

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 4006**

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[Originating in the Committee on Finance;

January 26, 2018.]



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

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

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

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

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

## **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  
19 an interest in fostering science and technology research, development, and commercialization in  
20 this 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, 2014~~ 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 §5-6-1 et seq. of this code;~~
- 5 ~~(2) (1)~~ Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 6 ~~(3) (2)~~ Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
- 7 ~~(4) (3)~~ Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
- 8 ~~(5) (4)~~ West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of  
9 this code;
- 10 ~~(6) (5)~~ Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;
- 11 ~~(7) (6)~~ Boundary Commission provided in §29-23-1 *et seq.* of this code;
- 12 ~~(8) (7)~~ Public Defender Services provided in §29-21-1 *et seq.* of this code;
- 13 ~~(9) (8)~~ Division of Personnel provided in §29-6-1 *et seq.* of this code;

14           ~~(40)~~ (9) The West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;

15           ~~(44)~~ (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code;

16    and

17           ~~(42)~~ (11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

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

21           (1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

22           (A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of  
23 this code; and

24           (B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.*  
25 of this code.

26           (2) Office of Miners' Health, Safety and Training provided in §22A-1-1 *et seq.* of this code.

27    The following boards are transferred to the Office of Miners' Health, Safety and Training for  
28 purposes of administrative support and liaison with the Office of the Governor:

29           (A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review  
30 Committee provided in §22A-6-1 *et seq.* of this code;

31           (B) Board of Miner Training, Education and Certification provided in §22A-7-1 *et seq.* of  
32 this code; and

33           (C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

34           (3) The West Virginia Development Office provided in §5B-2-1 *et seq.* of this code;

35           (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-  
36 1 *et seq.* of this code;

37           (5) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

38           (6) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code; and

39           (7) Workforce West Virginia provided in chapter 21A of this code, which includes:

40 (A) Division of Unemployment Compensation;

41 (B) Division of Employment Service;

42 (C) Division of Workforce Development; and

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

44 (8) ~~Division~~ Office of Energy, within the Development Office, provided in §5B-2F-1 *et seq.*  
45 of this code.

46 (9) ~~Division of Tourism~~ West Virginia Tourism Office and Tourism Commission provided  
47 in §5B-2I-1 *et seq.* of this code;

48 (10) Division of Culture and History provided in §29-1-1 *et seq.* of this code; and

49 (11) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

50 (c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is  
51 continued as an independent agency within the executive branch.

52 (d) The Water Development Authority and the Water Development Authority Board  
53 provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the  
54 executive branch.

55 (e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of  
56 this code and the State Library Commission provided in §10-1-1 *et seq.* of this code are each  
57 continued as separate independent agencies within the executive branch.

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

61 (1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

62 (2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

63 (3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of  
64 this code;

65 (4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

66 (5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

67 (6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

68 (7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

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

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

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

74 and

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

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

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

83 (1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

84 ~~(2) Division of Human Services provided in §9-2-1 *et seq.* of this code;~~

85 ~~(3) (2)~~ Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

86 ~~(4) (3)~~ Office of Emergency Medical Services and the Emergency Medical Service  
87 Advisory Council provided in §16-4C-1 *et seq.* of this code;

88 ~~(5) (4)~~ Health Care Authority provided in §16-29B *et seq.* of this code;

89 ~~(6) (5) Commission on Mental Retardation~~ State Commission on Intellectual Disability  
90 provided in §29-15-1 *et seq.* of this code;

91 ~~(7) (6)~~ Women's Commission provided in §29-20-1 *et seq.* of this code; and

92           ~~(8) (7) The Child Support Enforcement Division~~ Bureau for Child Support Enforcement  
93 provided in chapter 48 of this code.

