

Investing In Education

*A Summary of Legislation from 2015-2022
Related to Improving Student Achievement
Throughout the Mountain State*



2022

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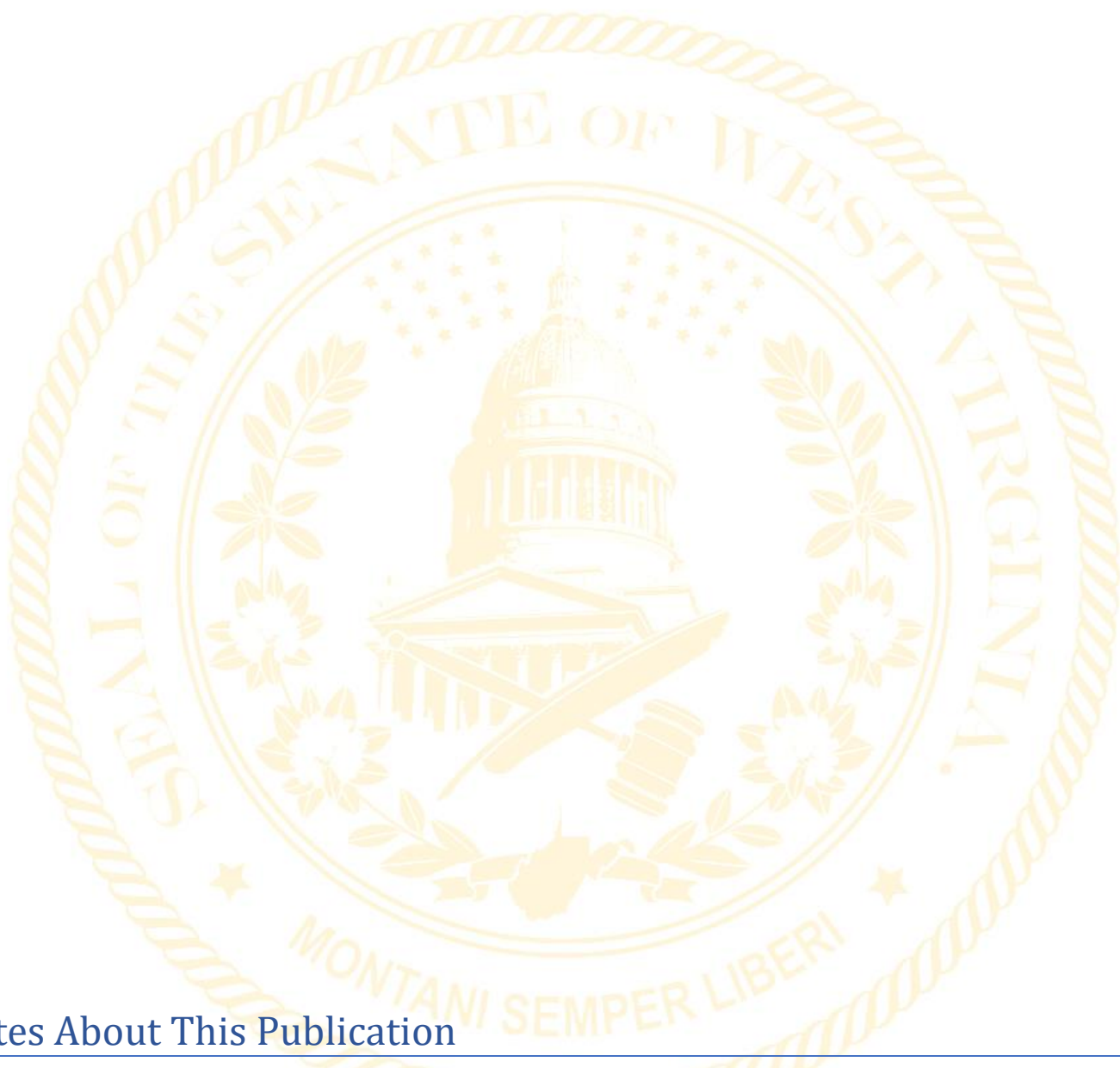
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Notes About This Publication

Produced by Jacque Bland, Communications Director – West Virginia Senate. Information was compiled and edited from available resources including Bill Summaries, bill abstracts, Conference Committee reports and bill titles. Details pertaining to a specific bill may have updated since the bill's original passage. Electronic versions of this book and other publications are available for download at <https://www.wvlegislature.gov/Senate1/president.cfm>. For corrections, questions or additional information, please email jacque.bland@wvsenate.gov or call 304-357-7999.

