

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**Committee Substitute**

**for**

**House Bill 2524**

BY DELEGATES ESPINOSA, UPSON, BLAIR, STATLER,  
NELSON E., SHOTT, HOWELL, ELLINGTON, OVERINGTON,  
WILSON AND HOUSEHOLDER

[Originating in the Committee on Finance;

March 17, 2017]



1 A BILL to repeal §10-5-2a of the Code of West Virginia, 1931, as amended; to repeal §18-2I-3 of  
2 said code; to repeal §18A-3-2d of said code; to repeal §18A-3A-1, §18A-3A-2, §18A-3A-  
3 2b, §18A-3A-3 and §18A-3A-5 of said code; to repeal §18B-1-5a, §18B-11-4 and §18B-  
4 11-6 of said code; to amend and reenact §4-13-2 of said code; to amend and reenact §5-  
5 26A-3 of said code; to amend and reenact §5B-2C-6 of said code; to amend and reenact  
6 §5F-1-2 of said code; to amend and reenact §5F-2-1 of said code; to amend and reenact  
7 §6-7-2a of said code; to amend and reenact §18-2I-1, §18-2I-2 and §18-2I-4 of said code;  
8 to amend and reenact §18-10A-1, §18-10A-2, §18-10A-3, §18-10A-6a and §18-10A-12 of  
9 said code; to amend and reenact §18-10K-2, §18-10K-5 and §18-10K-6 of said code; to  
10 amend and reenact §18-30-4 of said code; to amend and reenact §18A-2-9 and §18A-2-  
11 12 of said code; to amend and reenact §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of  
12 said code; to amend and reenact §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code; to  
13 amend and reenact §18B-1B-2 of said code; to amend and reenact §18B-3D-2 of said  
14 code; to amend and reenact §18B-5-2a of said code; to amend and reenact §18B-16-5  
15 and §18B-16-8 of said code; to amend and reenact §18B-18B-1 of said code; and to  
16 amend and reenact §29-24-3 and §29-24-5 of said code, all relating to revising the  
17 processes through which professional development is delivered for those who provide  
18 public education in this state, including improvement of the focus on school-level  
19 continuous improvement processes led by the principal, generally; eliminating  
20 administrative offices, duplicative programs and obsolete provisions; repealing provisions  
21 related to creation and duties of distance learning coordinating council; repealing  
22 provisions related to annual state board professional development master plan; repealing  
23 provisions related to beginning principal internships; repealing provisions related to center  
24 for professional development and principals academy curriculum; repealing provisions  
25 related to center for development professional development project; repealing provisions  
26 related to principals academy establishment, mission, required attendance and

27 employment of coordinator; repealing provisions related to pilot program of delivering  
28 educational services via distance learning; repealing provisions related to creation of  
29 depositories for assistive devices and services at two colleges or universities; repealing  
30 provisions creating the National Institute For Teaching Excellence and its governing board;  
31 modifying membership of Sesquicentennial of the American Civil War Commission;  
32 modifying membership of Commission for National and Community Service; removing  
33 Department of Education and the Arts as option to provide technical support to the  
34 Academy of Science and Technology in preparation of annual report; eliminating  
35 Department of Education and the Arts as executive department headed by secretary;  
36 transferring Division of Culture and History and Division of Rehabilitation Services to  
37 Department of Commerce; making Educational Broadcasting Authority and Library  
38 Commission each an independent agency within executive branch; eliminating salary of  
39 Secretary of Education and the Arts; modifying scope and goals of the system for  
40 coordination and delivery of professional development to be instituted by state Board of  
41 Education; modifying legislative findings with respect to professional development;  
42 eliminating requirement for state Board of Education master plan for professional  
43 development; requiring state Board of Education rule to include process for aggregating  
44 school and system strategic plan information to assist design and delivery of professional  
45 development; replacing references to the Secretary and the Department of Education and  
46 the Arts in rehabilitation and vocational services related statutes; modifying membership  
47 of Traumatic Brain and Spinal Cord Injury Rehabilitation Fund Board; transferring fund  
48 administration to Department of Commerce; modifying membership of College Prepaid  
49 Tuition and Savings Program Board; including instructional leadership among the  
50 responsibilities of principals and requiring course work in instructional leadership and  
51 related topics as prerequisite for administrative certification; moving from a precertification  
52 requirement to a preemployment requirement that principals, assistant principals and

53 administrators complete education and training in evaluation skills; deleting provisions  
54 proscribing limitations on certain rights and privileges of principals and assistant principals  
55 as teachers; removing requirements for interaction between state Board Of Education and  
56 Center for Professional Development regarding performance evaluations; removing  
57 proscription of issuance or renewal of certain administrative certificate; removing  
58 requirement for state Board Of Education consultation with Secretary of Education and  
59 Arts and Chancellor for Higher Education prior to exercise of authority over education;  
60 adding within standards for education of professional educators requirement providing for  
61 the study of the history and philosophical foundations of Western Civilization and the  
62 writings of the founders of the United States of America; authorizing state Board of  
63 Education cooperation with regional education service agencies for selected phases of  
64 preparation programs and expenditure of funds; removing requirement for state Board of  
65 Education to consult with Secretary of Education and the Arts and the Chancellor of Higher  
66 Education; removing provisions related to required training and professional development  
67 of principals through principals academy; adding instructional leadership and  
68 management techniques to required minimum standards for rule governing training of  
69 principals; removing language relating to waivers, ineligibility, progress tracking and  
70 expenses relating to training of principals; requiring county professional staff development  
71 councils to base proposals for staff development on analysis of individual and collective  
72 need indicated in school's strategic plans; incorporating principals development in the  
73 provisions for a comprehensive system to improve teaching and learning; making  
74 legislative finding that professional development resources must be focused rather than  
75 increased; removing obsolete provisions related to phased implementation of provisions  
76 for professional personnel evaluations; eliminating requirement for five percent of  
77 evaluations to be based on state summative assessment and increasing percent based  
78 on evidence of student learning by five percent; incorporating principals into the

79 comprehensive system of support for improved professional performance; requiring  
80 deficiencies identified through personnel evaluations to be incorporated in strategic plans  
81 for continuous improvement; removing language requiring posting and other provisions  
82 relating to employment; restricting certain appropriations for certain activities; modifying  
83 membership of Higher Education Policy Commission; modifying membership of Workforce  
84 Development Initiative Program Advisory Committee; modifying process for approval of  
85 transfers of amounts between items of appropriation or special accounts of institutions of  
86 higher education; updating agency references and removing Secretary of Education and  
87 the Arts with respect to rural health initiative; modifying membership of Science and  
88 Research Council; transferring certain references and responsibilities to Technology-  
89 Related Assistance Revolving Loan Fund For Individuals With Disabilities Board to  
90 Secretary of Commerce; directing the adoption and promulgation of rules and guidelines;  
91 and making consequential changes incident to the elimination of agencies or programs or  
92 the modification of duties, responsibilities and functions.

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

1 That §10-5-2a of the Code of West Virginia, 1931, as amended; be repealed; that §18-2I-  
2 3 of said code be repealed; that §18A-3-2d of said code be repealed; that §18A-3A-1, §18A-3A-  
3 2, §18A-3A-2b, §18A-3A-3 and §18A-3A-5 of said code be repealed; that §18B-1-5a, §18B-11-4  
4 and §18B-11-6 of said code be repealed; that §4-13-2 of said code be amended and reenacted;  
5 that §5-26A-3 of said code be amended and reenacted; that §5B-2C-6 of said code be amended  
6 and reenacted; that §5F-1-2 of said code be amended and reenacted; that §5F-2-1 of said code  
7 be amended and reenacted; that §6-7-2a of said code be amended and reenacted; that §18-2I-  
8 1, §18-2I-2 and §18-2I-4 of said code be amended and reenacted; that §18-10A-1, §18-10A-2,  
9 §18-10A-3, §18-10A-6a and §18-10A-12 of said code be amended and reenacted; that §18-10K-  
10 2, §18-10K-5 and §18-10K-6 of said code be amended and reenacted; that §18-30-4 of said code  
11 be amended and reenacted; that §18A-2-9 and 18A-2-12 of said code be amended and

12 reenacted; that §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8 of said code be amended and  
13 reenacted; that §18A-3C-1, §18A-3C-2 and §18A-3C-3 of said code be amended and reenacted;  
14 that §18B-1B-2 of said code be amended and reenacted; that §18B-3D-2 of said code be  
15 amended and reenacted; that §18B-5-2a of said code be amended and reenacted; that §18B-16-  
16 5 and §18B-16-8 of said code be amended and reenacted; that §18B-18B-1 of said code be  
17 amended and reenacted; and that §29-24-3 and §29-24-5 of said code be amended and  
18 reenacted, all to read as follows:

## CHAPTER 4. THE LEGISLATURE.

### ARTICLE 13. WEST VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION AND FUND.

#### §4-13-2. Membership; terms; filling vacancies; election of chair and vice chair.

- 1 (a) The Governor shall appoint ~~eleven~~ twelve members as follows:
- 2 (1) Three academic historians;
- 3 (2) The ~~Secretary of the Department of Education and the Arts~~ State Superintendent of  
4 Schools, or a designee;
- 5 (3) One representative of the Division of Culture and History;
- 6 (4) One representative of the Division of Tourism;
- 7 (5) One representative from the Herbert Henderson Minority Affairs Office;
- 8 ~~(5)~~ (6) Five citizens members, no more than one of whom may be from any one state  
9 senatorial district;
- 10 ~~(6)~~ (7) One member of the House of Delegates, to be appointed by the Speaker of the  
11 House of Delegates, who shall serve as an ex officio nonvoting member of the commission; and
- 12 ~~(7)~~ (8) One member of the Senate, to be appointed by the President of the Senate, who  
13 shall serve as an ex officio nonvoting member of the commission.
- 14 (b) The members shall serve until July 1, 2021.

15 (c) Appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be  
16 filled in the same manner as the original appointments.

17 (d) The commission shall elect a chair and a vice chair from among its members.

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 26A. WEST VIRGINIA COMMISSION FOR NATIONAL AND COMMUNITY  
SERVICE.**

**§5-26A-3. Members.**

1 (a) The West Virginia commission for national and community service shall have no fewer  
2 than fifteen and no more than twenty-five voting members to be appointed by the Governor.

3 (b) The voting membership of the West Virginia commission for national and community  
4 service shall include:

5 (1) At least one individual with expertise in the educational and developmental needs of  
6 the state's disadvantaged youth;

7 (2) At least one individual with experience in promoting the involvement of older adults in  
8 national or community service and volunteer programs;

9 (3) A representative of a community-based agency operating within the state;

10 ~~(4) The secretary of the Department of Education and arts created pursuant to section~~  
11 ~~two, article one, chapter five-f of this code or a designee~~

12 ~~(5) (4)~~ The State Superintendent of Schools or a designee;

13 ~~(6) (5)~~ A representative of a county or municipal government;

14 ~~(7) (6)~~ A representative of a local labor organization;



15           ~~(8)~~ (7) A representative of a for-profit business operating within the state; ~~and~~  
16           ~~(9)~~ (8) An individual whose age is between the age of sixteen years and twenty-five years,  
17 inclusive, who has been, or remains, a participant or a supervisor in a volunteer or service  
18 program and

19           (9) A representative of an arts or crafts organization.

20           (c) The membership of the West Virginia Commission for National and Community Service  
21 shall include a representative of the corporation for national and community service who shall  
22 serve as a member in a nonvoting, ex officio capacity.

23           (d) No more than twenty-five percent of the voting membership of the West Virginia  
24 commission for national and community service may be individuals who are employed by the  
25 state or its agencies, except that the membership may include additional employees of the state  
26 or its agencies in a nonvoting, ex officio capacity.

27           (e) No member of the West Virginia Commission for National and Community Service may  
28 vote on an issue affecting organizations for which the member has served as a staff person or as  
29 a volunteer at any time during the twelve-month period before the member's appointment to the  
30 commission.

31           (f) No more than fifty percent plus one of the members of the West Virginia Commission  
32 for National and Community Service may be members of the same political party.

33           (g) To the extent possible, the membership of the West Virginia Commission for National  
34 and Community Service shall reflect the diversity of the state's population.

35           (h) Members of the West Virginia Commission for National and Community Service who  
36 were appointed under the executive order of the Governor entered on January 28, 1994, shall  
37 continue as members of the commission for a term of three years, except that the Governor shall  
38 designate eight members who shall serve for a term of two years and shall also designate an  
39 additional eight members who shall serve for a term of one year. Additional appointments by the  
40 Governor under the provisions of this section and appointments by the Governor upon the

41 expiration of a member's term shall be made for a term of three years. Appointments of members  
42 by the Governor to serve for an unexpired term shall be for the remainder of the unexpired term.  
43 Members may be reappointed.

44 (i) The voting members of the West Virginia Commission for National and Community  
45 Service shall annually elect a voting member to serve as the chair of the commission.

46 (j) The members of the West Virginia Commission for National and Community Service  
47 shall meet at the call of the chair, who shall be obligated to call a meeting at the request of a  
48 simple majority of the members or as necessary to ensure that the members have met at least  
49 twice in each calendar year of the commission's operation.

50 (k) The members of the West Virginia Commission for National and Community Service  
51 shall serve without compensation, except that the members of the commission who are not state  
52 employees shall be reimbursed for their actual and necessary expenses incurred in discharging  
53 their duties and responsibilities as members of the commission.

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 2C. WEST VIRGINIA ACADEMY OF SCIENCE AND TECHNOLOGY.**

#### **§5B-2C-6. Periodic reports.**

1 (a) The academy will prepare and produce an annual report on the state of science and  
2 technology in West Virginia and submit it to the Governor, the Speaker of the House of Delegates,  
3 the President of the Senate and the joint commission on economic development or before July 1,  
4 of each year. The report shall address all aspects of research, development and  
5 commercialization that the academy council deems material, including, but not limited to:

6 (1) Strengths, weaknesses, opportunities and threats to West Virginia's research,  
7 development and commercialization environment and establishments;

8 (2) Options for actions by the Legislature and the Governor to maximize the ability of the  
9 state to attract investment, grants and infrastructure development to support growth of science  
10 and technology research, development and commercialization in the state;

11 (3) The status of, and options to improve, scientific and technological entrepreneurship in  
12 West Virginia; and

13 (4) The status of, and options to improve, the collaboration of institutions of higher  
14 education in obtaining competitive research awards and grants.

15 (b) In preparing its annual report, the council may utilize the technical support available to  
16 it through the West Virginia Development Office, ~~the West Virginia department for education and~~  
17 ~~arts~~ the West Virginia Experimental Program to Stimulate Competitive Research (EPSCoR), the  
18 West Virginia higher education system, federal and state agencies and other entities that have an  
19 interest in fostering science and technology research, development and commercialization in this  
20 state.

21 (c) Each month, an academy representative shall meet with legislative and executive  
22 leaders to provide updates and information concerning opportunities, issues and progress of  
23 science, technology and commercialization in the state.

## **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

### **ARTICLE 1. GENERAL PROVISIONS.**

#### **§5F-1-2. Executive departments created; offices of secretary created.**

1 (a) There are created, within the executive branch of the state government, the following  
2 departments:

3 (1) Department of Administration;

4 ~~(2) Department of Education and the Arts;~~

5 ~~(3)~~ (2) Department of Environmental Protection;

- 6           ~~(4)~~ (3) Department of Health and Human Resources;
- 7           ~~(5)~~ (4) Department of Military Affairs and Public Safety;
- 8           ~~(6)~~ (5) Department of Revenue;
- 9           ~~(7)~~ (6) Department of Transportation;
- 10          ~~(8)~~ (7) Department of Commerce; and
- 11          ~~(9)~~ (8) ~~Effective July 1, 2011,~~ Department of Veterans' Assistance.

12           (b) Each department will be headed by a secretary appointed by the Governor with the  
13 advice and consent of the Senate. Each secretary serves at the will and pleasure of the Governor.