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

97           (1) Adjutant General's Department provided in §15-1A-1 *et seq.* of this code;

98           (2) State Armory Board provided in §15-6-1 *et seq.* of this code;

99           (3) Military Awards Board provided in §15-1G-1 *et seq.* of this code;

100           (4) West Virginia State Police provided in §15-2-1 *et seq.* of this code;

101           (5) Division of Homeland Security and Emergency Management and Disaster Recovery  
102 Board provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided  
103 in §15-5A-1 *et seq.* of this code;

104           (6) Sheriffs' Bureau provided in §15-8-1 *et seq.* of this code;

105           (7) Division of Justice and Community Services provided in §15-9A-1 *et seq.* of this code;

106           (8) Division of Corrections provided in chapter 25 of this code;

107           (9) Fire Commission provided in §29-3-1 *et seq.* of this code;

108           (10) Regional Jail and Correctional Facility Authority provided in §31-20-1 *et seq.* of this  
109 code; and

110           (11) Board of Probation and Parole provided in §62-12-1 *et seq.* of this code.

111           ~~(†) (i)~~ (i) The following agencies and boards, including all of the allied, advisory, affiliated or  
112 related entities and funds associated with any agency or board, are incorporated in and  
113 administered as a part of the Department of Revenue:

114           (1) Tax Division provided in chapter 11 of this code;

115           (2) Racing Commission provided in §19-23-1 *et seq.* of this code;

116           (3) Lottery Commission and position of Lottery Director provided in §29-22-1 of this code;

117           (4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

118 (5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of  
119 this code and §60-2-1 *et seq.* of this code;

120 (6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

121 (7) Lending and Credit Rate Board provided in chapter 47A of this code;

122 (8) Division of ~~Banking~~ Financial Institutions provided in §31A-2-1 *et seq.* of this code;

123 (9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

124 (10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

125 (11) The Office of Tax Appeals provided in §11-10A-1 of this code; and

126 (12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

127 ~~(k)~~ (j) 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 Transportation:

130 (1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

131 (2) ~~Parkways, Economic Development and Tourism~~ Authority provided in §17-16A-1 *et*  
132 *seq.* of this code;

133 (3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

134 (4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

135 (5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

136 (6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

137 (7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

138 ~~(k)~~ (k) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this  
139 code, including all of the allied, advisory, affiliated, or related entities and funds associated with  
140 it, is incorporated in and administered as a part of the Department of Veterans' Assistance.

141 ~~(m)~~ (l) Except for powers, authority and duties that have been delegated to the secretaries  
142 of the departments by the provisions of §5F-2-2 of this code, the position of administrator and the



143 powers, authority, and duties of each administrator and agency are not affected by the enactment  
144 of this chapter.

145 ~~(n)~~ (m) Except for powers, authority and duties that have been delegated to the secretaries  
146 of the departments by the provisions of §5F-2-2 of this code, the existence, powers, authority,  
147 and duties of boards and the membership, terms and qualifications of members of the boards are  
148 not affected by the enactment of this chapter. All boards that are appellate bodies or are  
149 independent decision makers shall not have their appellate or independent decision-making  
150 status affected by the enactment of this chapter.

151 ~~(o)~~ (n) Any department previously transferred to and incorporated in a department by prior  
152 enactment of this section means a division of the appropriate department. Wherever reference is  
153 made to any department transferred to and incorporated in a department created in §5F-1-2 of  
154 this code, the reference means a division of the appropriate department and any reference to a  
155 division of a department so transferred and incorporated means a section of the appropriate  
156 division of the department.