2022 Regular Session



Senate Bill 8

Relating generally to state's savings and investment programs

The bill streamlines board governance and corrects the structure of educational savings and investment programs in West Virginia. The bill creates the Jumpstart Savings Program, which will open on July 1, 2022. The Jumpstart Savings Program is structured almost identically to the SMART529 College Savings Plan, but unlike the 529 Plan, allows participants to save and invest money to help cover costs for a trade or occupation in the state.

Historically, the SMART529 College Savings Board also served as the board of trustees for the Prepaid Tuition Program – a now defunct educational plan that was closed to new contracts in 2001 and was terminated in September of 2021.

The bill redesignates the now closed Prepaid Tuition and College Savings administrative account as the College Savings and Jumpstart Savings administrative account. The bill also makes the existing board's administrative account non appropriated, to ensure that administrative fees deducted from the program trust funds are used to support the programs into the future (a practice viewed favorably by Morningstar for SMART529 ratings).

The bill consolidates the SMART529 College Savings and Jumpstart Savings boards into one board – the College and Jumpstart Savings Board. In doing so, the bill eliminates the standalone Jumpstart Savings Board and simply substitutes the Jumpstart Savings Program for the recently closed Prepaid Tuition Program under the existing board's oversight.

The bill makes several corrections and clarifications to current Code, such as deleting obsolete references to the now-closed Prepaid Tuition Plan and moves language creating a special fund for new savings and investment programs in the Treasurer's office from §18-30-1 et seq. into a new article in Chapter 12 of the Code.

CODE REFERENCE: West Virginia Code §18-30-6a – repealed; §18-30-1, §18-30-2, §18-30-3, §18-30-4, §18-30-5, §18-30-6, §18-30-8, §18-30-10, §18-30-11, and §18-30-13; §18-30A-2, §18-30A-3, §18-30A-5, §18-30A-6, §18-30A-8, and §18-30A-9 – amended; §12-9-1, §12-9-2, §12-9-3, and §18-30-3a – new;

DATE OF PASSAGE: January 24, 2022

EFFECTIVE DATE: January 24, 2022

ACTION BY GOVERNOR: Signed February 2, 2022

Senate Bill 205

Expanding PEIA Finance Board membership

Senate Bill 205 increases the membership on the PEIA Finance Board, adding two appointed members. One of them is to represent the interests of hospitals; the other is to represent the interests of non-hospital health care providers.

CODE REFERENCE: West Virginia Code §5-16-4 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

Senate Bill 228

Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV

This Act requires the governing board of each state institution of higher education to make provisions for their respective institution to award tuition and fee waivers for undergraduate and graduate courses to any student who has completed service in an AmeriCorps State, National, VISTA, or Senior Corps program in West Virginia, in accordance with the following:

The student must:

- Complete a FAFSA and accept all offers of financial assistance except student loans and work study;
- Accept the Segal AmeriCorps Education Award;
- Complete a term of service in West Virginia and provide an AmeriCorps Certification of Service Letter to the institution; and
- Meet the academic progress standards established by the institution;
- The Act further provides that:
- The student earns a tuition and fee waiver for 1 semester for at least 600 hours of service and 2 semesters for at least 1,200 hours of service;
- A student may successfully complete additional terms of service while enrolled or between semesters;
- The total number of tuition and fee waivers that may be granted to a student is limited to 8 semesters at the undergraduate or graduate levels combined; and
- The nominal value of a tuition and fee waiver is the remaining cost of tuition and fees after state and federal financial assistance has been applied and it may be further reduced if application of the student's Segal AmeriCorps Education Award causes the total to exceed the student's cost of attendance.