## **ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

### **§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

1           (a) The following agencies and boards, including all of the allied, advisory, affiliated or  
2 related entities and funds associated with any agency or board, are incorporated in and  
3 administered as a part of the Department of Administration:

- 4           (1) Building Commission provided in article six, chapter five of this code;
- 5           (2) Public Employees Insurance Agency provided in article sixteen, chapter five of this  
6 code;
- 7           (3) Governor's Mansion Advisory Committee provided in article five, chapter five-a of this  
8 code;
- 9           (4) Commission on Uniform State Laws provided in article one-a, chapter twenty-nine of  
10 this code;
- 11          (5) West Virginia Public Employees Grievance Board provided in article three, chapter six-  
12 c of this code;
- 13          (6) Board of Risk and Insurance Management provided in article twelve, chapter twenty-  
14 nine of this code;
- 15          (7) Boundary Commission provided in article twenty-three, chapter twenty-nine of this  
16 code;

17 (8) Public Defender Services provided in article twenty-one, chapter twenty-nine of this  
18 code;

19 (9) Division of Personnel provided in article six, chapter twenty-nine of this code;

20 (10) The West Virginia Ethics Commission provided in article two, chapter six-b of this  
21 code;

22 (11) Consolidated Public Retirement Board provided in article ten-d, chapter five of this  
23 code; and

24 (12) Real Estate Division provided in article ten, chapter five-a of this code.

25 (b) The following agencies and boards, including all of the allied, advisory, affiliated or  
26 related entities and funds associated with any agency or board, are incorporated in and  
27 administered as a part of the Department of Commerce:

28 (1) Division of Labor provided in article one, chapter twenty-one of this code, which  
29 includes:

30 (A) Occupational Safety and Health Review Commission provided in article three-a,  
31 chapter twenty-one of this code; and

32 (B) Board of Manufactured Housing Construction and Safety provided in article nine,  
33 chapter twenty-one of this code.

34 (2) Office of Miners' Health, Safety and Training provided in article one, chapter twenty-  
35 two-a of this code. The following boards are transferred to the Office of Miners' Health, Safety  
36 and Training for purposes of administrative support and liaison with the Office of the Governor:

37 (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review  
38 Committee provided in article six, chapter twenty-two-a of this code;

39 (B) Board of Miner Training, Education and Certification provided in article seven, chapter  
40 twenty-two-a of this code; and

41 (C) Mine Inspectors' Examining Board provided in article nine, chapter twenty-two-a of this  
42 code.

43 (3) The West Virginia Development Office provided in article two, chapter five-b of this  
44 code;

45 (4) Division of Natural Resources and Natural Resources Commission provided in article  
46 one, chapter twenty of this code;

47 (5) Division of Forestry provided in article one-a, chapter nineteen of this code;

48 (6) Geological and Economic Survey provided in article two, chapter twenty-nine of this  
49 code; and

50 (7) Workforce West Virginia provided in chapter twenty-one-a of this code, which includes:

51 (A) Division of Unemployment Compensation;

52 (B) Division of Employment Service;

53 (C) Division of Workforce Development; and

54 (D) Division of Research, Information and Analysis.

55 (8) Division of Energy provided in article two-f, chapter five-b of this code.

56 (9) Division of Tourism Commission provided in article two-h, chapter five-b of this code;

57 (10) Division of Culture and History provided in article one, chapter twenty-nine of this  
58 code; and

59 (11) Division of Rehabilitation Services provided in article ten-a, chapter eighteen of this  
60 code.

61 (c) The Economic Development Authority provided in article fifteen, chapter thirty-one of  
62 this code is continued as an independent agency within the executive branch.

63 (d) The Water Development Authority and the Water Development Authority Board  
64 provided in article one, chapter twenty-two-c of this code is continued as an independent agency  
65 within the executive branch.

66 (e) The Educational Broadcasting Authority provided in article five, chapter ten of this code  
67 and the Library Commission provided in article one, chapter ten of this code are each continued  
68 as separate independent agencies within the executive branch.

69           ~~(e)~~ (f) The following agencies and boards, including all of the allied, advisory and affiliated  
70 entities, are transferred to the Department of Environmental Protection for purposes of  
71 administrative support and liaison with the office of the Governor:

72           (1) Air Quality Board provided in article two, chapter twenty-two-b of this code;

73           (2) Solid Waste Management Board provided in article three, chapter twenty-two-c of this  
74 code;

75           (3) Environmental Quality Board, or its successor board, provided in article three, chapter  
76 twenty-two-b of this code;

77           (4) Surface Mine Board provided in article four, chapter twenty-two-b of this code;

78           (5) Oil and Gas Inspectors' Examining Board provided in article seven, chapter twenty-  
79 two-c of this code;

80           (6) Shallow Gas Well Review Board provided in article eight, chapter twenty-two-c of this  
81 code; and

82           (7) Oil and Gas Conservation Commission provided in article nine, chapter twenty-two-c  
83 of this code.

84           ~~(f) The following agencies and boards, including all of the allied, advisory, affiliated or~~  
85 ~~related entities and funds associated with any agency or board, are incorporated in and~~  
86 ~~administered as a part of the Department of Education and the Arts:~~

87           ~~(1) Library Commission provided in article one, chapter ten of this code;~~

88           ~~(2) Division of Culture and History provided in article one, chapter twenty-nine of this code;~~

89 and

90           ~~(3) Division of Rehabilitation Services provided in article ten-a, chapter eighteen of this~~  
91 ~~code.~~

92           ~~(g) The Educational Broadcasting Authority provided in article five, chapter ten of this code~~  
93 ~~is part of the Department of Education and the Arts for the purposes of administrative support and~~  
94 ~~liaison with the office of the Governor.~~

95           ~~(f)~~ (g) The following agencies and boards, including all of the allied, advisory, affiliated or  
96 related entities and funds associated with any agency or board, are incorporated in and  
97 administered as a part of the Department of Health and Human Resources:

98           (1) Human Rights Commission provided in article eleven, chapter five of this code;

99           (2) Division of Human Services provided in article two, chapter nine of this code;

100           (3) Bureau for Public Health provided in article one, chapter sixteen of this code;

101           (4) Office of Emergency Medical Services and the Emergency Medical Service Advisory  
102 Council provided in article four-c, chapter sixteen of this code;

103           (5) Health Care Authority provided in article twenty-nine-b, chapter sixteen of this code;

104           (6) Commission on Mental Retardation provided in article fifteen, chapter twenty-nine of  
105 this code;

106           (7) Women's Commission provided in article twenty, chapter twenty-nine of this code; and

107           (8) The Child Support Enforcement Division provided in chapter forty-eight of this code.

108           ~~(g)~~ (h) The following agencies and boards, including all of the allied, advisory, affiliated or  
109 related entities and funds associated with any agency or board, are incorporated in and  
110 administered as a part of the Department of Military Affairs and Public Safety:

111           (1) Adjutant General's Department provided in article one-a, chapter fifteen of this code;

112           (2) Armory Board provided in article six, chapter fifteen of this code;

113           (3) Military Awards Board provided in article one-g, chapter fifteen of this code;

114           (4) West Virginia State Police provided in article two, chapter fifteen of this code;

115           (5) Division of Homeland Security and Emergency Management and Disaster Recovery  
116 Board provided in article five, chapter fifteen of this code and Emergency Response Commission  
117 provided in article five-a of said chapter;

118           (6) Sheriffs' Bureau provided in article eight, chapter fifteen of this code;

119           (7) Division of Justice and Community Services provided in article nine-a, chapter fifteen  
120 of this code;



- 121 (8) Division of Corrections provided in chapter twenty-five of this code;
- 122 (9) Fire Commission provided in article three, chapter twenty-nine of this code;
- 123 (10) Regional Jail and Correctional Facility Authority provided in article twenty, chapter  
124 thirty-one of this code; and
- 125 (11) Board of Probation and Parole provided in article twelve, chapter sixty-two of this  
126 code.
- 127 ~~(j)~~ (i) The following agencies and boards, including all of the allied, advisory, affiliated or  
128 related entities and funds associated with any agency or board, are incorporated in and  
129 administered as a part of the Department of Revenue:
- 130 (1) Tax Division provided in chapter eleven of this code;
- 131 (2) Racing Commission provided in article twenty-three, chapter nineteen of this code;
- 132 (3) Lottery Commission and position of Lottery Director provided in article twenty-two,  
133 chapter twenty-nine of this code;
- 134 (4) Insurance Commissioner provided in article two, chapter thirty-three of this code;
- 135 (5) West Virginia Alcohol Beverage Control Commissioner provided in article sixteen,  
136 chapter eleven of this code and article two, chapter sixty of this code;
- 137 (6) Board of Banking and Financial Institutions provided in article three, chapter thirty-one-  
138 a of this code;
- 139 (7) Lending and Credit Rate Board provided in chapter forty-seven-a of this code;
- 140 (8) Division of Banking provided in article two, chapter thirty-one-a of this code;
- 141 (9) The State Budget Office provided in article two of this chapter;
- 142 (10) The Municipal Bond Commission provided in article three, chapter thirteen of this  
143 code;
- 144 (11) The Office of Tax Appeals provided in article ten-a, chapter eleven of this code; and
- 145 (12) The State Athletic Commission provided in article five-a, chapter twenty-nine of this  
146 code.

147           ~~(k)~~ (j) The following agencies and boards, including all of the allied, advisory, affiliated or  
148 related entities and funds associated with any agency or board, are incorporated in and  
149 administered as a part of the Department of Transportation:

150           (1) Division of Highways provided in article two-a, chapter seventeen of this code;

151           (2) Parkways, Economic Development and Tourism Authority provided in article sixteen-  
152 a, chapter seventeen of this code;

153           (3) Division of Motor Vehicles provided in article two, chapter seventeen-a of this code;

154           (4) Driver's Licensing Advisory Board provided in article two, chapter seventeen-b of this  
155 code;

156           (5) Aeronautics Commission provided in article two-a, chapter twenty-nine of this code;

157           (6) State Rail Authority provided in article eighteen, chapter twenty-nine of this code; and

158           (7) Public Port Authority provided in article sixteen-b, chapter seventeen of this code.

159           ~~(j)~~ (k) Effective July 1, 2011, the Veterans' Council provided in article one, chapter nine-a  
160 of this code, including all of the allied, advisory, affiliated or related entities and funds associated  
161 with it, is incorporated in and administered as a part of the Department of Veterans' Assistance.

162           ~~(m)~~ (l) Except for powers, authority and duties that have been delegated to the secretaries  
163 of the departments by the provisions of section two of this article, the position of administrator and  
164 the powers, authority and duties of each administrator and agency are not affected by the  
165 enactment of this chapter.

166           ~~(n)~~ (m) Except for powers, authority and duties that have been delegated to the secretaries  
167 of the departments by the provisions of section two of this article, the existence, powers, authority  
168 and duties of boards and the membership, terms and qualifications of members of the boards are  
169 not affected by the enactment of this chapter. All boards that are appellate bodies or are  
170 independent decision makers shall not have their appellate or independent decision-making  
171 status affected by the enactment of this chapter.

172           ~~(e)~~ (n) Any department previously transferred to and incorporated in a department by prior  
173 enactment of this section means a division of the appropriate department. Wherever reference is  
174 made to any department transferred to and incorporated in a department created in section two,  
175 article one of this chapter, the reference means a division of the appropriate department and any  
176 reference to a division of a department so transferred and incorporated means a section of the  
177 appropriate division of the department.

178           ~~(f)~~ (o) When an agency, board or commission is transferred under a bureau or agency  
179 other than a department headed by a secretary pursuant to this section, that transfer is solely for  
180 purposes of administrative support and liaison with the Office of the Governor, a department  
181 secretary or a bureau. Nothing in this section extends the powers of department secretaries under  
182 section two of this article to any person other than a department secretary and nothing limits or  
183 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this  
184 code.

## **CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

### **ARTICLE 7. COMPENSATION AND ALLOWANCES.**

#### **§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of officers.**

1           (a) Each of the following appointive state officers named in this subsection shall be  
2 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
3 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
4 Governor was elected and until the respective state officers' successors have been appointed  
5 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
6 holding each respective office and each has and is hereby granted all of the powers and authority  
7 and shall perform all of the functions and services heretofore vested in and performed by virtue  
8 of existing law respecting each office.

9 The annual salary of each named appointive state officer is as follows:

10 Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections,  
11 \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police,  
12 \$85,000; Commissioner, Division of Banking, \$75,000; Commissioner, Division of Culture and  
13 History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000;  
14 Commissioner, Division of Motor Vehicles, \$75,000; Chairman, Health Care Authority, \$80,000;  
15 members, Health Care Authority, \$70,000; Director, Human Rights Commission, \$55,000;  
16 Commissioner, Division of Labor, \$70,000; prior to July 1, 2011, Director, Division of Veterans  
17 Affairs, \$65,000; Chairperson, Board of Parole, \$55,000; members, Board of Parole, \$50,000;  
18 members, Employment Security Review Board, \$17,000; and Commissioner, Workforce West  
19 Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary as follows: Health  
20 and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the Secretary of the  
21 Department of Health and Human Resources shall be paid an annual salary not to exceed  
22 \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is serving as both  
23 the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid  
24 \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000; Administration,  
25 \$95,000; ~~Education and the Arts, \$95,000~~ Commerce, \$95,000; Veterans' Assistance, \$95,000;  
26 and Environmental Protection, \$95,000: *Provided further*, That any officer specified in this  
27 subsection whose salary is increased by more than \$5,000 as a result of the amendment and  
28 reenactment of this section during the 2011 regular session of the Legislature shall be paid the  
29 salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum  
30 salary provided in this subsection.

31 (b) Each of the state officers named in this subsection shall continue to be appointed in  
32 the manner prescribed in this code and shall be paid an annual salary as follows:

33 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of  
34 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,

35 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,  
36 Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute,  
37 \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of  
38 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital  
39 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service  
40 Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of  
41 Forestry, \$75,000; Director, Division of Juvenile Services, \$80,000; and Executive Director,  
42 Regional Jail and Correctional Facility Authority, \$80,000.

43 (c) Each of the following appointive state officers named in this subsection shall be  
44 appointed by the Governor, by and with the advice and consent of the Senate. Each of the  
45 appointive state officers serves at the will and pleasure of the Governor for the term for which the  
46 Governor was elected and until the respective state officers' successors have been appointed  
47 and qualified. Each of the appointive state officers are subject to the existing qualifications for  
48 holding each respective office and each has and is hereby granted all of the powers and authority  
49 and shall perform all of the functions and services heretofore vested in and performed by virtue  
50 of existing law respecting each office.

51 The annual salary of each named appointive state officer shall be as follows:

52 Commissioner, State Tax Division, \$92,500; Insurance Commissioner, \$92,500; Director,  
53 Lottery Commission, \$92,500; Director, Division of Homeland Security and Emergency  
54 Management, \$65,000; and Adjutant General, \$125,000.

55 (d) No increase in the salary of any appointive state officer pursuant to this section may  
56 be paid until and unless the appointive state officer has first filed with the State Auditor and the  
57 Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General,  
58 certifying that his or her spending unit is in compliance with any general law providing for a salary  
59 increase for his or her employees. The Attorney General shall prepare and distribute the form to  
60 the affected spending units.

## CHAPTER 18. EDUCATION.

### ARTICLE 2I. STATE-LEVEL LEADERSHIP FOR PROFESSIONAL DEVELOPMENT SYSTEM.

#### §18-2I-1. ~~Legislative purpose~~ Professional development coordination and delivery; system goals.

1           The purpose of this article is to establish clear state-level leadership for professional  
2 development for all West Virginia public school educators and administrators. As the state  
3 institution charged with the general supervision of the state school system, the state board shall  
4 institute a system for the coordination and delivery of high-quality professional development. The  
5 system shall clearly define the goals for professional development and delineate roles and  
6 responsibilities ~~among the various state and regional professional development providers~~ of the  
7 various state, regional, school district and individual school levels for the delivery of high-quality  
8 professional development. The state board shall include among the goals for the system of  
9 professional development the following:

10           (1) The instructional leadership skills of principals are developed to ensure that each  
11 school is led by a principal who is knowledgeable of continuous improvement processes and  
12 capable of leading effective improvement efforts. The principal also must understand the value of  
13 fair and accurate personnel performance evaluations as an effective, continuous improvement  
14 effort to drive professional learning at the school level;

15           (2) Professional development is among the array of supports and processes necessary  
16 under a performance-based accreditation system to build the capacity of schools to impact  
17 student performance and well-being by increasing staff individual and collective skills,  
18 competencies and abilities. It should be based on a thorough analysis of accountability data and  
19 strategic planning for continuous improvement that addresses those areas that must be a priority

20 for individual school support, including an analysis of personnel evaluation data in order to target  
21 individualized professional learning at the school level;

22 (3) The school is the unit of change. Local, regional, and state resources, policies and  
23 procedures must focus on assisting the improvement of each West Virginia school and on  
24 differentiating supports according to need and level of performance, including the implementation  
25 of school-based professional development programs that address the unique needs of staff and  
26 students; and

27 (4) Professional development should be delivered using techniques, school schedules or  
28 time in a manner that does not diminish student learning by the absence of their classroom  
29 teacher.