157 ~~(p)~~ (o) When an agency, board, or commission is transferred under a bureau or agency  
158 other than a department headed by a secretary pursuant to this section, that transfer is solely for  
159 purposes of administrative support and liaison with the Office of the Governor, a department  
160 secretary or a bureau. Nothing in this section extends the powers of department secretaries under  
161 §5F-2-2 of this code to any person other than a department secretary and nothing limits or  
162 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this  
163 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~~ Financial Institutions, \$75,000; Commissioner,  
13 Division of Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission,  
14 \$75,000; Commissioner, Division of Motor Vehicles, \$75,000; Director, Human Rights  
15 Commission, \$55,000; Commissioner, Division of Labor, \$70,000; ~~prior to July 1, 2011, Director,~~  
16 ~~Division of Veterans Affairs, \$65,000;~~ Chairperson, Board of Parole, \$55,000; members, Board of  
17 Parole, \$50,000; members, Employment Security Review Board, \$17,000; and Commissioner,  
18 Workforce West Virginia, \$75,000. Secretaries of the departments shall be paid an annual salary  
19 as follows: Health and Human Resources, \$95,000: *Provided*, That effective July 1, 2013, the  
20 Secretary of the Department of Health and Human Resources shall be paid an annual salary not  
21 to exceed \$175,000; Transportation, \$95,000: *Provided, however*, That if the same person is  
22 serving as both the Secretary of Transportation and the Commissioner of Highways, he or she  
23 shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety, \$95,000;  
24 Administration, \$95,000; ~~Education and the Arts, \$95,000;~~ Commerce, \$95,000; Veterans'  
25 Assistance, \$95,000; and Environmental Protection, \$95,000: *Provided further*, That any officer  
26 specified in this subsection whose salary is increased by more than \$5,000 as a result of the

27 amendment and reenactment of this section during the 2011 regular session of the Legislature  
28 shall be paid the salary increase in increments of \$5,000 per fiscal year beginning July 1, 2011,  
29 up to the maximum salary provided in this subsection.

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

32 Director, Board of Risk and Insurance Management, \$80,000; Director, Division of  
33 Rehabilitation Services, \$70,000; Director, Division of Personnel, \$70,000; Executive Director,  
34 Educational Broadcasting Authority, \$75,000; Secretary, Library Commission, \$72,000; Director,  
35 Geological and Economic Survey, \$75,000; Executive Director, Prosecuting Attorneys Institute,  
36 \$80,000; Executive Director, Public Defender Services, \$70,000; Commissioner, Bureau of  
37 Senior Services, \$75,000; Executive Director, Women's Commission, \$45,000; Director, Hospital  
38 Finance Authority, \$35,000; member, Racing Commission, \$12,000; Chairman, Public Service  
39 Commission, \$85,000; members, Public Service Commission, \$85,000; Director, Division of  
40 Forestry, \$75,000; Director, Division of Juvenile Services, \$80,000; Executive Director, Regional  
41 Jail and Correctional Facility Authority, \$80,000; and Executive Director of the Health Care  
42 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 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC  
ESTABLISHMENTS; MONUMENTS AND MEMORIALS; ROSTER OF  
SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY.**

**ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.**

**§10-5-2a. West Virginia distance learning coordinating council; creation; duties.**

1 [Repealed.]

**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, 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 and state resources, policies, and procedures  
23 must focus on assisting the improvement of each West Virginia school and on differentiating  
24 supports according to need and level of performance, including the implementation of school-  
25 based professional development programs that address the unique needs of staff and students;  
26 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  
17 processes 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-3. Annual professional development master plan established by state board.**

1 [Repealed].

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

1 (a) On or before ~~June 1, 2013~~ November 1, 2018, the state board shall promulgate an  
2 ~~emergency~~ a rule in accordance with ~~§29-3B-1 et seq.~~ §29A-3B-1 et seq. of this code to ensure  
3 the coordination, development and evaluation of high-quality professional development programs.  
4 ~~On or before November 1, 2013, the state board shall promulgate a legislative rule for the same~~  
5 ~~purpose.~~ The ~~rules~~ rule shall include, but ~~are~~ is 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  
8 shall become part of the ~~statewide professional development plan~~ system for the coordinated  
9 delivery 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  
35 of 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 programs, technical assistance and support to schools and school systems to  
38 meet the legislative findings and goals of this article. The center shall perform other duties that  
39 may be assigned to it by the state board. In addition, the center shall provide statewide  
40 coordination for the continued growth and development of advanced placement programs in West  
41 Virginia high schools, including, but not limited to, serving as a liaison for The College Board, Inc.,  
42 and providing for the training of advanced placement teachers.