In addition:

- The award of tuition and fee waivers granted pursuant to this Act is in addition to the tuition and fee waivers otherwise permitted in this article of code.
- The institutional governing boards may establish any limitations on the provisions of the section as they consider proper.
- If necessary, the Higher Education Policy Commission and the Council for Community and Technical College Education may propose rules for legislative approval.

CODE REFERENCE: West Virginia Code §18B-10-7d – new

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

Senate Bill 246

Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations

This bill requires the state board to promulgate a rule to require newly constructed public-school buildings to include the following:

- A minimum of one water bottle filling station on each floor and wing of each public-school building.
- At least one water bottle filling station in all school food service areas.
- At least one water bottle filling station near gymnasiums and outdoor learning and activity areas, including playgrounds and athletic facilities.
- A minimum of at least one water bottle filling station per 200 building occupants projected upon completion of the projected construction.

It also requires the state board to promulgate a rule to require existing public-school buildings undergoing a major improvement to include a minimum of half of the facility's existing water coolers being retrofitted or replaced to provide water bottle filling capability and be made ADA compliant. Pending the availability of a water supply line and sanitary plumbing, the preferred placement of these stations is to be in the following areas:

- School food service areas.
- Near gymnasiums and outdoor learning and activity areas, including playgrounds and athletic facilities.
- Grouped toilet areas.

The bill also requires any water bottle filling station installed in a public-school building to:

- Dispense filtered, clean drinking water.
- Be touchless for sanitary reasons.
- Be regularly cleaned to maintain sanitary conditions.
- Be regularly maintained to ensure proper functioning.

The bill also requires county boards to adopt a policy to permit students in schools with one or more water bottle filling stations to carry water bottles.

CODE REFERENCE: West Virginia Code §18-9G-2 and §18-9G-3 – new

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

Senate Bill 261

Requiring video cameras in certain special education classrooms

This bill amends the section of code requiring video cameras in certain special education classrooms. Specifically, the bill does the following:

- Allows the principal of the school to designate another school administrator as the custodian of the video camera, all recordings of the camera, and access to those recordings.
- Provides for an extension of the 3-month time period in which the recording must be retained if the time period overlaps summer break.
- For any school-based camera system that is installed or replaced after April 1, 2022, requires the video to be retained for at least 365 days and strikes through the requirement for the video to be deleted after the applicable time period has elapsed.
- Increases the amount of time a person requesting to view a recording has to view a recording from 30-60 days and declares that the section does not require the principal or other designated school administrator to view the video recording absent an authorized request or suspicion of an incident except as otherwise provided in section. It also deletes language prohibiting a school from allowing regular, continuous, or continual monitoring of the video.
- Allows the video recording to be viewed by the school principal, other school administration designee, or county designee if the principal or other school administration designee is unable to view the video. It also requires the school principal, other school administration designee, or county designee to view no less than 15 minutes of the video of each self-contained classroom no less than every 90 days; and provides for the authorized state board rule to include requirements for documentation of compliance with the video viewing requirements.
- Requires a school to allow viewing of a video recording and comply with all subsequent requests for viewing or release of the video recording when requested by:
 - A law enforcement officer or DHHR employee as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the agency.
 - A judge, counsel, or other legal entity that is charged with deciding or representing either the school board, students, or employees in any matters related to legal issues arising from an incident but only if released pursuant to an appropriate protective order or under seal.
- Replaces language requiring FERPA compliance with language providing that if a release of a video recording is requested by law enforcement or DHHR, the agency will maintain strict confidentiality of the video and not further release the video without authorization from the public school district through its superintendent.
- Requires that if an incident is discovered while initially viewing camera footage that requires a report to be made under the section of code mandating that certain persons report child abuse and neglect (§49-2-801), that report be made by the viewer within 24-hours of viewing the incident.
- Provides that the video cameras in special education classrooms section of code only applies to cameras installed pursuant to that section.