**§18-2I-2. Legislative findings.**

1 The Legislature finds:

2 (1) That high-quality professional development is critical in supporting improved practice,  
3 assuring teacher quality and raising student achievement;

4 (2) That professional development is vital in the state's overall school improvement efforts;

5 (3) That the state board ~~should~~ shall assure the efficient delivery of high-quality  
6 professional development programs and ~~assure~~ that the duplication of efforts be minimized; ~~and~~

7 (4) That the state board shall assure all stakeholders are appropriately involved in the  
8 planning and implementing of programs to meet requisite needs and that high-quality professional  
9 development programs be provided to public school educators of West Virginia in the most  
10 efficient and cost effective manner; ~~and~~

11 ~~(4) It should be the goal that professional development occur outside of scheduled~~  
12 ~~instructional time so student learning is not interrupted by the absence of their classroom teacher.~~

13 (5) That continuous improvement is the on-going process of planning, determining,  
14 implementing and refining efforts to improve student performance and well-being. It is the  
15 collective staff process of analyzing student performance data, studying current school and

16 classroom practices, determining root causes, researching solutions and implementing processes  
17 outlined in the school's strategic plan; and

18 (6) That the capacity for excellence resides in every school. Schools are responsible for  
19 creating school-wide and classroom conditions that produce student success. Every school needs  
20 quality leadership and the flexibility and support to make the decisions that will lead to the  
21 achievement of all students.

**§18-2I-4. Coordination, development and evaluation of professional development programs.**

1 (a) On or before ~~June 1, 2013~~ June 1, 2017, the state board shall promulgate an  
2 emergency rule in accordance with article three-b, chapter twenty-nine of this code to ensure the  
3 coordination, development and evaluation of high-quality professional development programs. On  
4 or before ~~November 1, 2013~~ November 1, 2017, the state board shall promulgate a legislative  
5 rule for the same purpose. The rules shall include, but are not limited to, the following:

6 (1) Standards for quality professional development that all professional development  
7 providers shall use in designing, implementing and evaluating professional development that shall  
8 become part of the ~~statewide professional development plan~~ system for the coordinated delivery  
9 of high-quality professional development established by the state board;

10 (2) Processes for aggregating information, in part from school and school district strategic  
11 plans, to determine areas of common need for professional development, as well as those more  
12 varied, to assist in the design of the most effective and efficient method and level of delivery;

13 ~~(2)~~ (3) Processes for assuring professional development resources are appropriately  
14 allocated to identified areas of need;

15 ~~(3) Processes for approval by state board of all professional development plans/offerings;~~

16 (4) Processes for evaluating the effectiveness, efficiency, and impact of the professional  
17 development;



18 (5) Processes for ensuring all stakeholders, including affected principals and classroom  
19 teachers, have a voice in the identification of needed professional development and various  
20 delivery models;

21 (6) Processes for collaboration among West Virginia Department of Education, ~~Center for~~  
22 ~~Professional Development~~ RESAs, county boards, principals and classroom teachers; and

23 (7) Processes for ensuring that the expertise and experience of state institutions of higher  
24 education with teacher preparation programs are included in developing and implementing  
25 professional development programs.

26 ~~(b) The state board approval of the proposed professional development plans/offerings~~  
27 ~~shall establish a Master Plan for Professional Development which shall be submitted by the state~~  
28 ~~board to the affected agencies and to the Legislative Oversight Commission on Education~~  
29 ~~Accountability. The Master Plan shall include the state board-approved plans for professional~~  
30 ~~development by the state Department of Education, the Center for Professional Development, the~~  
31 ~~state institutions of higher education and the regional educational service agencies to meet the~~  
32 ~~professional development goals of the state board~~

33 (b) To assist in the delivery of high quality professional development for teachers,  
34 principals and other school employees, the state board shall incorporate within the department of  
35 education a Center for Professional Development whose general mission shall be under the  
36 direction of the state board to advance the quality of teaching and learning in the schools of West  
37 Virginia through: (1) The implementation primarily of statewide training, professional staff  
38 development, including professional staff development for at least teachers, principals and  
39 paraprofessionals; (2) Providing technical assistance programs and practices as recommended  
40 by the state board to assure the highest quality of teaching and instructional leadership; and (3)  
41 Providing technical and other assistance and support to schools and school systems to address  
42 locally identified needs for professional development and training programs to meet their locally  
43 identified needs in a manner that is cost effective consistent with best practices. Additionally, the

44 center shall perform other duties assigned to it by the state board. Nothing in this article requires  
45 any specific level of funding by the Legislature.

46 (c) The state board shall submit a status report on or before December 1 of each year on  
47 the professional development needs and the effectiveness, efficiency and impact of the ~~statewide~~  
48 ~~professional development plan~~ programs delivered to the Legislative Oversight Commission on  
49 Education Accountability.

## **ARTICLE 10A. REHABILITATION SERVICES.**

### **§18-10A-1. Definitions.**

1 As used in this article and article ten-b:

2 (1) "State board" means the Secretary of the Department of ~~Education and the arts~~  
3 Commerce, or where required by federal law, the board, commission or council designated by the  
4 Secretary of the Department of ~~Education and the arts~~ Commerce to oversee certain functions of  
5 the Division of Rehabilitation Services. All references in this code to the state board of vocational  
6 education, except where the context clearly indicates the provision of vocational education to  
7 other than disabled individuals, ~~shall~~ mean the state board defined by this subsection.

8 (2) "Division" means the division of vocational rehabilitation established by this article.

9 (3) "Director" means the director of the division of vocational rehabilitation.

10 (4) "Employment handicap" means a physical or mental condition which constitutes,  
11 contributes to, or if not corrected will probably result in, an obstruction to occupational  
12 performance.

13 (5) "Disabled individual" means any person who has a substantial employment handicap.

14 (6) "Vocational rehabilitation" and "vocational rehabilitation services" means any services,  
15 provided directly or through public or private instrumentalities, found by the director to be  
16 necessary to compensate a disabled individual for his or her employment handicap and to enable  
17 him or her to engage in a remunerative occupation including, but not limited to, medical and  
18 vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training,

19 attendant care services, physical restoration, transportation, occupational licenses, occupational  
20 tools and equipment, including motor vehicles, maintenance, and training books and materials.

21 (7) "Rehabilitation training" means all necessary training provided to a disabled individual  
22 to compensate for his or her employment handicap including, but not limited to, manual,  
23 preconditioning, prevocational, vocational, and supplementary training and training provided for  
24 the purpose of achieving broader or more remunerative skills and capacities.

25 (8) "Physical restoration" means any medical, surgical or therapeutic treatment necessary  
26 to correct or substantially reduce a disabled individual's employment handicap within a  
27 reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical  
28 treatment, nursing services, hospital care not to exceed ninety days, convalescent home care,  
29 drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment  
30 for acute or transitory conditions.

31 (9) "Prosthetic appliance" means any artificial device necessary to support or take the  
32 place of a part of the body or to increase the acuity of a sense organ.

33 (10) "Occupational licenses" means any license, permit or other written authority required  
34 by any governmental unit to be obtained in order to engage in an occupation.

35 (11) "Maintenance" means money payments not exceeding the estimated cost of  
36 subsistence during vocational rehabilitation.

37 (12) "Regulations" means regulations made by the director with the approval of the  
38 secretary of the Department of ~~Education and the arts~~ Commerce or the state board.

39 (13) "Attendant care evaluation unit" means any agency certified by the division of  
40 vocational rehabilitation that employs a qualified evaluator to provide evaluations and attendant  
41 referrals such as the centers for independent living, the West Virginia Rehabilitation Center and  
42 any other unit approved by the division.

43 (14) "Attendant care services" means services which include, but are not limited to:

44 (a) Routine bodily functions such as bowel and bladder care;

- 45 (b) Dressing;
- 46 (c) Ambulation;
- 47 (d) Meal preparation and consumption;
- 48 (e) Assistance in moving in and out of bed;
- 49 (f) Bathing and grooming;
- 50 (g) Housecleaning and laundry; and
- 51 (h) Any other similar activity of daily living.

52 (15) "Attendant" means a self-employed individual who is trained to perform attendant care  
53 services and who works as an independent contractor.

**§18-10A-2. Division of rehabilitation services.**

1 (a) The Division of Rehabilitation Services is transferred to the Department of ~~Education~~  
2 ~~and the arts~~ Commerce created in article one, chapter five-f of this code. The secretary shall  
3 appoint any ~~such~~ board, commission or council over the division to the extent required by federal  
4 law to qualify for federal funds for providing rehabilitation services for disabled persons. The  
5 secretary and ~~such~~ the boards, commissions or councils as he or she is required by federal law  
6 to appoint are authorized and directed to cooperate with the federal government to the fullest  
7 extent in an effort to provide rehabilitation services for disabled persons.

8 (b) References in this article or article ten-b of this chapter to the state Board of Vocational  
9 Education, the state Board of Rehabilitation or the state board as the governing board of  
10 vocational or other rehabilitation services or facilities mean the Secretary of ~~Education and the~~  
11 ~~Arts~~ Commerce. All references in the code to the Division of Vocational Rehabilitation mean the  
12 Division of Rehabilitation Services and all references to the Director of the Division of Vocational  
13 Rehabilitation means the Director of the Division of Rehabilitation Services.

**§18-10A-3. Director of division of vocational rehabilitation; powers and duties.**

1 The division shall be administered, under the general supervision and direction of the  
2 Secretary of the Department of ~~Education and the arts~~ Commerce or, if required by federal law

3 his or her designated state board, by a director appointed by ~~said~~ the secretary, or if required by  
4 federal law his or her designated state board in accordance with established personnel standards  
5 and on the basis of his or her education, training, experience and demonstrated ability.

6 In carrying out his or her duties under this article, the director shall:

7 (1) Appoint such personnel as he or she ~~deems~~ considers necessary for the efficient  
8 performance of the functions of the division.

9 (2) Establish a merit system of personnel management, or in lieu thereof, avail himself or  
10 herself of the services of the state merit system upon payment of a fair share of the expenses of  
11 the operation of ~~such~~ the system.

12 (3) Make regulations governing the protection of records and confidential information; the  
13 manner and form of filing applications for vocational rehabilitation services, eligibility therefor, and  
14 investigation and determination thereof; procedures for fair hearings; and such other matters as  
15 may be necessary or desirable in accomplishing the purposes of this article.

16 (4) Have the authority to establish and operate a staff development program for the  
17 employees of the division and may, in furtherance of such a program, and utilizing any funds  
18 appropriated or made available, for such purpose, pay to ~~such~~ the employees compensation or  
19 expenses, or both, while ~~such~~ the employees are pursuing approved training courses or academic  
20 studies for the purpose of becoming better equipped for their employment in ~~such~~ the division;  
21 ~~such~~ the staff development program shall be conducted subject to appropriate rules as adopted  
22 by the director and approved by the state board: *Provided*, That ~~such~~ these rules shall include  
23 reasonable provisions for the return of any employee, receiving the benefits of such training, for  
24 a reasonable period of duty, or for reimbursement to the state for expenditures incurred on behalf  
25 of the training of such employee.

26 (5) Establish appropriate subordinate administrative units within the division.

27 (6) Prepare and submit to the Secretary of the Department of ~~Education and the arts~~  
28 Commerce or his or her designated state board annual reports of activities and expenditures and,

29 prior to each regular session of the Legislature, estimates of sums required for carrying out the  
30 provisions of this article and estimates of the amounts to be made available for this purpose from  
31 all sources.

32 (7) Make requisition for disbursement, in accordance with regulations of the funds  
33 available for vocational rehabilitation purposes.

34 (8) Take such other action as may be ~~deemed~~ determined necessary or appropriate to  
35 carry out the purposes of this article.

**§18-10A-6a. West Virginia rehabilitation services special account; expenditures.**

1 (a) There is hereby established in the State Treasury a separate account which shall be  
2 designated the "West Virginia rehabilitation services special account". The director of  
3 rehabilitation services shall deposit promptly into the account all fees received for services  
4 provided by the West Virginia Rehabilitation Center from whatever source, including the federal  
5 government, state government or from other third-party payers or personal payments.

6 (b) A five-year West Virginia rehabilitation services long-range plan shall be developed by  
7 the director and shall be adopted by the Secretary of ~~education and the arts~~ Commerce. The West  
8 Virginia rehabilitation services' long-range plan shall be updated and revised at least every two  
9 years.

10 (c) The director ~~is authorized to~~ may expend the moneys deposited in the West Virginia  
11 Rehabilitation Services Special Account in accordance with federal laws and regulations and with  
12 the laws of this state ~~as is~~ necessary for the development of the five-year long-range plan and  
13 subsequent revisions.

14 (d) The director ~~is authorized to~~ may expend the moneys deposited in the West Virginia  
15 Rehabilitation Services Special Account as provided in the long-range plan at such times and in  
16 such amounts as the director determines necessary for the purpose of maintaining or improving  
17 the delivery of rehabilitation services: *Provided*, That during the budget preparation period which  
18 occurs prior to the convening of the Legislature, the director shall submit for inclusion in the

19 executive budget document and budget bill his or her recommended capital expenditures,  
20 recommended priorities, estimated costs and request for appropriations for maintaining or  
21 improving the delivery of vocational rehabilitation services.

22 (e) The director shall make an annual report to the Legislature on the status of the West  
23 Virginia Rehabilitation Services Special Account, including the previous year's expenditures and  
24 projected expenditures for the next year.

**§18-10A-12. Vocational evaluation and work adjustment program for disadvantaged individuals.**

1 The division, under the direction of any federally mandated board, commission or council  
2 appointed by the Secretary of the Department of ~~Education and the arts~~ Commerce, is authorized  
3 and directed to cooperate with the federal government in providing vocational evaluation and work  
4 adjustment services to disadvantaged individuals.

5 "Vocational evaluation and work adjustment services" include, as appropriate in each  
6 case, such services as:

7 (a) A preliminary diagnostic study to determine that the individual is disadvantaged, has  
8 an employment handicap, and that services are needed;

9 (b) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent  
10 medical, psychological, vocational, educational, cultural, social, and environmental factors which  
11 bear on the individual's handicap to employment and rehabilitation potential including, to the  
12 degree needed, an evaluation of the individual's personality, intelligence level, educational  
13 achievements, work experience, vocational aptitudes and interests, personal and social  
14 adjustments, employment opportunities, and other pertinent data helpful in determining the nature  
15 and scope of services needed;

16 (c) Services to appraise the individual's patterns of work behavior and ability to acquire  
17 occupational skills, and to develop work attitudes, work habits, work tolerance, and social and  
18 behavior patterns suitable for successful job performance, including the utilization of work,

19 simulated or real, to assess and develop the individual's capacities to perform adequately in a  
20 work environment;

21 (d) Any other goods or services provided to a disadvantaged individual, determined (in  
22 accordance with regulations of the federal government) to be necessary for, and which are  
23 provided for the purpose of, ascertaining the nature of the handicap to employment and whether  
24 it may reasonably be expected the individual can benefit from vocational rehabilitation services  
25 or other services available to disadvantaged individuals;

26 (e) Outreach, referral, and advocacy; and

27 (f) The administration of these evaluation and work adjustment services.

28 As used in this section, the term "disadvantaged individuals" means: (1) Disabled  
29 individuals as defined in subdivision (5), section one of this article; (2) individuals disadvantaged  
30 by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors,  
31 prison or delinquency records, or other conditions which constitute a barrier to employment; and  
32 (3) other members of their families when the provision of vocational rehabilitation services to  
33 family members is necessary for the rehabilitation of the individual described in subdivision (1) or  
34 (2) above.

**ARTICLE 10K. WEST VIRGINIA TRAUMATIC BRAIN AND SPINAL CORD INJURY  
REHABILITATION FUND ACT.**

**§18-10K-2. Board created, membership, terms, officers and staff.**

1 (a) There is hereby established the West Virginia traumatic brain and spinal cord injury  
2 rehabilitation fund board.

3 (b) The board shall consist of twenty-three members. The members shall include:

4 (1) The secretary of the Department of ~~Education and the arts~~ Commerce, ex officio, or  
5 his or her designee;



6 (2) The Secretary of Department of Health and Human Resources, ex officio, or his or her  
7 designee;

8 (3) The State Superintendent of Schools, ex officio, or his or her designee;

9 (4) The Secretary of the Department of Military Affairs and Public Safety, ex officio, or his  
10 or her designee;

11 (5) The director of the bureau of behavioral health within the Department of Health and  
12 Human Resources, ex officio, or his or her designee;

13 (6) The director of the Division of Rehabilitation Services, ex officio, or his or her designee;

14 (7) The director of the bureau of medical services, ex officio, or his or her designee;

15 (8) The director of the Office of Emergency Services, ex officio, or his or her designee;

16 (9) The executive director of the workers' compensation commission, ex officio, or his or  
17 her designee;

18 (10) Seven members appointed by the Governor to represent public and private health  
19 organizations or other disability coalitions or advisory groups; and

20 (11) Seven members appointed by the Governor who are either survivors of traumatic  
21 brain or spinal cord injury or family members of persons with traumatic brain or spinal cord injury.

