Recovery Innovation Zones along with a plan of interventions to increase the number of students earning a high school diploma, and may utilize the zones as a pilot test of the system.

(d) Each county board shall include in its alternative education program plan required by section six, article two, of this chapter a plan to improve student retention and increase the graduation rate in the county. The plan is subject to

approval of the state board, and shall include strategies the county board will implement to achieve the following goals:

(1) Increasing the graduation rate for the county;

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

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

(e) As soon as is practicable the state superintendent or his or her designee shall pursue designation of West Virginia as a "GED Option" state by the American Council on Education. If so designated, the state board shall:

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

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

(f) The state board shall continue to expand:

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

(2) The Health Sciences and Technology Academy to ensure that the program is available for any school containing any of the grade levels of eligible students.

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

(h) Some career and technical education programs only accept students in certain upper high school grade levels due to lack of capacity to accept the students in the lower high school grade levels. This can be detrimental to efforts to keep students identified as at risk of dropping out of school prior

to graduation in school. Therefore, those career and technical education programs that limit enrollment to students in certain upper high school grade levels may make exceptions for those at risk students and enroll any of those at risk students who are in grades nine and above.