CODE REFERENCE: West Virginia Code §18-20-11 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: March 12, 2022

ACTION BY GOVERNOR: Signed March 25, 2022

Senate Bill 268

Creating exemption from compulsory school attendance for child who participates in learning pod or micro school

This bill creates a new compulsory school attendance exemption for children who participate in a learning pod or microschool.

The bill defines “learning pod” as a voluntary association of parents choosing to group their children together to participate in their elementary or secondary academic studies as an alternative to enrolling in a public school, private school, homeschool, or microschool, including participation in an activity or service provided to the children in exchange for payment.

The bill also defines “microschool” as a school initiated by one or more teachers or an entity created to operate a school that charges tuition for the students who enroll and is an alternative to enrolling in a public school, private school, homeschool, or learning pod.

The bill also includes provisions applicable to learning pods and microschools similar to the homeschool provisions relating to:

- Requiring the filing of a notice of intent with the county superintendent.
- Establishing the education related qualifications for the person providing instruction.
- Requiring an annual academic assessment of the child in one of four specified ways.
- Requiring copies of each student’s academic assessment be maintained for three years.
- Establishing requirements applicable when the annual assessment fails to show acceptable progress.
- Requiring county board, upon request, to notify the parents or legal guardian of services available to assist in the assessment of the child’s eligibility for special education services.
- Requiring submission of the results of the academic assessment which can include submission of the school composite results.
- Requiring county superintendent or a designee to offer assistance, including textbooks, other teaching materials and available resources, all subject to availability.
- Allowing the learning pod or microschool student to attend any class offered by a county board upon approval of the county board.

The bill further provides that no learning pod or microschool is subject to any other provision of law relating to education except for §18-20-11, relating to requiring video cameras in certain special education classrooms; and clarifies that making learning pods and microschools subject to the home instruction provisions and requirements does not make learning pods and microschools the same as homeschooling.

CODE REFERENCE: West Virginia Code §18-8-1 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

Senate Bill 499

Authorizing legislative rules for School Building Authority

This bill authorizes a rule of the School Building Authority (SBA) relating to Funding School Building Authority Projects. The main purpose of the amendments to the rule is to make the rule consistent with HB 2906, which passed during the 2021 regular session and increased the percent of funds from 3 to 10 percent that the SBA could spend for projects that service the educational community statewide, for school facilities under the direct supervision of the state board or an administrative council of an area vocational center, and for other purposes.

Additionally, the amendments changed the SBA reimbursement procedures by:

- Requiring invoices to be submitted by the county board to the SBA on a monthly basis or as requested instead of by the 5th day of each month.
- Requiring a requisition summary showing the items included for reimbursement and associated subtotal costs to be included with the invoices.
- Removing the requirement that the certification that the previous invoices were paid to vendors be applicable only to the previous month's invoices.
- Requiring that the invoices be reviewed by the SBA staff in a timely manner rather than between the 5th and 10th of each month.
- Providing that where additional justification is required, the SBA staff immediately notify the county board to provide the required justification prior to approving the requisition for payment.
- Removing requirement that approved expenditures be reimbursed on the 15th of the invoice month.
- Removing language providing that no educational facility can be occupied without prior approval from the appropriate state and county regulatory agencies.

CODE REFERENCE: West Virginia Code §18-9D-21 – amended

DATE OF PASSAGE: March 3, 2022

EFFECTIVE DATE: March 3, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

Senate Bill 529

Encouraging additional computer science education in WV schools

This bill amends requirements for a plan required to be submitted to LOCEA related to computer science instruction and learning standards and requires the updated plan to be submitted prior to the 2023 regular legislative session. The purpose of the bill is to encourage the teaching of additional computer science subject matter in schools across the state, including computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, digital literacy, and cyber security.

CODE REFERENCE: West Virginia Code §18-2-12 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

Senate Bill 531

Increasing annual salaries of certain state employees

The bill increases the annual salaries of members of the West Virginia State Police, public school teachers and public-school service personnel beginning July 1, 2022, in the salary schedules set forth in statutes, as follows:

- For public professional educators and professional student support personnel (collectively, “teachers”), \$2,240 increase in annual pay (based on 200 days per year contract)
- For public school service personnel – \$122 (increase in monthly pay)
- For members of the State Police and certain Civilian Forensic Lab Personnel – \$10,000 increase in annual pay

The above reflects that public school teachers and public-school service personnel will effectively be given an across-the-board pay raise equal to approximately 5% of the average of their respective group’s aggregate salaries.