22 (c) The citizen members shall be appointed by the Governor for terms of three years,  
23 except that of the members first appointed, two of the representatives of public and nonprofit  
24 private health organizations, disability coalitions or advisory groups and two of the representatives  
25 of survivors or family members of persons with traumatic brain or spinal cord injuries shall serve  
26 for terms of one year, two of the representatives of each of those respective groups shall serve  
27 for terms of two years and the remaining three representatives of each of those respective groups  
28 shall serve for terms of three years. All subsequent appointments shall be for three years.  
29 Members shall serve until the expiration of the term for which they have been appointed or until  
30 their successors have been appointed and qualified. In the event of a vacancy, the Governor shall  
31 appoint a qualified person to serve for the unexpired term. No member may serve more than two

32 consecutive three-year terms. State officers or employees may be appointed to the board unless  
33 otherwise prohibited by law.

34 (d) ~~In the event~~ If a board member fails to attend more than twenty-five percent of the  
35 scheduled meetings in a twelve-month period, the board may, after written notification to that  
36 member and the secretary of ~~education and the arts~~ Commerce, request in writing that the  
37 Governor remove the member and appoint a new member to serve his or her unexpired term.

38 (e) The board shall elect from its membership a chairperson, treasurer and secretary as  
39 well as any other officer as appropriate. The term of the chairperson is for two years in duration  
40 and he or she ~~cannot~~ may not serve more than two consecutive terms.

**§18-10K-5. Fund created; administration of fund; administrative fees; fund use.**

1 (a) There is created in the State Treasury a special revenue account to be known as the  
2 “West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund” which is under the  
3 jurisdiction of the Division of Rehabilitation Services. The West Virginia Traumatic Brain and  
4 Spinal Cord Injury Rehabilitation Fund is subject to the annual appropriation of funds by the  
5 Legislature. The West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund may  
6 receive any gifts, grants, contributions or other money from any source which is specifically  
7 designated for deposit in the fund.

8 (b) All moneys collected, received and deposited into the State Treasury and credited to  
9 the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund shall be expended  
10 by the board exclusively in accordance with the uses and criteria set forth in this article.  
11 Expenditures from this fund for any other purposes are void.

12 (c) The fund shall be administered by the Division of Rehabilitation Services under the  
13 Department of ~~Education and the arts~~ Commerce. The Division of Rehabilitation Services may  
14 retain an amount not to exceed ten percent per annum of the balance of the fund to cover any  
15 costs of administration of the fund.

16 (d) Nothing in this article may be construed to mandate funding for the West Virginia  
17 Traumatic Brain and Spinal Cord Injury Rehabilitation Fund or to require any appropriation by the  
18 Legislature.

19 (e) Moneys in the fund shall be used to pay for services that will increase opportunities for  
20 and enhance the achievement of functional independence, and a return to a productive lifestyle  
21 for individuals who have suffered a traumatic brain injury or a spinal cord injury.

22 (f) Services that are eligible for payment by the fund shall include, but not be limited to:

23 (1) Case management;

24 (2) Rehabilitative therapies and services;

25 (3) Attendant care;

26 (4) Home accessibility modifications;

27 (5) Equipment necessary for activities; and

28 (6) Family support services.

29 (g) Funds shall be expended according to the priorities and criteria for disbursement  
30 established by the board under section six of this article.

**§18-10K-6. Criteria and priorities for use of fund.**

1 (a) The board shall establish priorities and criteria for the disbursement of moneys in the  
2 fund. When the board determines that additional services should be eligible for payments from  
3 the fund, the chairman shall provide written notice to the Division of Rehabilitation Services ~~in the~~  
4 ~~Department of Education and the arts~~ directing that those services be eligible for payment by the  
5 fund.

6 (b) The board shall investigate the needs of citizens with traumatic brain injuries and spinal  
7 cord injuries, identify the gaps in services to these citizens, and issue an annual report to the  
8 Legislature each year with recommendations for meeting the identified needs, improving  
9 coordination of services and summarizing its actions during the preceding year.

10 (c) Moneys expended for services described under section five of this article shall be as a  
11 payer of last resort and only for citizens of this state. An individual shall use comparable benefits  
12 and services that are available prior to the expenditure of moneys available to that individual  
13 through the fund.

**ARTICLE 30. WEST VIRGINIA COLLEGE PREPAID TUITION AND SAVINGS  
PROGRAM ACT.**

**§18-30-4. Creation of program; board; members; terms; compensation; proceedings  
generally.**

1 (a) The West Virginia college prepaid tuition and savings program is continued. The  
2 program consists of a prepaid tuition plan and a savings plan.

3 (b) The board of the college prepaid tuition and savings program is continued and all  
4 powers, rights and responsibilities of the board of trustees of the prepaid tuition trust fund are  
5 vested in the board of the college prepaid tuition and savings program.

6 (c) The board consists of nine members and includes the following:

7 ~~(1) The secretary of education and the arts, or his or her designee;~~

8 ~~(2) (1) The State Treasurer, or his or her designee;~~

9 ~~(3) (2) Two representatives~~ A representative of the Higher Education Policy Commission,  
10 who may or may not be ~~members~~ a member of the Higher Education Policy Commission,  
11 appointed by the commission who ~~serve as voting members~~ serves as a voting member of the  
12 board, ~~one of whom shall represent the interests of the universities of West Virginia and the state~~  
13 ~~colleges and one of whom shall represent the interests of community and technical colleges of~~  
14 ~~West Virginia;~~

15 (3) A representative of the Council for Community and Technical College Education, who  
16 may or may not be a member of the Council for Community and Technical College Education,  
17 appointed by the council who serves as a voting member of the board; and

18 (4) Five other members, appointed by the Governor, with knowledge, skill and experience  
19 in an arts, academic, business or financial field, to be appointed as follows:

20 (A) Two private citizens not employed by, or an officer of, the state or any political  
21 subdivision of the state;

22 (B) One member representing the interests of private institutions of higher education  
23 located in this state appointed from one or more nominees of the West Virginia association of  
24 private colleges; and

25 (C) Two members representing the public.

26 (d) The public members and the member representing the interests of private institutions  
27 of higher education are appointed by the Governor with the advice and consent of the Senate.

28 (e) Only state residents are eligible for appointment to the board.

29 (f) Members appointed by the Governor serve a term of five years and are eligible for  
30 reappointment at the expiration of their terms. ~~In the event of~~ If there is a vacancy among  
31 appointed members, the Governor shall appoint a person representing the same interests to fill  
32 the unexpired term.

33 (g) Members of the board serve until the later of the expiration of the term for which the  
34 member was appointed or the appointment of a successor. Members of the board serve without  
35 compensation. The treasurer may pay all expenses, including travel expenses, actually incurred  
36 by board members in the conduct of their official duties. Expense payments are made from the  
37 college prepaid tuition and savings program administrative account, and are made at the same  
38 rate paid to state employees.

39 (h) The treasurer may provide support staff and office space for the board.

40 (i) The treasurer is the chairman and presiding officer of the board, and may appoint the  
41 employees the board considers advisable or necessary. A majority of the members of the board  
42 constitute a quorum for the transaction of the business of the board.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 2. SCHOOL PERSONNEL.

#### §18A-2-9. Duties and responsibilities of school principals; assistant principals.

1           (a) Upon the recommendation of the county superintendent of schools, the county board  
2 of education shall employ and assign, through written contract, public school principals who shall  
3 be the principal instructional leader of the school and shall supervise the management and the  
4 operation of the school or schools to which they are assigned to improve student performance  
5 and progress. ~~Such~~ The principals shall hold valid administrative certificates appropriate for their  
6 assignments.

7           (b) Beginning on ~~July 1, 1994~~ July 1, 2018, the prerequisites for issuance of an  
8 administrative certificate for principals shall include that the person has successfully completed  
9 at least six credit hours of approved course work in public school instructional leadership and  
10 management techniques at an accredited institution of higher education, including, but not limited  
11 to, the standards for high quality schools, the school accreditation process and strategic planning  
12 for continuous improvement. ~~And~~

13           (c) Prior to employment as a principal or assistant principal, or in another administrative  
14 position the duties of which require conducting personnel performance evaluations, the principal,  
15 assistant or administrator has successfully completed education and training in evaluation skills  
16 ~~through the center for professional development, or equivalent education and training in~~  
17 ~~evaluation skills~~ approved by the state board.

18           (d) Under the supervision of the superintendent and in accordance with the rules and  
19 regulations of the county board of education, the principal

20           (1) Shall assume administrative and instructional ~~supervisory~~ leadership responsibility for  
21 the planning, management, operation and evaluation of the total educational program of the  
22 school or schools to which he or she is assigned.

23           ~~(2) The principal~~ May submit recommendations to the superintendent regarding the  
24 appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the  
25 school or schools under said principal's control. ~~Such~~ The recommendations shall be submitted  
26 in writing as prescribed by the superintendent; and

27           ~~(3) The principal~~ Shall perform such other duties as may be assigned by the  
28 superintendent pursuant to the rules and regulations of the county board of education.

29           (e) Upon recommendation of the county superintendent of schools, the county board of  
30 education shall, when needed, employ and assign, through written contract, assistant principals  
31 who shall work under the direction of the school principal. Such assistant principals shall hold  
32 valid administrative certificates appropriate for their assignments.

33           ~~(f) On or before July 1, 1989, and continuing thereafter~~ The assignment of principals and  
34 assistant principals by each county board of education shall assign is subject to the following:

35           (1) A certificated principal shall be assigned to each school; ~~and no~~

36           (2) A principal may not be assigned more than two schools: ~~Provided, That where~~  
37 ~~enrollment exceeds four hundred students there will be~~

38           (3) No additional schools may be assigned to ~~that~~ the principal of a school where  
39 enrollment exceeds four hundred students.

40           (4) ~~No~~ A principal assigned to more than one school may not be assigned any teaching  
41 duties except on a temporary emergency basis. ~~No county shall have more teaching~~  
42 ~~principalships or multischool principalships than was present on January 1, 1988~~

43           ~~On or before July 1, 1993, and continuing thereafter, each county board of education shall~~  
44 ~~employ a full-time supervising~~

45           (5) A principal shall be assigned full-time at each school whose net enrollment equals or  
46 exceeds one hundred seventy students ~~A principal assigned to a school with a net enrollment~~  
47 ~~equal to or greater than one hundred seventy students~~ and may not be assigned any teaching  
48 duties except on a temporary emergency basis.

49           (6) ~~When~~ A principal assigned on a full-time basis to a school whose net enrollment is  
50 more than seventy-five students but less than one hundred seventy students ~~such principal~~ shall  
51 have a minimum of twenty hours per week for nonteaching duties.

52           (7) A principal assigned on a full-time basis to a school with seventy-five students or less  
53 shall have a minimum of ten hours per week for nonteaching duties. ~~Provided, That~~

54           (8) Nothing in this section prohibits a county board of education from assigning a full-time  
55 supervising principal to a school with a net enrollment of less than one hundred seventy students.

56           ~~Nothing contained in this section shall be construed to reduce or limit the rights and~~  
57 ~~privileges of principals and assistant principals as teachers under the provisions of section one,~~  
58 ~~article one, chapter eighteen of the Code of West Virginia as amended; section one, article one,~~  
59 ~~chapter eighteen-a; and other provisions of this code: *Provided, That* on or before July 1, 1993,~~  
60 ~~the State Board of Education shall not deny a county board of education the right to place a~~  
61 ~~principal in a school with less than one hundred seventy students.~~

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

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

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

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



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

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

19 (1) The professional personnel positions to be evaluated;

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

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

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

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

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

28 and

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

31 (4) The standards for satisfactory performance for professional personnel and the criteria  
32 to be used to determine whether the performance of each professional meets those standards  
33 and other criteria for evaluation for each professional position evaluated. Professional personnel,  
34 as appropriate, shall demonstrate competency in the knowledge and implementation of the  
35 technology standards adopted by the state board. If a professional fails to demonstrate

36 competency in the knowledge and implementation of these standards, he or she will be subject  
37 to an improvement plan to correct the deficiencies; and

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

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

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

58 (h) (g) Any professional whose performance evaluation includes a written improvement  
59 plan shall be given an opportunity to improve his or her performance through the implementation  
60 of the plan. If the next performance evaluation shows that the professional is now performing  
61 satisfactorily, no further action may be taken concerning the original performance evaluation. If

62 the evaluation shows that the professional is still not performing satisfactorily, the evaluator either  
63 shall make additional recommendations for improvement or may recommend the dismissal of the  
64 professional in accordance with the provisions of section eight of this article.

65 ~~(f)~~ (h) This subsection applies to all classroom teachers irrespective of the process under  
66 which they are evaluated.

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

73 (A) Teach and reteach strategies;

74 (B) Write to learn activities;

75 (C) Cultural diversity;

76 (D) Color coding; or

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

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

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

84 (4) Nothing in article three-c of this chapter may be construed to negate the provisions of  
85 this subsection.

**ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.**

**§18A-3-1. Teacher preparation programs; program approval and standards; authority to issue teaching certificates.**

1 (a) The education of professional educators in the state is under the general direction and  
2 control of the state board. ~~after consultation with the Secretary of Education and the Arts and the~~  
3 ~~Chancellor for Higher Education who shall represent the interests of educator preparation~~  
4 ~~programs within the institutions of higher education in this state as defined in section two, article~~  
5 ~~one, chapter eighteen-b of this code~~

6 The education of professional educators in the state includes all programs leading to  
7 certification to teach or serve in the public schools. The programs include the following:

8 (1) Programs in all institutions of higher education, including student teaching and teacher-  
9 in-residence programs as provided in this section;

10 (2) Beginning teacher induction programs;

11 (3) Granting West Virginia certification to persons who received their preparation to teach  
12 outside the boundaries of this state, except as provided in subsection (b) of this section;

13 (4) Alternative preparation programs in this state leading to certification, including  
14 programs established pursuant to the provisions of sections one-a, one-b, one-c, one-d, one-e,  
15 one-f, one-g, one-h and one-i of this article and programs which are in effect on the effective date  
16 of this section; and

17 (5) Continuing professional education, professional development and in-service training  
18 programs for professional educators employed in the public schools in the state.

19 (b) ~~After consultation with the Secretary of Education and the Arts and the Chancellor for~~  
20 ~~Higher Education~~ The state board shall adopt standards for the education of professional

21 educators in the state and for awarding certificates valid in the public schools of this state. The  
22 standards include, but are not limited to the following:

23 (1) A provision for the study of the history and philosophical foundations of Western  
24 Civilization and the writings of the founders of the United States of America;

25 ~~(1)~~ (2) A provision for the study of multicultural education. As used in this section,  
26 multicultural education means the study of the pluralistic nature of American society including its  
27 values, institutions, organizations, groups, status positions and social roles;

28 ~~(2)~~ (3) A provision for the study of classroom management techniques, including methods  
29 of effective management of disruptive behavior including societal factors and their impact on  
30 student behavior; and

31 ~~(3)~~ (4) A teacher from another state shall be awarded a teaching certificate for a  
32 comparable grade level and subject area valid in the public schools of this state, subject to section  
33 ten of this article, if he or she has met the following requirements:

34 (A) Holds a valid teaching certificate or a certificate of eligibility issued by another state;

35 (B) Has graduated from an educator preparation program at a regionally accredited  
36 institution of higher education or from another educator preparation program;

37 (C) Possesses the minimum of a bachelor's degree; and

38 (D) Meets all of the requirements of the state for full certification except employment.

39 (c) The state board may enter into an agreement with county boards for the use of the  
40 public schools in order to give prospective teachers the teaching experience needed to  
41 demonstrate competence as a prerequisite to certification to teach in the West Virginia public  
42 schools.