43 ~~(c) The state board shall submit a report on or before December 1 of each year on the~~  
44 ~~effectiveness, efficiency and impact of the statewide professional development plan to the~~  
45 ~~Legislative Oversight Commission on Education Accountability.~~

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

### **§18-10A-1. Definitions.**

1 As used in this article and §18-10B-1 *et seq.* of this code:

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~~ means 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 §5F-1-1 *et seq.* of this code. The secretary shall appoint any

3 ~~such~~ board, commission, or council over the division to the extent required by federal law to qualify  
4 for federal funds for providing rehabilitation services for disabled persons. The secretary and ~~such~~  
5 the boards, commissions or councils as he or she is required by federal law to appoint are  
6 authorized and directed to cooperate with the federal government to the fullest extent in an effort  
7 to provide rehabilitation services for disabled persons.

8 (b) References in this article or §18-10B-1 *et seq.* of this code to the state Board of  
9 Vocational Education, the state Board of Rehabilitation or the state board as the governing board  
10 of 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 to be necessary for the purpose of maintaining or  
17 improving the delivery of rehabilitation services: *Provided*, That during the budget preparation  
18 period which occurs prior to the convening of the Legislature, the director shall submit for inclusion  
19 in the 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 §18-10A-1(5) of this code; (2) individuals disadvantaged by reason of  
30 their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or  
31 delinquency records, or other conditions which constitute a barrier to employment; and (3) other  
32 members of their families when the provision of vocational rehabilitation services to family  
33 members is necessary for the rehabilitation of the individual described in subdivision (1) or (2)  
34 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 the Department of Health and Human Resources, ex officio, or his or  
7 her 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 §18-10K-6 of this code.

**§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 §18-10K-5 of this code 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~~ eight 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)(1) Beginning on July 1, 1994, the prerequisites for issuance of an administrative  
8 certificate for principals shall include that the person has successfully completed at least six credit

9 hours of approved course work in public school management techniques at an accredited  
10 institution of higher education and has successfully completed education and training in  
11 evaluation skills ~~through the center for professional development, or equivalent education and~~  
12 ~~training in evaluation skills~~ approved by the state board.

13 (2) Beginning on July 1, 2019, the prerequisites for issuance of an administrative certificate  
14 for principals shall include that the person has successfully completed at least six credit hours of  
15 approved course work in public school instructional leadership and management techniques at  
16 an accredited institution of higher education, including, but not limited to, the standards for high  
17 quality schools, the school accreditation process and strategic planning for continuous  
18 improvement.

19 (c) Prior to employment as a principal or assistant principal, or in another administrative  
20 position the duties of which require conducting personnel performance evaluations, the principal,  
21 assistant or administrator shall successfully complete ~~has successfully completed~~ education and  
22 training in evaluation skills ~~through the center for professional development, or equivalent~~  
23 ~~education and training in evaluation skills~~ approved by the state board.

24 (d) Under the supervision of the superintendent and in accordance with the rules and  
25 regulations of the county board of education, the principal:

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

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

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

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

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

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

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

44           (3) No additional schools may be assigned to ~~that~~ the principal of a school where  
45 enrollment exceeds four hundred students;

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

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

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

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

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

60           (8) Nothing in this section prohibits a county board of education from assigning a full-time  
61 supervising principal to a school with a net enrollment of less than one hundred seventy students;  
62 and

63           ~~Nothing contained in this section shall be construed to reduce or limit the rights and~~  
64 ~~privileges of principals and assistant principals as teachers under the provisions of section one,~~  
65 ~~article one, chapter eighteen of the Code of West Virginia as amended; section one, article one,~~  
66 ~~chapter eighteen-a; and other provisions of this code: *Provided*, That on or before July 1, 1993,~~

67           (9) The State Board of Education ~~shall~~ may not deny a county board of education the right  
68 to place a 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  
7 “professionals”, means professional personnel and other professional employees, as defined in  
8 §18A-1-1 of this code but does not include classroom teachers, principals, and assistant principals  
9 subject to the evaluation processes established pursuant to §18A-3C-2 of this code.