CODE REFERENCE: West Virginia Code §15-2-5, §18A-4-2, and §18A-4-8a – amended

DATE OF PASSAGE: March 10, 2022

EFFECTIVE DATE: July 1, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

Senate Bill 533

Relating to funding for health sciences and medical schools in state

This bill relates to funding sources for health sciences and medical schools at the state’s three medical schools. It eliminates the provision that the proceeds of the sales tax on soda be dedicated exclusively for the construction, maintenance, and operation of a medical, dental, and nursing school at West Virginia University. Those funds would not be deposited into the state’s general revenue fund. Effective July 1, 2024, the soft drink tax would be repealed.

To alleviate the gap this would create in the health sciences budget at West Virginia University funds from the Insurance Premium Tax would be dedicated at the same level the University was receiving from the soda tax. That amount would be \$14,000,000. In addition, the Medical School at Marshall University would receive dedicated funds in the amount of \$5,500,000 the amount of their annual appropriation and the West Virginia School of Osteopathic Medicine would receive dedicated funds in the amount of \$3,900,000. These amounts represent the current level of appropriation in the state budget for the two institutions.

There is a provision in the bill that specifies that the Legislature may dedicate additional funding if they so choose. These dedicated funds are not meant to limit any additional appropriation.

CODE REFERENCE: West Virginia Code §11-19-2 and §33-3-14b – amended; §11-19-13 – new

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: July 1, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

Senate Bill 535

Providing for revocation of school personnel certification or licensure in certain circumstances

Senate Bill 535 modifies provisions governing suspension and revocation of teaching certificates and other certificates issued by the state Superintendent.

In subsection (b), the bill enumerates five circumstances in which the state Superintendent may automatically suspend a certificate. In subsection (c), the bill requires the certificate to be reinstated upon dismissal of the charge or indictment, acquittal of the charge, or dismissal of the petition alleging child abuse which resulted in automatic suspension, unless otherwise prohibited by law.

In subsection (d), the bill similarly enumerates five circumstances in which the state Superintendent must automatically revoke a certificate. The bill expands the application of the automatic revocation provisions to include other individuals with certificates issued by the state Superintendent in addition to teachers. It also adds adjudication by a court of competent jurisdiction that the teacher or certificate holder has committed abuse of a child as an additional circumstance in which a certificate is automatically revoked. In subsection (e), the bill requires the certificate to be reinstated upon a court overturning the conviction or adjudication of abuse of a child which resulted in the automatic revocation unless otherwise prohibited by law.

Finally, the bill replaces references to “licenses” with “certificates” throughout for consistency.

CODE REFERENCE: West Virginia Code §18A-3-6 – amended

DATE OF PASSAGE: March 9, 2022

EFFECTIVE DATE: June 7, 2022

ACTION BY GOVERNOR: Signed March 23, 2022

Senate Bill 546

Expanding uses of fees paid by students at higher education institutions

This bill updates the projects for which fees and other charges to students at the state’s institutions of higher education may be used. The bill would allow these fees and charges to also be used to support information technology projects in addition to the list of current acceptable uses set forth in code.

The bill further allows up to 50% of an institutions tuition revenue to fund projects related to interest in land, construction of new building, modifications to existing buildings, the purchase of furnishing and equipment for buildings and the cost of information technology projects. The use of these funds for information technology is new, the others are existing law.