43 (d) An agreement established pursuant to subsection (c) of this section shall recognize  
44 student teaching as a joint responsibility of the educator preparation institution and the  
45 cooperating public schools. The agreement shall include the following items:

46 (1) The minimum qualifications for the employment of public school teachers selected as  
47 supervising teachers, including the requirement that field-based and clinical experiences be  
48 supervised by a teacher fully certified in the state in which that teacher is supervising;

49 (2) The remuneration to be paid to public school teachers by the state board, in addition  
50 to their contractual salaries, for supervising student teachers;

51 (3) Minimum standards to guarantee the adequacy of the facilities and program of the  
52 public school selected for student teaching;

53 (4) Assurance that the student teacher, under the direction and supervision of the  
54 supervising teacher, shall exercise the authority of a substitute teacher;

55 (5) A provision requiring any higher education institution with an educator preparation  
56 program to document that the student teacher's field-based and clinical experiences include  
57 participation and instruction with multicultural, at-risk and exceptional children at each  
58 programmatic level for which the student teacher seeks certification; and

59 (6) A provision authorizing a school or school district that has implemented a  
60 comprehensive beginning teacher induction program, to enter into an agreement that provides for  
61 the training and supervision of student teachers consistent with the educational objectives of this  
62 subsection by using an alternate structure implemented for the support, supervision and  
63 mentoring of beginning teachers. The agreement is in lieu of any specific provisions of this  
64 subsection and is subject to the approval of the state board.

65 (e) *Teacher-in-residence programs.* —

66 (1) In lieu of the provisions of subsections (c) and (d) of this section and subject to approval  
67 of the state board, an institution of higher education with a program for the education of  
68 professional educators ~~in the state~~ approved by the state board may enter into an agreement with  
69 county boards for the use of teacher-in-residence programs in the public schools.

70 (2) A "teacher-in-residence program" means an intensively supervised and mentored  
71 residency program for prospective teachers during their senior year that refines their professional

72 practice skills and helps them gain the teaching experience needed to demonstrate competence  
73 as a prerequisite to certification to teach in the West Virginia public schools.

74 (3) The authorization for the higher education institution and the county board to  
75 implement a teacher-in-residence program is subject to state board approval. The provisions of  
76 the agreement include, but are not limited to, the following items:

77 (A) A requirement that the prospective teacher in a teacher-in-residence program has  
78 completed all other preparation courses and has passed the appropriate basic skills and subject  
79 matter test or tests required by the state board for teachers to become certified in the area for  
80 which licensure is sought;

81 (B) A requirement that the teacher-in-residence serve only in a teaching position in the  
82 county which has been posted and for which no other teacher fully certified for the position has  
83 been employed;

84 (C) Specifics regarding the program of instruction for the teacher-in-residence setting forth  
85 the responsibilities for supervision and mentoring by the higher education institution's educator  
86 preparation program, the school principal, and peer teachers and mentors, and the responsibilities  
87 for the formal instruction or professional development necessary for the teacher-in-residence to  
88 perfect his or her professional practice skills. The program also may include other instructional  
89 items as considered appropriate.

90 (D) A requirement that the teacher-in-residence hold a teacher-in-residence permit  
91 qualifying the individual to teach in his or her assigned position as the teacher of record;

92 (E) A requirement that the salary and benefit costs for the position to which the teacher-  
93 in-residence is assigned shall be used only for program support and to pay a stipend to the  
94 teacher-in-residence as specified in the agreement, subject to the following:

95 (i) The teacher-in-residence is a student enrolled in the teacher preparation program of  
96 the institution of higher education and is not a regularly employed employee of the county board;

97 (ii) The teacher-in-residence is included on the certified list of employees of the county  
98 eligible for state aid funding the same as an employee of the county at the appropriate level based  
99 on their permit and level of experience;

100 (iii) All state-aid-funding due to the county board for the teacher-in-residence shall be used  
101 only in accordance with the agreement with the institution of higher education for support of the  
102 program as provided in the agreement, including costs associated with instruction and supervision  
103 as set forth in paragraph (C) of this subdivision;

104 (iv) The teacher-in-residence is provided the same liability insurance coverage as other  
105 employees; and

106 (v) All state aid funding due to the county for the teacher-in-residence and not required for  
107 support of the program shall be paid as a stipend to the teacher-in-residence: *Provided*, That the  
108 stipend paid to the teacher-in-residence shall be no less than sixty-five percent of all state aid  
109 funding due the county for the teacher-in-residence.

110 (F) Other provisions that may be required by the state board.

111 (f) In lieu of the student teaching experience in a public school setting required by this  
112 section, an institution of higher education may provide an alternate student teaching experience  
113 in a nonpublic school setting if the institution of higher education meets the following criteria:

114 (1) Complies with the provisions of this section;

115 (2) Has a state board approved educator preparation program; and

116 (3) Enters into an agreement pursuant to subdivisions (g) and (h) of this section.

117 (g) At the discretion of the higher education institution, an agreement for an alternate  
118 student teaching experience between an institution of higher education and a nonpublic school  
119 shall require one of the following:

120 (1) The student teacher shall complete at least one half of the clinical experience in a  
121 public school; or



122           (2) The educator preparation program shall include a requirement that any student  
123 performing student teaching in a nonpublic school shall complete the following:

124           (A) At least two hundred clock hours of field-based training in a public school; and

125           (B) A course, which is a component of the institution's state board approved educator  
126 preparation program, that provides information to prospective teachers equivalent to the teaching  
127 experience needed to demonstrate competence as a prerequisite to certification to teach in the  
128 public schools in West Virginia. The course also shall include instruction on at least the following  
129 elements:

130           (i) State board policy and provisions of this code governing public education;

131           (ii) Requirements for federal and state accountability, including the mandatory reporting of  
132 child abuse;

133           (iii) Federal and state mandated curriculum and assessment requirements, including  
134 multicultural education, safe schools and student code of conduct;

135           (iv) Federal and state regulations for the instruction of exceptional students as defined by  
136 the Individuals with Disabilities Education Act, 20 U.S.C. §1400 *et seq.*; and

137           (v) Varied approaches for effective instruction for students who are at-risk.

138           (h) In addition to the requirements set forth in subsection (g) of this section, an agreement  
139 for an alternate student teaching experience between an institution of higher education and a  
140 nonpublic school shall include the following:

141           (1) A requirement that the higher education institution with an educator preparation  
142 program shall document that the student teacher's field-based and clinical experiences include  
143 participation and instruction with multicultural, at-risk and exceptional children at each  
144 programmatic level for which the student teacher seeks certification; and

145           (2) The minimum qualifications for the employment of school teachers selected as  
146 supervising teachers, including the requirement that field-based and clinical experiences be  
147 supervised by a teacher fully certified in the state in which that teacher is supervising.

148 (i) The state superintendent may issue certificates as provided in section two-a of this  
149 article to graduates of educator preparation programs and alternative educator preparation  
150 programs approved by the state board. The certificates are issued in accordance with this section  
151 and rules adopted by the state board. ~~after consultation with the Secretary of Education and the~~  
152 ~~Arts and the Chancellor for Higher Education~~

153 (1) A certificate to teach may be granted only to a person who meets the following criteria:

154 (A) Is a citizen of the United States, except as provided in subdivision (2) of this  
155 subsection;

156 (B) Is of good moral character;

157 (C) Is physically, mentally and emotionally qualified to perform the duties of a teacher; and

158 (D) Is at least eighteen years of age on or before October 1 of the year in which his or her  
159 certificate is issued.

160 (2) A permit to teach in the public schools of this state may be granted to a person who is  
161 an exchange teacher from a foreign country or an alien person who meets the requirements to  
162 teach.

163 (j) ~~In consultation with the Secretary of Education and the Arts and the Chancellor for~~  
164 ~~Higher Education~~ Institutions of higher education approved for educator preparation may  
165 cooperate with each other, ~~with the center for professional development and~~ with one or more  
166 county boards and with one or more regional education service agencies to organize and operate  
167 centers to provide selected phases of the educator preparation program. The phases include, but  
168 are not limited to the following:

169 (1) Student teaching and teacher-in-residence programs;

170 (2) Beginning teacher induction programs;

171 (3) Instruction in methodology; and

172 (4) Seminar programs for college students, teachers with provisional certification,  
173 professional support team members and supervising teachers.

174 By mutual agreement, the institutions of higher education, ~~the center for professional~~  
175 ~~development and~~ county boards and regional education service agencies may budget and expend  
176 funds to operate the centers through payments to the appropriate fiscal office of the participating  
177 institutions, ~~the center for professional development~~ and the county boards and regional  
178 education service agencies.

179 (k) The provisions of this section do not require discontinuation of an existing student  
180 teacher training center or school which meets the standards of the state board.

181 (l) All institutions of higher education approved for educator preparation in the 1962-63  
182 school year continue to hold that distinction so long as they meet the minimum standards for  
183 educator preparation. Nothing in this section infringes upon the rights granted to any institution  
184 by charter given according to law previous to the adoption of this code.

185 (m) *Definitions.* — For the purposes of this section, the following words have the meanings  
186 ascribed to them unless the context clearly indicates a different meaning:

187 (1) “Nonpublic school” means a private school, parochial school, church school, school  
188 operated by a religious order or other nonpublic school that elects to meet the following conditions:

189 (A) Comply with the provisions of article twenty-eight, chapter eighteen of this code;

190 (B) Participate on a voluntary basis in a state operated or state sponsored program  
191 provided to this type school pursuant to this section; and

192 (C) Comply with the provisions of this section;

193 (2) “At-risk” means a student who has the potential for academic failure, including, but not  
194 limited to, the risk of dropping out of school, involvement in delinquent activity or poverty as  
195 indicated by free or reduced lunch status; and

196 (3) “Exceptional child” or “exceptional children” has the meaning ascribed to these terms  
197 pursuant to section one, article twenty, chapter eighteen of this code, but, as used in this section,  
198 the terms do not include gifted students.

**§18A-3-1d. Alternative program rules; necessary contents.**

1 (a) *Alternative program rules.* –

2 (1) The State Board shall promulgate a legislative rule or rules in accordance with article  
3 three-b, chapter twenty-nine-a of this code containing procedures for the approval and operation  
4 of alternative teacher education programs as provided in this article. The State Board shall  
5 promulgate separate procedures for alternative programs for classroom teachers, alternative  
6 programs for highly qualified special education teachers, and additional alternative programs to  
7 prepare highly qualified special education teachers. These procedures shall be separate from the  
8 state board's other procedures for approving standard teacher education programs.

9 ~~(2) Before promulgating a rule or rules, the state Board shall consult with the Secretary of~~  
10 ~~Education and the Arts and the Chancellor of the Higher Education Policy Commission~~

11 ~~(3)~~ (2) Before adopting a rule or rules, the state board shall submit its proposed rule or  
12 rules to the Legislative Oversight Commission on Education Accountability for review.

13 (b) *Necessary contents.* – The state board's rule or rules shall include, at a minimum, the  
14 following elements:

15 (1) An orderly set of deadlines, forms and guidance to govern:

16 (A) A partnership's process for applying to become an approved education provider;

17 (B) The state board's process for reviewing and acting on a partnership's application;

18 (C) An approved education provider's process for seeking persons to enroll in an  
19 alternative program; and

20 (D) A person's process for enrolling in an approved education provider's alternative  
21 program;

22 (2) Procedures for determining whether a partnership agreement complies with sections  
23 one-b and one-c of this article;

24 (3) Procedures for determining whether a partnership agreement complies with any  
25 additional requirements contained in the state board's rule or rules;

26 (4) Standards for how often and for what lengths of time an alternative program teacher  
27 must observe in a mentor's classroom;

28 (5) Guidelines for determining what tuition or other charges an approved education  
29 provider may impose relating to an alternative program;

30 (6) A list of the test or tests that a person must pass if he or she seeks a certification to  
31 teach American Sign Language; and

32 (7) A list of the test or tests that a person must pass if he or she seeks a certification to  
33 teach in selected vocational and technical areas.

**§18A-3-2c. Training through the principals academy Minimum qualities, proficiencies and skills required of principals; state board rule.**

1 ~~(a) Principal training and professional development required. — After the effective date of~~  
2 ~~this section and subject to the provisions of subsection (c) of this section, every principal shall~~  
3 ~~complete training and professional development through the principals academy as provided in~~  
4 ~~subsection (b) of this section.~~

5 ~~(b) Principal training and professional development through the academy. — The~~  
6 ~~academy and the persons required to complete training and professional development through~~  
7 ~~the academy shall adhere to the following guidelines:~~

8 (1) All persons assigned as a principal for the first time in a West Virginia school after July  
9 1, 2002, shall complete specialized training and professional development for newly appointed  
10 principals through the academy within the first twelve months following assignment;

11 (2) All principals of schools which have been designated as seriously impaired, in  
12 accordance with section five, article two-e, chapter eighteen of this code, shall complete  
13 specialized training and professional development through the academy specifically designed to  
14 assist the principal to improve school performance commencing as soon as practicable following  
15 receipt of the designation;

16           ~~(3) All principals who are subject to an improvement plan, in accordance with section~~  
17 ~~twelve, article two of this chapter, shall complete specialized training and professional~~  
18 ~~development through the academy specifically designed for principals subject to an improvement~~  
19 ~~plan. The specialized training and professional development shall be completed within twelve~~  
20 ~~months from the date that the principal is first subject to the improvement plan;~~

21           ~~(4) All principals who transfer to a school with a significantly different grade configuration~~  
22 ~~shall complete specialized training and professional development for principals in schools with~~  
23 ~~the grade configuration to which they transferred through the academy within the first twelve~~  
24 ~~months following transfer; and~~

25           ~~(5) All persons serving as school principals shall complete training and professional~~  
26 ~~development through the academy designed to build the qualities, proficiencies and skills required~~  
27 ~~of all principals as determined by the state board.~~

28           ~~(c) Academy and requirements to complete training and professional development subject~~  
29 ~~to funding.— The requirement that principals complete training and professional development~~  
30 ~~through the academy shall be subject to the availability of funds for the principals academy from~~  
31 ~~legislative appropriation and from other sources. If these funds are insufficient to provide for the~~  
32 ~~total cost of the training and professional development required by subsection (b) of this section,~~  
33 ~~then the academy shall provide training and professional development for the persons described~~  
34 ~~in subdivisions (1) through (5), inclusive, subsection (b) of this section according to the priority in~~  
35 ~~which the subdivisions appear in said subsection. If such funds are insufficient to provide for the~~  
36 ~~training and professional development of all the persons described in one or more of subdivisions~~  
37 ~~(1) through (5), inclusive, subsection (b) of this section, the academy is authorized to determine~~  
38 ~~which persons described within the subdivision or subdivisions shall be admitted and which shall~~  
39 ~~not be admitted: *Provided*, That the principals academy shall make every effort to ensure that all~~  
40 ~~principals receive training and professional development through the academy at least once every~~

41 ~~six years effective July 1, 2002, and thereafter: *Provided, however,* That nothing in this section~~  
42 ~~shall be construed to require any specific level of funding by the Legislature.~~

43 ~~(d) *Establishment of standards.* — On or before October 1, 1996~~ October 1, 2017, the  
44 state board shall ~~approve and~~ promulgate rules in accordance with article three-b, chapter twenty-  
45 nine-a of this code regarding the minimum qualities, proficiencies and skills that will be required  
46 of principals after ~~January 1, 1997~~ July 1, 2018. The state board shall promulgate and may, from  
47 time to time, amend such rules. The rules promulgated by the state board shall address at least  
48 the following:

49 (1) Instructional leadership and management techniques, including, but not limited to, the  
50 standards for high quality schools, the school accreditation process and strategic planning for  
51 continuous improvement;

52 ~~(4)~~ (2) Staff relations, including, but not limited to, the development and use of skills  
53 necessary to make a positive use of faculty senates, manage faculty and staff with courtesy and  
54 mutual respect, coach and motivate employees, and build consensus as a means of  
55 management;

56 ~~(2)~~ (3) School community leadership qualities, including, but not limited to, the ability to  
57 organize and leverage community initiative, communicate effectively, work effectively with local  
58 school improvement councils, manage change, resolve conflict and reflect the highest personal  
59 values;

60 ~~(3)~~ (4) Educational proficiencies, including, but not limited to, knowledge of curriculum,  
61 instructional techniques, student learning styles, student assessment criteria, school personnel  
62 performance, evaluation skills and family issues; and

63 (4) Administrative skills, including, but not limited to, organizational, fiscal, public policy  
64 and total quality management skills and techniques.