10           ~~(d) In developing the professional personnel performance evaluation system, and~~  
11 ~~amendments thereto, the state board shall consult with the Center for Professional Development~~  
12 ~~created in article three-a of this chapter. The center shall participate actively with the state board~~  
13 ~~in developing written standards for evaluation which clearly specify satisfactory performance and~~

14 ~~the criteria to be used to determine whether the performance of each professional meets those~~  
15 ~~standards~~

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

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

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

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

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

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

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

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

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

37 (5) Provisions for a written improvement plan, which shall be specific as to what  
38 improvements, if any, are needed in the performance of the professional and shall clearly set forth



39 recommendations for improvements, including recommendations for additional education and  
40 training during the professional's recertification or license renewal process.

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

46       ~~(g)~~ (f) No person may evaluate professional personnel for the purposes of this section or  
47 professional educator for the purposes of §18A-3C-2 of this code unless the person has an  
48 administrative certificate issued by the state superintendent and has successfully completed  
49 education and training in evaluation skills ~~through the center for professional development, or~~  
50 ~~equivalent education training~~ approved by the state board, which will enable the person to make  
51 fair, professional, and credible evaluations of the personnel whom the person is responsible for  
52 evaluating. ~~After July 1, 1994, no person may be issued an administrative certificate or have an~~  
53 ~~administrative certificate renewed unless the state board determines that the person has~~  
54 ~~successfully completed education and training in evaluation skills through the center for~~  
55 ~~professional development or equivalent education and training approved by the state board~~

56       ~~(h)~~ (g) Any professional whose performance evaluation includes a written improvement  
57 plan shall be given an opportunity to improve his or her performance through the implementation  
58 of the plan. If the next performance evaluation shows that the professional is now performing  
59 satisfactorily, no further action may be taken concerning the original performance evaluation. If  
60 the evaluation shows that the professional is still not performing satisfactorily, the evaluator either  
61 shall make additional recommendations for improvement or may recommend the dismissal of the  
62 professional in accordance with the provisions of §18A-2-8 of this code.

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

65 (1) Lesson plans are intended to serve as a daily guide for teachers and substitutes for  
66 the orderly presentation of the curriculum. Lesson plans may not be used as a substitute for  
67 observations by an administrator in the performance evaluation process. A classroom teacher, as  
68 defined in §18A-1-1 of this code, may not be required to post his or her lesson plans on the  
69 Internet or otherwise make them available to students and parents or to include in his or her  
70 lesson plans any of the following:

71 (A) Teach and reteach strategies;

72 (B) Write to learn activities;

73 (C) Cultural diversity;

74 (D) Color coding; or

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

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

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

82 (4) Nothing in §18A-3C-1 *et seq.* of this code may be construed to negate the provisions  
83 of 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 §18A-3-1a, §18A-3-1b, §18A-3-1c, §18A-3-  
15 1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h and §18A-3-1i of this code and programs which  
16 are in effect on the effective date 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 ~~(4)~~ (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 §18A-  
33 3-10 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 §18A-3-2a of this code  
149 to graduates of educator preparation programs and alternative educator preparation programs  
150 approved by the state board. The certificates are issued in accordance with this section and rules  
151 adopted by the state board. ~~after consultation with the Secretary of Education and the Arts and  
152 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;

158 and

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

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

164 (j) ~~In consultation with the Secretary of Education and the Arts and the Chancellor for~~  
165 ~~Higher Education~~ Institutions of higher education approved for educator preparation may  
166 cooperate with each other ~~with the center for professional development~~ and with one or more  
167 county boards to organize and operate centers to provide selected phases of the educator  
168 preparation program. The phases include, but 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 may budget and expend funds to operate the centers through  
176 payments to the appropriate fiscal office of the participating institutions ~~the center for professional~~  
177 ~~development~~ and the county boards.

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

180 (l) All institutions of higher education approved for educator preparation in the 1962-63  
181 school year continue to hold that distinction so long as they meet the minimum standards for

182 educator preparation. Nothing in this section infringes upon the rights granted to any institution  
183 by charter given according to law previous to the adoption of this code.