CODE REFERENCE: West Virginia Code §18B-10-1c – amended and §18B-10-8 – amended

DATE OF PASSAGE: March 10, 2022

EFFECTIVE DATE: June 8, 2022

ACTION BY GOVERNOR: Signed March 23, 2022

Senate Bill 593

Allowing Marshall University's Forensic Analysis Laboratory access and participation in WV DNA database for certain purposes

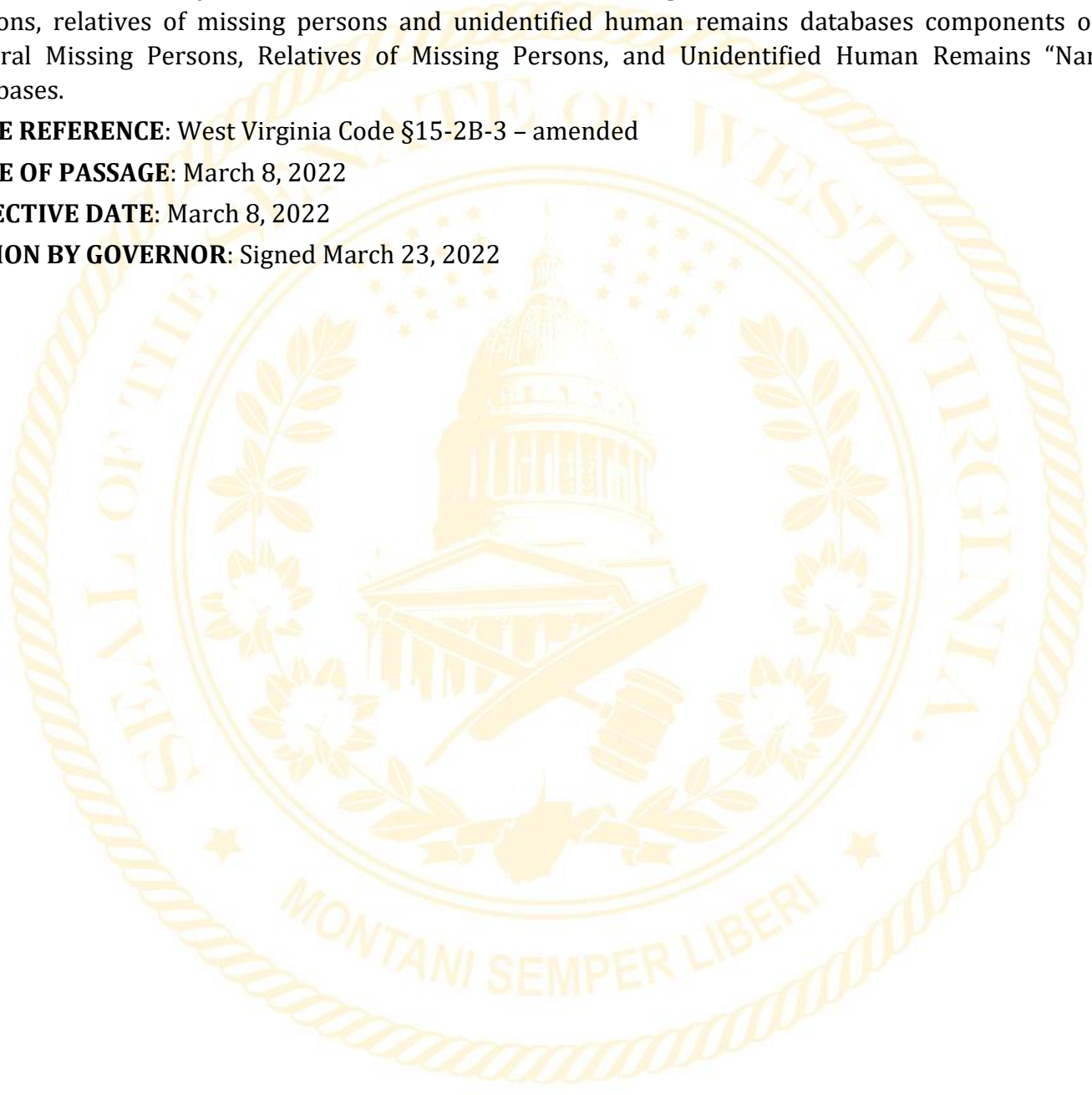
This bill amends, in §15-2B-3(3), the definition of “criminal justice agency” to include the Forensic Analysis Laboratory of the Marshall University Forensic Science Center. By including this in the definition, the Marshall University DNA lab now has access to the West Virginia DNA Database as it relates to missing persons, relatives of missing persons and unidentified human remains databases components of the Federal Missing Persons, Relatives of Missing Persons, and Unidentified Human Remains “NamUs” databases.