65 ~~(e) *Waivers.* — Any person desiring to be relieved of the requirements of all or any part of~~  
66 ~~this section may apply in writing to the state board for a waiver. Upon a showing of reasonable~~

67 ~~cause why relief should be granted, the state board may grant a waiver, upon such terms and~~  
68 ~~conditions as the state board shall determine proper, as to all or any part of this section.~~

69 ~~(f) *Failure to comply.* — Any person who fails or refuses to complete training and~~  
70 ~~professional development through the academy, as required by the provisions of this section, and~~  
71 ~~who fails to obtain a waiver, as described in subsection(e) of this section, shall be ineligible to be~~  
72 ~~employed as, or serve in the capacity of, a principal.~~

73 ~~(g) *Tracking of requirement.* — On or before January 1, 1997, the state board shall~~  
74 ~~establish a system to track the progress of each person required to complete training through the~~  
75 ~~academy and shall regularly advise such persons of their progress.~~

76 ~~(h) *Payment of reasonable and necessary expenses and stipends.* — The center for~~  
77 ~~professional development shall reimburse persons attending the academy for reasonable and~~  
78 ~~necessary expenses. A person may not be required to complete training and professional~~  
79 ~~development through the principals academy before September 15, and after June 1, of the school~~  
80 ~~year. The center for professional development shall utilize alternative methods of instructional~~  
81 ~~delivery and scheduling, including electronic delivery, as considered appropriate to minimize the~~  
82 ~~amount of time principals completing training and professional development through the academy~~  
83 ~~are required to be away from their school duties. Nothing in this section shall be construed to~~  
84 ~~require any specific level of funding by the Legislature.~~

**§18A-3-8. County professional staff development councils.**

1 The Legislature finds the professional expertise and insight of the classroom teacher to  
2 be an invaluable ingredient in the development and delivery of staff development programs which  
3 meet the needs of classroom teachers.

4 Therefore, a professional staff development council comprised of proportional  
5 representation from the major school levels and from vocational, special education and other  
6 specialties in proportion to their employment numbers in the county shall be established in each  
7 school district in the state in accordance with rules adopted by the State Board of Education.



8 Nominations of instructional personnel to serve on the county staff development council may be  
9 submitted by the faculty senates of the district to the county superintendent who shall prepare  
10 and distribute ballots and tabulate the votes of the counties instructional personnel voting on the  
11 persons nominated. Each county staff development council shall consist of between nine and  
12 fifteen members at the discretion of the county superintendent based on the size of the county.  
13 The councils have final authority to propose staff development programs for their peers based  
14 upon ~~rules established by statute and the council on professional education~~ an analysis of the  
15 individual and collective needs of the schools of the county as indicated by their strategic plans.

16 The county superintendent or a designee has an advisory, nonvoting role on the council.  
17 The county board shall make available an amount equal to one tenth of one percent of the  
18 amounts provided in accordance with section four, article nine-a, chapter eighteen of this code  
19 and credit the funds to an account to be used by the council to fulfill its objectives. The local board  
20 has final approval of all proposed disbursements.

21 Any funds credited to the council during a fiscal year, but not used by the council, shall be  
22 carried over in the council account for use in the next fiscal year. These funds are separate and  
23 apart from, and in addition to, those funds to be credited to the council pursuant to this section.  
24 At the end of each fiscal year, the council shall report to each faculty senate chairperson the  
25 amount of funds carried over into the next fiscal year.

26 ~~The professional staff development project of the center for professional development~~  
27 ~~shall assist in the development and delivery of staff development programs by the county staff~~  
28 ~~development councils and shall coordinate staff development efforts statewide.~~

### **ARTICLE 3C. IMPROVING TEACHING AND LEARNING.**

#### **§18A-3C-1. Findings; purposes and definition.**

1 (a) The Legislature makes the following findings:

2 (1) Processes set forth in this article for the performance evaluation of professional  
3 personnel ~~teacher~~ and the induction and professional growth is of teachers and leaders are not

4 intended to make up for substandard initial preparation, ~~of teachers,~~ but instead is are intended  
5 to build on a solid foundation created by the teacher and principal preparation programs.  
6 Therefore, the Legislature expects the teacher preparation programs to graduate teachers and  
7 leaders who can perform at a level that increases student achievement. The Legislature expects  
8 that the processes set forth in this article will allow a teacher and principal to excel beyond that  
9 level in the classroom and school leadership positions;

10 (2) The comprehensive system of support provided ~~for~~ in this article should be  
11 implemented in a way that, ~~as compared with the beginning teacher internship system,~~ much  
12 ~~more~~ effectively provides for the professional growth of teachers and principals;

13 (3) In order for the comprehensive system of support to much more effectively provide for  
14 the professional growth for of teachers and principals, ~~funding should be greatly increased over~~  
15 ~~and above what has been provided for the beginning teacher internship system~~ professional  
16 development resources must be focused in the most cost effective manner on the unique needs  
17 of individual schools, including their professional personnel evaluation data, to increase the  
18 school's capacity to improve student performance and progress; and

19 (4) Although the quality of the teacher in the classroom is extremely important to the  
20 academic achievement of students, students cannot learn if they are not in the classroom.  
21 Therefore, attending school on a regular basis is of utmost importance to the academic success  
22 of students.

23 (b) The purpose of this article is to create a comprehensive infrastructure that routinely  
24 supports a continuous process for improving teaching and learning. Its focus is on developing  
25 strong teaching and school leadership, without which effective learning does not occur. The  
26 general components of this infrastructure include the following:

27 (1) High-quality teacher and principal preparation, induction and evaluation;

28 (2) Universal support for emerging teachers and principals including comprehensive ~~new~~  
29 ~~teacher~~ induction and support for (A) Beginning teachers, student teachers, teachers teaching in

30 assignments for which they have less than a full professional credential and teacher candidates  
31 pursuing certification through an alternative route; and (B) Beginning principals, assistant  
32 principals and vocational administrators, and principals beginning a new assignment at a school  
33 with a significantly different grade level configuration;

34 (3) Evaluation of the performance of teachers and leaders in demonstrating high quality  
35 professional practice, leadership and collaboration and the resulting growth in student learning;

36 (4) Focused improvement in teaching and learning through the use of evaluation data to  
37 inform the delivery of professional development and additional supports to improve teaching  
38 based on the evaluation results and to inform the need for improvements in teacher preparation  
39 programs; and

40 (5) The creation of a leadership culture that seeks and builds powerful alliances among all  
41 stakeholders focused on continuous growth in student learning.

42 (c) For purposes of this article “professional personnel” includes classroom teachers,  
43 assistant principals and principals as defined in section one, article one chapter eighteen-a of this  
44 code.

**§18A-3C-2. Performance evaluations of professional personnel.**

1 ~~(a) The intent of the Legislature is to allow for a multistep statewide implementation of~~  
2 ~~performance evaluations for professional personnel pursuant to this section consistent with sound~~  
3 ~~educational practices and resources available resulting in full state-wide implementation by no~~  
4 ~~later than the school year 2013-2014. Beginning with the schools included in the evaluation~~  
5 ~~processes for professional personnel piloted by the Department of Education during the 2011-~~  
6 ~~2012 school year, additional schools or school systems shall be subject to the provisions of this~~  
7 ~~article in accordance with a plan established by the state board to achieve full statewide~~  
8 ~~implementation by no later than the school year 2013-2014. For schools and school systems~~  
9 ~~subject to the provisions of this article, the provisions of this article shall govern when they are in~~  
10 ~~conflict with other provisions of this chapter and chapter eighteen of this code. Specifically~~

11           (a) The provisions of this ~~article~~ section govern for the performance evaluation of  
12 classroom teachers, principals and assistant principals employed in these public schools and  
13 school systems. To the extent that this ~~article~~ section conflicts with the provisions of section  
14 twelve, article two of this chapter relating to professional personnel performance evaluations, this  
15 ~~article~~ section shall govern. ~~The state board shall submit a report on its plan for the phased~~  
16 ~~implementation of this article to the Legislative Oversight Commission on Education~~  
17 ~~Accountability at the Commission's July interim meeting in each year of the phased~~  
18 ~~implementation. The report shall include an update on the implementation of this article including,~~  
19 ~~but not limited to the evaluation process and a list of the schools and school systems subject to~~  
20 ~~the provisions of this article. To assist the Legislative Oversight Commission on Education~~  
21 ~~Accountability in monitoring the implementation of this article, the state board shall report to the~~  
22 ~~Commission upon its request throughout the implementation process, including but not limited to,~~  
23 ~~reports on the results of surveys of teachers and principals on the implementation and use of the~~  
24 ~~new evaluation system, the adequacy of the professional development given to employees on the~~  
25 ~~purposes, instruments and procedures of the evaluation process, the time consumed by the~~  
26 ~~evaluation process and the various tasks required for employees of different levels of experience,~~  
27 ~~the aggregate results of the evaluations and any recommendations for changes in the process or~~  
28 ~~other aspects of the duties of affected employees to improve the focus on the core mission of~~  
29 ~~schools of teaching and learning~~

30           (b) Before ~~July 1, 2013~~ July 1, 2017, the state board shall adopt a legislative rule in  
31 accordance with article three-b, chapter twenty-nine-a of this code, for annually evaluating the  
32 performance of each professional person. ~~each year. The state board shall submit a draft of the~~  
33 ~~proposed rule to the Legislative Oversight Commission on Education Accountability by February~~  
34 ~~15, 2013, and a final draft proposed rule prior to adoption.~~ The rule shall provide for performance  
35 evaluations of professional personnel to be conducted in accordance with this section in each  
36 school and school system. ~~beginning with the 2013-14 school year~~

37 (c) (1) The process adopted by the state board for evaluating the performance of  
38 classroom teachers shall incorporate at least the following:

39 (A) Alignment with the West Virginia Professional Teaching Standards adopted by the  
40 state board that establish the foundation for educator preparation, teacher assessment and  
41 professional development throughout the state;

42 (B) Employment of the professional teaching standards to provide explicit and extensive  
43 measures of the work of teaching and what teachers must know and be able to do and provide  
44 evaluative measures of educator performance; and

45 (C) The use of two pieces of evidence at two points in time over the instructional term to  
46 demonstrate student learning as an indicator of educator performance. ~~and~~

47 ~~(D) The use of school's school-wide student learning growth as measured by the state-~~  
48 ~~wide summative assessment as an evaluative measure of all educators employed in the school~~

49 (2) Eighty percent of the evaluation shall be based on an appraisal of the educator's ability  
50 to perform the critical standard elements of the professional teaching standards. The appraisal  
51 shall include conferences with the evaluator reinforced through observation. ~~Fifteen~~ Twenty  
52 percent of the evaluation shall be based on evidence of the learning of the students assigned to  
53 the educator in accordance with paragraph (C), subdivision (1) of this subsection. ~~and five percent~~  
54 ~~of the evaluation shall be based on student learning growth measured by the school-wide score~~  
55 ~~on the state summative assessment in accordance with paragraph (D), subdivision (1) of this~~  
56 ~~subsection~~

57 (d) (1) The process adopted by the state board for evaluating the performance of principals  
58 and assistant principals shall include at least the following:

59 (A) Alignment with the West Virginia Professional Leadership Standards adopted by the  
60 state board establishing the responsibility of principals for the collective success of their school  
61 including the learning, growth and achievement of students, staff and self;

62 (B) Employment of the professional leadership standards to provide explicit and extensive  
63 measures of the work of school leadership focused on the continuous improvement of teaching  
64 and learning. The process shall include conferences and goal setting with the superintendent or  
65 his or her designee and the use of a survey of stakeholders to assist in identifying the needs and  
66 establishing the goals for the school and the principal. The survey shall be distributed to at least  
67 the following stakeholders: Students, parents, teachers and service personnel. The evaluative  
68 measures shall include the use of data, evidence and artifacts to confirm the principal's  
69 performance on achieving the goals established by the principal and superintendent; and

70 (C) The use of two pieces of evidence at two points in time over the instructional term to  
71 demonstrate the growth in student learning at the school. ~~and~~

72 ~~(D) The use of the school's school-wide student learning growth as measured by the state-~~  
73 ~~wide summative assessment as an evaluative measure of all educators employed in the school~~

74 (2) Eighty percent of the evaluation shall be based on an appraisal of the principal's or the  
75 assistant principal's ability to perform the critical standard elements of the professional leadership  
76 standards and achieve the goals established for the principal and the school. ~~Fifteen~~ Twenty  
77 percent of the evaluation shall be based on evidence of the learning of the students assigned to  
78 the school in accordance with paragraph (C), subdivision (1) of this subsection, ~~and five percent~~  
79 ~~of the evaluation shall be based on student learning growth measured by the school-wide score~~  
80 ~~on the state summative assessment in accordance with paragraph (D), subdivision (1) of this~~  
81 ~~subsection.~~

82 (e) Evaluations of the performance of professional personnel shall serve the following  
83 purposes:

84 (1) Serve as a basis for the improvement of the performance of the professional personnel  
85 in their assigned duties;

86 (2) Serve as the basis for providing professional development specifically targeted on the  
87 area or areas identified through the evaluation process as needing improvement. If possible, this

88 targeted professional development should be delivered at the school-site using collaborative  
89 processes, mentoring or coaching or other approaches that maximize use of the instructional  
90 setting;

91 (3) Serve as the basis for establishing priorities for the provision of county-level  
92 professional development when aggregate evaluation data from the county's schools indicates  
93 an area or areas of needed improvement;

94 (4) Serve as a basis for informing the teacher preparation programs in this state of an area  
95 or areas of needed improvement in the programs, or informing a specific program of needed  
96 improvement, when state-level aggregate evaluation data indicates that beginning teachers who  
97 have graduated from the program have specific weaknesses;

98 (5) Provide an indicator of level of performance of the professional personnel;

99 (6) Serve as a basis for programs to increase the professional growth and development  
100 of professional personnel; and

101 (7) Serve as documentation for a dismissal on the grounds of unsatisfactory performance.

102 (f) The rule adopted by the state board shall include standards for performance of  
103 professional personnel and the criteria to be used to determine whether their performance meets  
104 the standards. The rule also shall include guidance on best practices for providing time within the  
105 school day for teachers subject to performance evaluations under this section to participate in the  
106 collaborative mentoring or coaching and planning processes necessary for execution of the  
107 performance evaluation process and achieving advanced levels of performance.

108 (g) The rule adopted by the state board shall include provisions for written improvement  
109 plans when necessary to improve the performance of the professional personnel. The written  
110 improvement plan shall be specific as to what improvements are needed in the performance of  
111 the professional personnel and shall clearly set forth recommendations for improvements  
112 including recommendations for additional education and training of professionals subject to  
113 recertification. Professional personnel whose performance evaluation includes a written

114 improvement plan shall be given an opportunity to improve his or her performance through the  
115 implementation of the plan.

116 (h) A professional person whose performance is considered to be unsatisfactory shall be  
117 given written notice of his of her deficiencies. A written improvement plan to correct these  
118 deficiencies shall be developed by the employing county board and the employee. The  
119 professional person shall be given a reasonable period of time, not exceeding twelve months, to  
120 accomplish the requirements of the improvement plan and shall receive a written statement of the  
121 resources and assistance available for the purposes of correcting the deficiencies. If the next  
122 performance evaluation shows that the professional is now performing satisfactorily, no further  
123 action may be taken concerning the original performance evaluation. If the evaluation shows that  
124 the professional is still not performing satisfactorily, the evaluator either shall make additional  
125 written recommendations for improvement or may recommend the dismissal of the professional  
126 personnel in accordance with the provisions of section eight, article two of this chapter.

127 (i) No person may evaluate professional personnel for the purposes of this section unless  
128 the person has an administrative certificate issued by the state superintendent and has  
129 successfully completed education and training in evaluation skills ~~through the center for~~  
130 ~~professional development, or equivalent education training~~ approved by the state board, which  
131 will enable the person to make fair, professional, and credible evaluations of the personnel whom  
132 the person is responsible for evaluating.

133 (j) Prior to implementation of the evaluation process pursuant to this section at a school,  
134 each affected employee shall be given training to ensure that the employees have a full  
135 understanding of the purposes, instruments and procedures used in evaluating their performance.  
136 Thereafter, this training shall be held annually at the beginning of the employment term.