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

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

189 (A) Comply with the provisions of §18-28-1 *et seq.* 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 §18-20-1 of this code, but, as used in this section, the terms do not include gifted  
198 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 §29A-  
3 3B-1 *et seq.* of this code containing procedures for the approval and operation of alternative  
4 teacher education programs as provided in this article. The State Board shall promulgate separate  
5 procedures for alternative programs for classroom teachers, alternative programs for highly  
6 qualified special education teachers, and additional alternative programs to prepare highly  
7 qualified special education teachers. These procedures shall be separate from the state board’s  
8 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 §18A-3-  
23 1b and §18A-3-1c of this code;

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 July1, 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, 2018, the~~  
44 ~~state board shall approve and promulgate rules in accordance with §29A-3B-1 et seq. of this code~~  
45 ~~regarding the minimum qualities, proficiencies and skills that will be required of principals after~~  
46 ~~January1, 1997 July 1, 2019. The state board shall promulgate and may, from time to time, amend~~  
47 ~~such rules. The rules promulgated by the state board shall address at least the following:~~

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

51           ~~(4)~~ (2) Staff relations, including, but not limited to, the development and use of skills  
52 necessary to make a positive use of faculty senates, manage faculty and staff with courtesy and  
53 mutual respect, coach and motivate employees, and build consensus as a means of  
54 management;

55           ~~(2)~~ (3) School community leadership qualities, including, but not limited to, the ability to  
56 organize and leverage community initiative, communicate effectively, work effectively with local  
57 school improvement councils, manage change, resolve conflict, and reflect the highest personal  
58 values;

59           ~~(3)~~ (4) Educational proficiencies, including, but not limited to, knowledge of curriculum,  
60 instructional techniques, student learning styles, student assessment criteria, school personnel  
61 performance, evaluation skills, and family issues; and

62           ~~(4)~~ (5) Administrative skills, including, but not limited to, organizational, fiscal, public policy,  
63 and total quality management skills and techniques.

64           ~~(e) *Waivers.* — Any person desiring to be relieved of the requirements of all or any part of~~  
65 ~~this section may apply in writing to the state board for a waiver. Upon a showing of reasonable~~  
66 ~~cause why relief should be granted, the state board may grant a waiver, upon such terms and~~  
67 ~~conditions as the state board shall determine proper, as to all or any part of this section.~~

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

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

75           ~~(h) *Payment of reasonable and necessary expenses and stipends.* — The center for~~  
76 ~~professional development shall reimburse persons attending the academy for reasonable and~~

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

**§18A-3-2d. Beginning principal internships.**

1 [Repealed.]

**§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 §18-9A-4 of this code and credit the funds to an account to  
19   be used by the council to fulfill its objectives. The local board has final approval of all proposed  
20   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 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.**

**§18A-3A-1. Center for Professional Development; intent and mission; Principals Academy  
curriculum and expenses; authorization to charge fees.**

1           [Repealed].

**§18A-3A-2. Professional development project.**

1           [Repealed].

**§18A-3A-2b. The Principals Academy.**

1           [Repealed].

**§18A-3A-3. Professional personnel evaluation project.**

1           [Repealed].

**§18A-3A-5. West Virginia advanced placement center.**

1           [Repealed].



## 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 in 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~~ present  
21 to receive the instruction. Therefore, attending school on a regular basis is of utmost importance  
22 to the academic success 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 those of them beginning a new assignment at a  
33 school 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 §18A-1-1 of this 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 the performance evaluation of classroom  
12 teachers, principals and assistant principals employed in ~~these~~ public schools and school  
13 systems. To the extent that this ~~article~~ section conflicts with the provisions of §18A-2-12 of this  
14 code relating to professional personnel performance evaluations, this ~~article~~ section shall govern.  
15 ~~The state board shall submit a report on its plan for the phased implementation of this article to~~  
16 ~~the Legislative Oversight Commission on Education Accountability at the Commission's July~~  
17 ~~interim meeting in each year of the phased implementation. The report shall include an update on~~  
18 ~~the implementation of this article including, but not limited to the evaluation process and a list of~~  
19 ~~the schools and school systems subject to the provisions of this article. To assist the Legislative~~  
20 ~~Oversight Commission on Education Accountability in monitoring the implementation of this~~  
21 ~~article, the state board shall report to the Commission upon its request throughout the~~  
22 ~~implementation process, including but not limited to, reports on the results of surveys of teachers~~  
23 ~~and principals on the implementation and use of the new evaluation system, the adequacy of the~~  
24 ~~professional development given to employees on the purposes, instruments and procedures of~~  
25 ~~the evaluation process, the time consumed by the evaluation process and the various tasks~~  
26 ~~required for employees of different levels of experience, the aggregate results of the evaluations~~  
27 ~~and any recommendations for changes in the process or other aspects of the duties of affected~~  
28 ~~employees to improve the focus on the core mission of schools of teaching and learning~~