**§18A-3C-3. Comprehensive system for teacher and leader induction and professional growth.**



1           (a) The intent of the Legislature is to allow for a multistep statewide implementation of a  
2 comprehensive system of support for building professional practice ~~of beginning teachers,~~  
3 ~~specifically those on the initial and intermediate progressions,~~ consistent with sound educational  
4 practices and resources available. In this regard, it is the intent of the Legislature that the ~~transition~~  
5 ~~of schools and school systems to a comprehensive system of support that includes~~ shall  
6 incorporate support for improved professional performance that is targeted on deficiencies  
7 identified through the educator personnel evaluation process and incorporated into the strategic  
8 plans for continuous improvement of schools and school systems. ~~will be implemented concurrent~~  
9 ~~with the first year that a school or system receives final evaluation results from the performance~~  
10 ~~evaluation process pursuant to section two of this article~~ Further, because of significant variability  
11 among the counties, not only in the size of their teaching force, distribution of facilities and  
12 available resources, but also because of their varying needs, the Legislature intends for the  
13 implementation of this section to be accomplished in a manner that provides adequate flexibility  
14 to the counties to design and implement a comprehensive system of support for improving  
15 professional performance that best achieves the goals of this section within the county. Finally,  
16 because of the critical importance of ensuring that all teachers perform at the accomplished level  
17 or higher in the delivery of instruction that at least meets the West Virginia Professional Teaching  
18 Standards and because achieving this objective at a minimum entails providing assistance to  
19 address the needs as indicated by the data informed results of annual performance evaluations,  
20 including the self-assessed needs of the teachers themselves, the Legislature expects the highest  
21 priority for county, regional and state professional development will be on meeting these needs  
22 and that the transition to a comprehensive system of support for improving professional practice  
23 will reflect substantial redirection of existing professional development resources toward this  
24 highest priority.

25           (b) On or before ~~July 1, 2012~~ July 1, 2017, the state board shall publish guidelines on the  
26 design and implementation of a comprehensive system of support for improving professional

27 practice. The purpose of the guidelines is to assist the county board with the design and  
28 implementation of a system that best achieves the goals of this section within the county. The  
29 guidelines may include examples of best practices and resources available to county boards to  
30 assist them with the design and implementation of a comprehensive system.

31 ~~(e) For schools and school systems subject to the provisions of this article, the provisions~~  
32 ~~of this article govern when they are in conflict with section two-b, article three of this chapter~~  
33 ~~relating to beginning teacher internships, or in conflict with other provisions of this chapter and~~  
34 ~~chapter eighteen of this code~~

35 ~~(d)~~ (c) Effective for the school year beginning ~~July 1, 2013~~ July 1, 2017, and thereafter, a  
36 county board is not eligible to receive state funding appropriated for the purposes of this section  
37 or any other provision of law related to beginning teacher and principal internships and mentor  
38 teachers and principals unless it has adopted a plan for implementation of a comprehensive  
39 system of support for improving professional practice, the plan has been verified by the state  
40 board as meeting the requirements of this section and the county is implementing the plan. The  
41 plan shall address the following:

42 (1) The manner in which the county will provide the strong school-based support and  
43 supervision that will assist beginning teachers in developing instructional and management  
44 strategies, procedural and policy expertise, and other professional practices they need to be  
45 successful in the classroom and perform at the accomplished level. Nothing in this subdivision  
46 prohibits a school or school system that was granted an exception or waiver from section two-c,  
47 article three of this chapter prior to the effective date of this section from continuing  
48 implementation of the program in accordance with the exception or waiver;

49 (2) The manner in which the county will provide the strong support and supervision that  
50 will assist beginning principals in developing instructional leadership, supervisory and  
51 management strategies, procedural and policy expertise, and other professional practices they

52 need to be successful in leading continuous school improvement and performing at the  
53 accomplished level or above;

54       (2) (3) The manner in which the county in cooperation with the teacher preparation  
55 programs in this state will provide strong school-based support and assistance necessary to make  
56 student teaching a productive learning experience;

57       (3) (4) The manner in which the county will use the data from the educator performance  
58 evaluation system to serve as the basis for providing professional development specifically  
59 targeted on the area or areas identified through the evaluation process as needing improvement.  
60 If possible, this targeted professional development should be delivered at the school-site using  
61 collaborative processes, mentoring or coaching or other approaches that maximize use of the  
62 instructional setting;

63       (4) (5) The manner in which the county will use the data from the educator performance  
64 evaluation system to serve as the basis for establishing priorities for the provision of county-level  
65 professional development when aggregate evaluation data from the county's schools indicates  
66 an area or areas of needed improvement;

67       (5) (6) If a county uses master teachers, mentors, academic coaches or any other  
68 approaches using individual employees to provide support, supervision or other professional  
69 development or training to other employees for the purpose of improving their professional  
70 practice, the manner in which the county will select each of these individual employees based  
71 upon demonstrated superior performance and competence as well as the manner in which the  
72 county will coordinate support for these employees. ~~Provided, That the employment of persons~~  
73 ~~for these positions shall adhere to the posting and other provisions of section seven-a, article four~~  
74 ~~of this chapter utilizing subsection (c) of said section seven-a to judge the qualifications of the~~  
75 ~~applicants~~ If the duties of the position are to provide mentoring to an individual teacher at only  
76 one school, then priority shall ~~being~~ be given to applicants employed at the school at which those  
77 duties will be performed;

78           ~~(6)~~ (7) The manner in which the county will use local resources available, including, but  
79 not limited to, funds for professional development and academic coaches, to focus on the priority  
80 professional development goals of this section;

81           ~~(7)~~ (8) The manner in which the county will adjust its scheduling, use of substitutes,  
82 collaborative planning time, calendar or other measures as may be necessary to provide sufficient  
83 time for professional personnel to accomplish the goals of this section as set forth in the county's  
84 plan; and

85           ~~(8)~~ (9) The manner in which the county will monitor and evaluate the effectiveness of  
86 implementation and outcomes of the county system of support for improving professional practice.

87           ~~(e)~~ (d) Effective the school year beginning ~~July 1, 2013~~ July 1, 2017, and thereafter,  
88 appropriations for beginning teacher and principal mentors and internships and any new  
89 appropriation which may be made for the purposes of this section shall be expended by county  
90 boards only to accomplish the activities as set forth in their county plan pursuant to this section.  
91 Effective the school year beginning July 1, ~~2013~~ 2017, and thereafter, no specific level of  
92 compensation is guaranteed for any employee service or employment as a mentor and such  
93 service or employment is not subject to the provisions of this code governing extra duty contracts.  
94 ~~except as provided in subdivision (5), subsection (c) of this section~~

95           ~~(f)~~ (e)The Legislative Oversight Commission on Education Accountability shall review the  
96 progress of the implementation of this article and may make any recommendations it considers  
97 necessary to the Legislature during the ~~2013~~ 2018 regular legislative session.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.**

**§18B-1B-2. Composition of commission; terms and qualifications of members; vacancies;  
eligibility for reappointment; oath of office; removal from office.**

1 (a) The commission is comprised of ~~ten~~ nine members, all of whom are entitled to vote.

2 The membership of the commission is as follows:

3 ~~(1) The Secretary of Education and the Arts, ex officio~~

4 ~~(2)~~ (1) The State Superintendent of Schools, ex officio;

5 ~~(3)~~ (2) The chair of the West Virginia Council for Community and Technical College  
6 Education, ex officio; and

7 ~~(4)~~ (3) Seven at-large members who are citizens of the state, appointed by the Governor,  
8 by and with the advice and consent of the Senate: *Provided*, That prior to appointment, the  
9 Governor shall interview each candidate to assure that the person selected understands and is  
10 committed to achieving the goals and objectives as set forth in the institutional compacts and in  
11 section one-a, article one of this chapter. The Governor shall invite the President of the Senate,  
12 the Speaker of the House of Delegates, the chairs of the Senate and House of Delegates  
13 Committees on Finance and Education and such other legislative leaders as the Governor may  
14 determine to participate in interviewing potential candidates.

15 (b) Each of the at-large members appointed by the Governor shall represent the public  
16 interest and shall be committed to the legislative intent and goals set forth in state law and policy.

17 (c) The Governor may not appoint any person to be a member of the commission who is  
18 an officer, employee or member of the council or an advisory board of any state college or  
19 university; an officer or member of any political party executive committee; the holder of any other  
20 public office or public employment under the government of this state or any of its political  
21 subdivisions; an appointee or employee of any governing board; or an immediate family member  
22 of any employee under the jurisdiction of the commission, the council or any governing board.

23 (d) Of the seven, at-large members appointed by the Governor:

24 (1) No more than four may belong to the same political party;

25 (2) At least two shall be appointed from each congressional district; and

26 (3) Effective July 1, 2008, no more than one member may serve from the same county.

27 (e) The at-large members appointed by the Governor serve overlapping terms of four  
28 years.

29 (f) The Governor shall appoint a member to fill any vacancy among the seven at-large  
30 members, by and with the advice and consent of the Senate. Any member appointed to fill a  
31 vacancy serves for the unexpired term of the vacating member. The Governor shall fill the vacancy  
32 within thirty days of the occurrence of the vacancy.

33 (g) An at-large member appointed by the Governor may not serve more than two  
34 consecutive terms.

35 (h) Before exercising any authority or performing any duties as a member of the  
36 commission, each member shall qualify as such by taking and subscribing to the oath of office  
37 prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof  
38 shall be filed with the Secretary of State.

39 (i) A member of the commission appointed by the Governor may not be removed from  
40 office by the Governor except for official misconduct, incompetence, neglect of duty or gross  
41 immorality and then only in the manner prescribed by law for the removal of the state elective  
42 officers by the Governor.

### **ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.**

#### **§18B-3D-2. Workforce Development Initiative Program continued; purpose; program administration; rule required.**

1 (a) The Workforce Development Initiative Program is continued under the supervision of  
2 the council. The purpose of the program is to administer and oversee grants to community and  
3 technical colleges to implement the provisions of this article in accordance with legislative intent.

4 (b) It is the responsibility of the council to administer the state fund for community and  
5 technical college and workforce development, including setting criteria for grant applications,  
6 receiving applications for grants, making determinations on distribution of funds and evaluating  
7 the performance of workforce development initiatives.

8 (c) The chancellor, under the direction of the council, shall review and approve the  
9 expenditure of all grant funds, including development of application criteria, the review and  
10 selection of applicants for funding and the annual review and justification of applicants for grant  
11 renewal.

12 (1) To aid in decision-making, the chancellor appoints an advisory committee consisting  
13 of the Executive Director of the West Virginia Development Office or designee; ~~the Secretary of~~  
14 ~~Education and the Arts or designee~~ the Assistant State Superintendent for Technical and Adult  
15 Education; the Chair of the West Virginia Council for Community and Technical College  
16 Education; the Chair of the West Virginia Workforce Investment Council; the Executive Director  
17 of Workforce West Virginia; one member representing the Herbert Henderson Minority Affairs  
18 Office, two members representing business and industry; and one member representing labor.  
19 The advisory committee shall review all applications for workforce development initiative grants  
20 and make recommendations for distributing grant funds to the council. The advisory committee  
21 also shall make recommendations on methods to share among the community and technical  
22 colleges any curricula developed as a result of a workforce development initiative grant.

23 (2) When determining which grant proposals will be funded, the council shall give special  
24 consideration to proposals by community and technical colleges that involve businesses with  
25 fewer than fifty employees.

26 (3) The council shall weigh each proposal to avoid awarding grants which will have the  
27 ultimate effect of providing unfair advantage to employers new to the state who will be in direct  
28 competition with established local businesses.

29 (d) The council may allocate a reasonable amount, not to exceed five percent up to a  
30 maximum of \$50,000 of the funds available for grants on an annual basis, for general program  
31 administration.

32 (e) Moneys appropriated or otherwise available for the Workforce Development Initiative  
33 Program shall be allocated by line item to an appropriate account. Any moneys remaining in the  
34 fund at the close of a fiscal year are carried forward for use in the next fiscal year.

35 (f) Nothing in this article requires a specific level of appropriation by the Legislature.

**ARTICLE 5. HIGHER EDUCATION BUDGETS AND EXPENDITURES.**

**§18B-5-2a. Authorizing certain transfers within and among general and special revenue  
accounts of state institutions of higher education.**

1 (a) In accordance with the provisions of section seventeen, article two, chapter five-a of  
2 this code, the transfer of amounts between items of appropriations, or the transfer of moneys in  
3 a special account established for a particular purpose into another account for expenditure for  
4 another purpose, are specifically authorized for a spending unit under the jurisdiction of the  
5 governing boards subject to the following conditions:

6 (1) The president or other administrative head of a state institution of higher education  
7 submits a written request to the appropriate governing board. The appropriate governing board  
8 approves the request for the transfer and ~~submits a written request for the transfer to the secretary~~  
9 ~~of education and the arts.~~the Legislative Auditor and the Legislative Oversight Commission on  
10 Education Accountability are to be furnished a copy of the request;

11 (2) The ~~secretary of education and the arts, after consultation with the~~ appropriate  
12 governing board ~~gives written approval to a request for a transfer and~~ follows such procedures as  
13 may be required by the Secretary of Administration, the Auditor and the Treasurer to effect the  
14 transfer prior to any expenditure of the moneys so transferred;

15 (3) Such a transfer does not:

16 (A) Expand a program, establish a new program or provide capital for an expense that  
17 cannot be paid during the current fiscal year; or

18 (B) Increase the moneys allocated or appropriated to personal services unless:



19           (i) ~~Such~~ The transfer to personal services is made on an emergency basis for the  
20 employment of personnel for summer school, and then only in such amounts as mandated for  
21 salary purposes by articles eight and nine of this chapter: *Provided*, That moneys transferred for  
22 the employment of personnel for summer school shall be separately accounted for to indicate  
23 which of the accounts appropriated by the Legislature are increased or reduced as a result of the  
24 transfer; or

25           (ii) A quarterly allotment of funds pursuant to section fifteen, article two, chapter five-a of  
26 this code is insufficient to meet the appropriated personal services budget of the spending unit in  
27 that fiscal quarter, in which case a transfer may only be made to meet the insufficiency and shall  
28 be accompanied by a pledge to replace funds in the original accounts by the end of that fiscal  
29 year;

30           (4) Not more than five percent of the total allocation or appropriation in any general  
31 revenue account of a state institution of higher education may be transferred between the items  
32 of allocation or appropriation thereof or between the accounts established for such institution;

33           (5) The transfer of moneys in a special account established for a particular purpose into  
34 another account for expenditure for another purpose shall not exceed such amounts as are  
35 determined by the president or other administrative head of the institution to be in excess of that  
36 reasonably required to accomplish the purposes for which the account was established, unless  
37 such excess balances are insufficient to provide the amounts necessary for a temporary transfer  
38 in the case of a quarterly allotment which is insufficient to meet the appropriated personal services  
39 budget;

40           (6) Funds in any general or special account established for a specific state institution of  
41 higher education shall not be transferred pursuant to this section for use by another state  
42 institution of higher education.

43           (b) Notwithstanding the procedures and restrictions set forth in subsection (a) of this  
44 section, except to the extent that the section explicitly relates to transfers due to quarterly

45 allotment insufficiencies, and notwithstanding any other provision of this code to the contrary, if a  
46 quarterly allocation of appropriations from the General Revenue Fund to the respective governing  
47 boards is insufficient to meet the cash flow needs within their respective systems to meet their  
48 payroll requirements, the boards may authorize the institutions to transfer funds from the various  
49 special revenue accounts under their jurisdiction to meet these needs, except funds whose use  
50 is governed by bonding covenants: *Provided*, That the Legislative Auditor shall be notified by the  
51 institution at the time of transfer and shall be provided whatever documentation that may be  
52 required to maintain records of the amounts transferred and subsequently restored: *Provided*,  
53 *however*, That the amounts of funds so transferred shall be restored to the accounts from which  
54 the transfers were made by the end of the fiscal year in which the transfers occurred: *Provided*  
55 *further*, That if the records in the office of the Legislative Auditor indicate any amounts transferred  
56 have not been restored by the end of the fiscal year, the Legislative Auditor shall notify the  
57 Secretary of Administration, Auditor and Treasurer, and thereafter no funds appropriated or  
58 allocated to the institution shall be encumbered or expended until such amounts are replaced:  
59 *And provided further*, That the respective spending units have first pursued appropriate  
60 administrative remedies to avoid anticipated cash flow shortages: *And provided further*, That  
61 nothing herein restricts the ability of the boards to respond to reductions of appropriations  
62 imposed in accordance with article two, chapter five-a of this code within the restoration period.