29 (b) Before ~~July 1, 2013~~ July 1, 2018, the state board shall adopt a legislative rule in  
30 accordance with §29A-3B-1 *et seq.* of this code, for annually evaluating the performance of each  
31 professional person. ~~each year. The state board shall submit a draft of the proposed rule to the~~  
32 ~~Legislative Oversight Commission on Education Accountability by February 15, 2013, and a final~~

33 ~~draft proposed rule prior to adoption~~ The rule shall provide for performance evaluations of  
34 professional personnel to be conducted in accordance with this section in each school and school  
35 system. ~~beginning with the 2013-14 school year~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

85 (2) Serve as the basis for providing professional development specifically targeted on the  
86 area or areas identified through the evaluation process as needing improvement. If possible, this  
87 targeted professional development should be delivered at the school site using collaborative  
88 processes, mentoring or coaching or other approaches that maximize use of the instructional  
89 setting;

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

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

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

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

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

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

107 (g) The rule adopted by the state board shall include provisions for written improvement  
108 plans when necessary to improve the performance of the professional personnel. The written

109 improvement plan shall be specific as to what improvements are needed in the performance of  
110 the professional personnel and shall clearly set forth recommendations for improvements  
111 including recommendations for additional education and training of professionals subject to  
112 recertification. Professional personnel whose performance evaluation includes a written  
113 improvement plan shall be given an opportunity to improve his or her performance through the  
114 implementation of the plan.

115 (h) A professional person whose performance is considered to be unsatisfactory shall be  
116 given written notice of his or her deficiencies. A written improvement plan to correct these  
117 deficiencies shall be developed by the employing county board and the employee. The  
118 professional person shall be given a reasonable period of time, not exceeding twelve months, to  
119 accomplish the requirements of the improvement plan and shall receive a written statement of the  
120 resources and assistance available for the purposes of correcting the deficiencies. If the next  
121 performance evaluation shows that the professional is now performing satisfactorily, no further  
122 action may be taken concerning the original performance evaluation. If the evaluation shows that  
123 the professional is still not performing satisfactorily, the evaluator either shall make additional  
124 written recommendations for improvement or may recommend the dismissal of the professional  
125 personnel in accordance with the provisions of §18A-2-8 of this code.

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

132 (j) Prior to implementation of the evaluation process pursuant to this section at a school,  
133 each affected employee shall be given training to ensure that the employees have a full  
134 understanding of the purposes, instruments, and procedures used in evaluating their

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



23 comprehensive ~~system~~ systems of support for improving professional practice will reflect  
24 substantial redirection of existing professional development resources toward this highest priority.

25 (b) On or before ~~July 1, 2012~~ July 1, 2018, the state board shall publish guidelines on the  
26 design and implementation of a county-level comprehensive system of support for improving  
27 professional practice. The purpose of the guidelines is to assist the county board with the design  
28 and 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 ~~(c) 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, 2018, 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 §18A-3-2c of  
47 this code prior to the effective date of this section from continuing implementation of the program  
48 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  
83 sufficient time for professional personnel to accomplish the goals of this section as set forth in the  
84 county's 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, 2018, 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~~ 2018, 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~~ 2019 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;

7 ~~(4)~~ (3) Four at-large members who are citizens of the state, appointed by the Governor,  
8 by and with the advice and consent of the Senate; and

9 ~~(5)~~ (4) Three at-large members who are designated as higher education representatives,  
10 appointed by the Governor, by and with the advice and consent of the Senate; for each of the  
11 higher education representatives, the Governor shall choose from recommendations made by  
12 any state college and university or exempted school and the Governor may request additional  
13 recommendations from state colleges and universities or exempted schools if in the Governor in  
14 his or her sole discretion determines that additional recommendations are necessary for  
15 appointments to the commission.