63 (c) If, due to increased efficiency in operations, a state institution of higher education  
64 accumulates balances in any of its accounts, or accounts established for the institution by its  
65 governing board, which are in excess of the amounts needed to accomplish the purposes for  
66 which the accounts were established, either general or special revenue, the institution may  
67 employ the transfer provisions established in subdivisions (1) and (2), subsection (a) of this  
68 section to transfer such excess balances into a special efficiency surplus revolving fund which  
69 shall be created in the State Treasury for the institution and which shall be carried forward into  
70 the subsequent fiscal years: *Provided*, That expenditures from any special efficiency surplus fund

71 shall only be made upon line item appropriation by the Legislature. In the case of such transfers,  
72 the president shall, in addition to the request for a transfer, also submit to ~~the secretary of~~  
73 ~~education and the arts~~, the appropriate governing board, the Legislative Auditor and the  
74 Legislative Oversight Commission on Education Accountability, documentation of the efficiencies  
75 accomplished which resulted in the excess balance. Funds transferred into the special surplus  
76 fund of an institution shall be budgeted by the president or other administrative head of the  
77 institution in consultation with the faculty senate, classified staff and student government  
78 organization to meet the highest academic priorities of the institution: *Provided, however,* That  
79 ~~such~~ these funds may not be used to support a continuing operation or expense unless the  
80 efficiencies which resulted in such funds becoming available are likewise continuing: *Provided*  
81 *further,* That the restrictions on fund transfers set forth in subdivisions (3), (4) and (5) of ~~said~~  
82 subsection (a) of this subsection shall not apply to transfers to the efficiency surplus revolving  
83 fund: *And provided further,* That the restriction set forth in subdivision (6) of ~~said~~ that subsection  
84 ~~shall~~ apply to ~~such~~ those transfers.

85 (d) If the Legislature finds that amounts deposited in any fund created pursuant to this  
86 section or transferred to any fund exceed the amounts needed to effectuate any of the purposes  
87 set forth in this section, such amounts may be transferred to other accounts or funds and  
88 redesignated for other purposes upon appropriation by the Legislature.

89 (e) Reports setting forth the exercise of any authority granted by this section shall be  
90 submitted with specificity to the Legislative Oversight Commission on Education Accountability  
91 and the Joint Committee on Government and Finance on January 1, of any year in which ~~such~~  
92 the authority was exercised during the prior twelve-month period.

## **ARTICLE 16. HEALTH CARE EDUCATION.**

### **§18B-16-5. Powers and duties of the vice chancellor.**

1 In addition to all other duties assigned to the vice chancellor by the ~~board of trustees~~  
2 Higher Education Policy Commission, the vice chancellor shall:

3 (a) Provide assistance to communities in planning an educational and clinical component  
4 for the primary health care education sites;

5 (b) Coordinate and approve the provision of faculty members, students, interns and  
6 residents at the education sites;

7 (c) Report directly to the ~~board of trustees~~ Higher Education Policy Commission regarding  
8 the rural health initiative;

9 (d) Oversee the administration of the Kellogg foundation grant;

10 (e) Coordinate the rural health initiative with the allied health care education programs  
11 within the state college ~~system~~ and community college systems;

12 (f) Prepare the budget for the rural health initiative and submit the budget to the ~~board of~~  
13 ~~trustees~~ Higher Education Policy Commission for their approval;

14 (g) Distribute the funds which were appropriated to the ~~board of trustees and the secretary~~  
15 ~~of the Department of Education and the arts~~ , by the Legislature Higher Education Policy  
16 Commission for the rural health initiative;

17 (h) Mediate any disputes between the institutions of higher education regarding the rural  
18 health initiative;

19 (i) ~~Approve the plan submitted by the board of directors under section three, article three~~  
20 ~~of this chapter~~;

21 ~~(j) (i) Consult with the joint commission for vocational technical occupational education~~  
22 ~~established under section one, article three-a~~ Council for Community and Technical College  
23 Education established under section three, article two-b of this chapter on the coordination of the  
24 education of student practical nurses with the rural health initiative; and

25 ~~(k) (i)~~ (i) Perform such other duties as may be prescribed by this article or as may be  
26 necessary to effectuate the provisions of this article.

**§18B-16-8. Allocation of appropriations.**

1 (a) The primary health care education sites established under this article shall be  
2 supported financially in part from line item appropriations to the university of West Virginia health  
3 sciences account. Funds shall be distributed to the state's schools of medicine upon consideration  
4 of the recommendations of the vice chancellor. Appropriations to the university of West Virginia  
5 health sciences account to support the rural health initiative shall be by line item, with at least one  
6 line item designated for primary health education program support at the schools of medicine and  
7 at least one line item designated for rural health initiative site support.

8 (b) The vice chancellor shall require each school of medicine to submit a detailed proposal  
9 which shall state, with specificity, how each school of medicine will be working to further the goals  
10 and meet the criteria set forth in this article and the amount of appropriation which would be  
11 needed by each school to implement the proposal.

12 The vice chancellor shall, giving consideration to ~~such~~ the proposals, prepare a  
13 comprehensive plan to be presented to the board of trustees, which plan shall include a  
14 recommendation for allocations of moneys appropriated for program support and a  
15 recommendation for the allocation of moneys designated for support of the primary health care  
16 education sites commensurate with each school's level of participation in such sites.

17 (c) Notwithstanding the provisions of section twelve, article three, chapter twelve of this  
18 code, any funds appropriated to the ~~board of trustees~~ Higher Education Policy Commission in  
19 accordance with the provisions of this section that remain unallocated or unexpended at the end  
20 of any fiscal year ~~shall~~ may not expire, shall remain in the line item to which they were originally  
21 appropriated and shall be available in the next fiscal year to the board of trustees or a school of  
22 medicine for allocation or expenditure for the purposes of this article.

23 ~~(d) The rural health initiative shall also be supported, in part, from appropriations made to~~  
24 ~~the secretary of the Department of Education and the arts, under a separate line item for the board~~  
25 ~~of directors of the state college system for the rural health initiative, for distribution to participating~~  
26 ~~health education programs under the board of directors. Appropriations shall not be expended or~~

27 ~~allocated until the required plan has been approved by the vice chancellor in accordance with~~  
28 ~~section three, article three of this chapter.~~

29 ~~Notwithstanding the provisions of section twelve, article three, chapter twelve of this code,~~  
30 ~~any funds appropriated to the board of directors in accordance with the provisions of this section~~  
31 ~~that remain unallocated or unexpended at the end of any fiscal year shall not expire, shall remain~~  
32 ~~in the line item to which they were originally appropriated and shall be available in the next fiscal~~  
33 ~~year to the board of directors for allocation or expenditure for the purposes of this article~~

34 ~~(e)~~ (d) Additional financial support shall come from fees generated by services, from grants  
35 and contracts, and from community resources. Any fees so generated shall be paid to and  
36 expended by the facility established as a primary health care education site unless an alternative  
37 fee arrangement is mutually agreed upon by the chief administrator of the site and the vice  
38 chancellor for health sciences.

## **ARTICLE 18B. SCIENCE AND RESEARCH COUNCIL.**

### **§18B-18B-1. Science and Research Council established; purposes.**

1 (a) The Science and Research Council is hereby established. For the purposes of this  
2 article only, "council" means the Science and Research Council established herein.

3 (b) The purposes of the council include, but are not limited to, the following:

4 (1) Increasing the capacity of the state and state institutions of higher education to attract,  
5 implement and use cutting-edge, competitive research funds and infrastructure;

6 (2) Providing expertise and policy guidance in science and research to the state, its  
7 agencies and state institutions of higher education regarding federal programs such as the  
8 Experimental Program to Stimulate Competitive Research ("EPSCoR") and similar state  
9 programs such as the West Virginia Research Trust Fund established in article eighteen-a of this  
10 chapter and the Research Challenge Fund established in section twelve, article one-b of this  
11 chapter;

12 (3) Encouraging research collaboration among public and private institutions of higher  
13 education and the private sector, both within and outside the state;

14 (4) Promoting education at all levels in the fields of science, technology, engineering and  
15 mathematics; and

16 (5) Providing recommendations to the Commission and state policymakers, including the  
17 Governor and Legislature, regarding science and research initiatives and effective programmatic  
18 activities, budgets and investments to implement those initiatives.

19 (c) The council replaces the EPSCoR State Advisory Council and consists of fifteen  
20 members as follows:

21 (1) The vice presidents in charge of research at Marshall University and West Virginia  
22 University;

23 (2) A representative of health sciences at Marshall University and a representative of  
24 health sciences at West Virginia University, appointed by the deans of the respective schools of  
25 medicine;

26 ~~(3) The Secretary of Education and the Arts or designee;~~

27 ~~(4)~~ (3) The State Superintendent of Schools or designee;

28 ~~(5)~~ (4) The Secretary of Commerce or designee;

29 ~~(6)~~ (5) The Vice Chancellor for Science and Research of the Commission;

30 ~~(7)~~ (6) The Chancellor of the Commission who chairs the council;

31 ~~(8)~~ (7) One member engaged in applied research at Marshall University and one member  
32 engaged in applied research at West Virginia University, appointed by the provosts of the  
33 respective universities; and

34 ~~(9)~~ (8) ~~Four~~ Five members, appointed by the Governor, who have demonstrated interest,  
35 knowledge, skill and experience in academic research and scientific innovation and who possess  
36 recognized credentials and expertise in one or more of the following areas:

37 (A) Science, technology, engineering or mathematics (“STEM”) fields;

38 (B) Cyberinfrastructure, information technology or computer science;

39 (C) Research and development;

40 (D) Technology based economic development or industry; or

41 (E) Undergraduate research or science education.

42 At least two of the members appointed by the Governor shall be representatives of  
43 business or industry.

44 (d) Of the initial appointments made by the Governor, one member shall be appointed to  
45 a one-year term; one member shall be appointed to a two-year term; one member shall be  
46 appointed to a three-year term; and one member shall be appointed to a four-year term. Of the  
47 initial appointments made by the deans of schools of medicine, the member appointed by the  
48 dean of the Marshall University School of Medicine shall be appointed to a two-year term, and the  
49 member appointed by the dean of the West Virginia University School of Medicine shall be  
50 appointed to a three-year term. Of the initial appointments made by the provosts, the member  
51 appointed by the West Virginia University provost shall be appointed to a two-year term, and the  
52 member appointed by the Marshall University provost shall be appointed to a four-year term.

53 (e) After the initial appointments, all members serve terms of four years. Each appointed  
54 member who qualifies under the provisions of this section may serve for no more than two  
55 successive terms. An appointment to fill a vacancy on the council or reappointment of a member  
56 who is eligible to serve an additional term is made in accordance with the provisions of this  
57 section.

58 (f) Members of the council serve without compensation, but are entitled to reimbursement  
59 by the commission for expenses, including travel expenses, actually incurred by the member in  
60 the official conduct of the business of the council.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**



**ARTICLE 24. TECHNOLOGY-RELATED ASSISTANCE REVOLVING LOAN FUND  
FOR INDIVIDUALS WITH DISABILITIES ACT.**

**§29-24-3. Board created, membership, terms, officers and staff.**

1 (a) The technology-related assistance revolving loan fund for individuals with disabilities  
2 board created by chapter two hundred forty-seven, acts of the Legislature, regular session, ~~one~~  
3 ~~thousand nine hundred ninety-six~~ 1996, is hereby continued.

4 (b) The board shall consist of seven members as follows, of whom at least three must be  
5 individuals with disabilities:

6 (1) Director of the Division of Rehabilitation Services, ex officio, who shall be entitled to  
7 vote, or his or her designee;

8 (2) A representative of the banking industry;

9 (3) A representative of the medical profession;

10 (4) A certified public accountant; and

11 (5) Three members from the public at large who are users or providers of technology-  
12 related assistance devices or services for individuals with disabilities. Members shall be appointed  
13 by the Governor, by and with the advice and consent of the Senate, for terms of three years.  
14 Members appointed by the Governor with the advice and consent of the Senate prior to the  
15 effective date of this section shall continue to serve for the terms for which they were appointed.  
16 State officers or employees may be appointed to the board unless otherwise prohibited by law.

17 (c) In the event a board member fails to attend more than twenty-five percent of the  
18 scheduled meetings in a twelve-month period, the board may, after written notification to that  
19 member and the ~~secretary of education and the arts~~ Secretary of Commerce, request in writing  
20 that the Governor remove the member and appoint a new member to serve his or her unexpired  
21 term.

22           (d) ~~In the event of~~ If there is a death, resignation, disqualification or removal for any reason  
23 of any member of the board, the vacancy shall be filled in the same manner as the original  
24 appointment and the successor shall serve for the unexpired term.

25           (e) The board shall elect from its membership a chairperson, treasurer and secretary as  
26 well as any other officer as appropriate. The term of the “chairperson” is for two years in duration  
27 and he or she cannot serve more than two consecutive terms.

**§29-24-5. Power, duties and responsibilities of the board; loans.**

1           (a) The board has the following powers, duties and responsibilities:

2           (1) Meet at such times (minimum of four times each fiscal year) and at places as it  
3 determines necessary or convenient to perform its duties. The board shall also meet on the call  
4 of the chairperson or ~~secretary of education and the arts~~ Secretary of Commerce;

5           (2) Maintain written minutes of its meetings;

6           (3) Propose rules for legislative promulgation in accordance with ~~the provisions of~~ article  
7 three, chapter twenty-nine-a of this code for the transaction of its business and to carry out the  
8 purposes of this article. ~~Such~~ The rules shall include: (A) Guidelines, procedures, reporting  
9 requirements, accountability measures and such other criteria as the board deems appropriate  
10 and necessary to fulfill its governance responsibility under this article if it elects to contract with a  
11 nonprofit, consumer-driven organization to carry out the purposes of this article; (B) an appeals  
12 process with regard to the administration of the fund; and (C) rules governing the operation of the  
13 fund, including, but not limited to, eligibility of receipt of funds and all other matters consistent with  
14 and necessary to accomplishing the purpose of this fund;

15           (4) Employ personnel on a full-time, part-time or contracted basis. Board personnel may  
16 be members of the state civil service system. Participating agencies shall make staff support and  
17 resources available to the board whenever practicable at the discretion of the agencies. The  
18 compensation of personnel shall be paid from moneys in the revolving loan fund;

19 (5) Receive, administer and disburse funds to support purposes established by this article  
20 and contract with nonprofit, consumer-based groups dealing with individuals with disabilities to  
21 assist in administering programs established by this article;

22 (6) Maintain detailed records of all expenditures of the board, funds received as gifts and  
23 donations and disbursements made from the revolving loan fund;

24 (7) Submit to the ~~secretary of education and the arts~~ Secretary of Department of  
25 Commerce and the Legislature annually a summary report concerning programmatic and financial  
26 status of the revolving loan fund;

27 (8) Develop and implement a comprehensive set of financial standards to ensure the  
28 integrity and accountability of all funds received as well as loan funds disbursed; and

29 (9) Conform to the standards and requirements prescribed by the State Auditor.

30 (b) Subject to available funds, the board shall enter into loan agreements with any  
31 qualifying borrower, who demonstrates that:

32 (1) The loan will assist one or more individuals with disabilities in improving their  
33 independence, productivity and full participation in the community; and

34 (2) The applicant has the ability to repay the loan. Any necessary loan limitation shall be  
35 determined by the board. All loans must be repaid within such terms and at such interest rates as  
36 the board may determine to be appropriate. However, no loan may extend beyond sixty months  
37 from date of award and may be paid off anytime without prepayment penalty. The board shall  
38 determine the interest rate to be charged on loans made pursuant to this article, but in no event  
39 may the interest rate on any such loans be less than four or more than twenty-one percent per  
40 annum.

41 (c) The board may authorize loans up to ninety percent of the cost of an item or items.

42 (d) The board may award loans to qualifying borrowers for purposes, including, but not  
43 limited to, the following:

44 (1) To assist one or more individuals with disabilities to improve their independence  
45 through the purchase of technology-related devices; and

46 (2) To assist one or more individuals with disabilities to become more independent  
47 members of the community and improve such individuals quality of life within the community  
48 through the purchase of technology-related devices.

49 (e) ~~In the event of the~~ If there is a failure of the borrower to repay the loan balance due  
50 and owing, the board shall seek to recover the loan balance by such legal or administrative action  
51 available to it. Persons or representatives of persons who default on a loan are not eligible for a  
52 new loan. The board shall retain ownership of all property, equipment or devices until the  
53 borrower's loan is paid in full.

54 (f) A new loan may not be issued to, or on behalf of, a disabled person if a previous loan  
55 made to, or on behalf of, such person remains unpaid.

56 (g) The board may charge a fee for loan applications and processing. All funds generated  
57 by fee charges shall be directly placed into the revolving loan fund to off-set the costs of  
58 application processing.

59 The board may accept federal funds granted by Congress or executive order for the  
60 purposes of this chapter as well as gifts and donations from individuals, private organizations or  
61 foundations. The acceptance and use of federal funds does not commit state funds and does not  
62 place an obligation upon the Legislature to continue the purposes for which the federal funds are  
63 made available. All funds received in the manner described in this article shall be deposited in the  
64 revolving loan fund to be disbursed as other moneys in the revolving loan fund.