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

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

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

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

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

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

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

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

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

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

41 (i) A member of the commission appointed by the Governor may not be removed from  
42 office by the Governor except for official misconduct, incompetence, neglect of duty or gross  
43 immorality and then only in the manner prescribed by law for the removal of the state elective  
44 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 11. MISCELLANEOUS INSTITUTES AND CENTERS.**

**§18B-11-4. Depositories for assistive devices and services.**

1 [Repealed.]

**§18B-11-6. National institute for teaching excellence established.**

1 [Repealed.]

**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 §18B-2B-3 of this code on the coordination of the education of  
24 student practical nurses with the rural health initiative; and

25 (k) ~~(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 §12-3-12 of this code, any funds appropriated to the  
18 ~~board of trustees~~ Higher Education Policy Commission in accordance with the provisions of this  
19 section that remain unallocated or unexpended at the end of any fiscal year shall not expire, shall  
20 remain in the line item to which they were originally appropriated and shall be available in the next  
21 fiscal year to the board of trustees or a school of medicine for allocation or expenditure for the  
22 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 §18B-18A-1 *et seq.* of  
10 this code and the Research Challenge Fund established in §18B-1B-12 of this code;

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

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

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

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

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

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

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

26 ~~(4)~~ (3) The State Superintendent of Schools or designee;

27 ~~(5)~~ (4) The Secretary of Commerce or designee;

28 ~~(6)~~ (5) The Vice Chancellor for Science and Research of the Commission;

29 ~~(7)~~ (6) The Chancellor of the Commission who chairs the council;

30 ~~(8)~~ (7) One member engaged in applied research at Marshall University and one member  
31 engaged in applied research at West Virginia University, appointed by the provosts of the  
32 respective universities; and

33 ~~(9)~~ (8) ~~Four~~ Five members, appointed by the Governor, who have demonstrated interest,  
34 knowledge, skill, and experience in academic research and scientific innovation and who possess  
35 recognized credentials and expertise in one or more of the following areas:

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

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

38 (C) Research and development;

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

40 (E) Undergraduate research or science education.

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

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

48 member appointed by the dean of the West Virginia University School of Medicine shall be  
49 appointed to a three-year term. Of the initial appointments made by the provosts, the member  
50 appointed by the West Virginia University provost shall be appointed to a two-year term, and the  
51 member appointed by the Marshall University provost shall be appointed to a four-year term.

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

57 (f) Members of the council serve without compensation, but are entitled to reimbursement  
58 by the commission for expenses, including travel expenses, actually incurred by the member in  
59 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 247 Acts of the Legislature, regular session, 1996, is hereby continued.

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

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

7 (2) A representative of the banking industry;

8 (3) A representative of the medical profession;

9 (4) A certified public accountant; and

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

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

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

24 (e) The board shall elect from its membership a chairperson, treasurer, and secretary as  
25 well as any other officer as appropriate. The term of the "chairperson" is for two years in duration  
26 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~~ §29A-  
7 3-1 *et seq.* of this code for the transaction of its business and to carry out the purposes of this  
8 article. ~~Such~~ The rules shall include: (A) Guidelines, procedures, reporting requirements,

9 accountability measures and such other criteria as the board deems appropriate and necessary  
10 to fulfill its governance responsibility under this article if it elects to contract with a nonprofit,  
11 consumer-driven organization to carry out the purposes of this article; (B) an appeals process  
12 with regard to the administration of the fund; and (C) rules governing the operation of the fund,  
13 including, but not limited to, eligibility of receipt of funds and all other matters consistent with and  
14 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 the 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.