CODE REFERENCE: West Virginia Code §15-2B-3 – amended

DATE OF PASSAGE: March 8, 2022

EFFECTIVE DATE: March 8, 2022

ACTION BY GOVERNOR: Signed March 23, 2022



Senate Bill 704

Allowing parents, grandparents, and guardians to inspect instructional materials in classroom

This bill requires each classroom teacher to comply with the request of any parent, custodian, or guardian to inspect instructional materials and books in the classroom that are available for students to read, subject to the following:

- Only the parent, custodian, or guardian of a child enrolled in the class can make the request.
- The classroom teacher can require that the parent, custodian, or guardian schedule an appointment in order to inspect the instructional materials. If the classroom teacher requires an appointment, the teacher is required to schedule the appointment within 10 business days.
- As part of the inspection and upon request of the parent, custodian, or guardian, the classroom teacher must demonstrate how the instructional material relates to the content standards adopted by the state board.

For any class in which reading a book or books is required, the classroom teacher is required to include the book or books on a class syllabus; and required to make the syllabus available to any parent, custodian, or guardian of a child enrolled in the class upon request.

The bill also allows any parent, custodian, or guardian to file a complaint with the county superintendent, on a form developed and provided by the county superintendent, if the classroom teacher fails to comply with any provision of this section. If the complaint is not resolved by the county superintendent within seven business days, the parent, custodian, or guardian can file a complaint with the state superintendent or designee. The state superintendent is required to make a form available for parents to file a complaint pursuant to this subsection.

By September 1 of each year, each county superintendent is required to report to the state superintendent the number of complaints filed with him or her the previous school year; and the state superintendent, annually by October 1, must report to LOCEA the number of complaints filed during the previous school year. The report is required to include the number of complaints filed statewide and by county.

The bill also includes definitions of “parent”, “custodian”, and “guardian” for the purposes of the new section.

CODE REFERENCE: West Virginia Code §18-5-27 – new

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 3073

Relating to the West Virginia Emergency School Food Act

This bill creates the West Virginia Emergency School Food Act which

- Allows every county public school system to conduct an annual countywide survey of public-school students to determine their noninstructional or nontraditional remote learning and virtual school day eating patterns and the availability of nutritious food to them when schools are closed.
- Allows each county board to also collect and compile information regarding the availability of food resources in the county during noninstructional or nontraditional remote learning days as well as include a plan that includes virtual school students and distribute this information to all students.
- Allows each county school board to investigate and implement any program that may facilitate this initiative including, but not limited to, entrepreneurship programs to foster innovation in providing assistance, using participation in programs as a positive discipline option, and creating mentorship programs or other opportunities to participate in the feeding program.
- Allows each county school board to provide, at a minimum, an annual countywide or a coordinated regional training opportunity, with assistance from the West Virginia Office of Child Nutrition, that ensures that any entity that potentially qualifies as a summer feeding site or according to the county survey, is afforded the opportunity to receive training on operation of a feeding site.
- Allows each county board to provide its survey, a summary of its activities, and any findings or recommendations the county school board has related thereto, to the West Virginia Office of Child Nutrition at a date determined each year by that office.
- Allows each West Virginia public school to, as mandated per §18-9F-9 of this code to create a crisis management and prevention plan that includes an assessment and plan to feed students during noninstructional or nontraditional remote learning days and public virtual school students that includes emergency situations that may require innovative ways to deliver food to student homes.
- Allows the West Virginia Office of Child Nutrition to monitor these activities and share between counties information about innovative and successful program initiatives around the state to promote and facilitate the West Virginia Emergency School Food Act.

CODE REFERENCE: West Virginia Code §18-5D-6 – new

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4008

Relating to Higher Education Policy Commission funding formula

This bill establishes a funding formula for institutions of higher education in West Virginia. The formula would be performance based. The Higher Education Policy Commission and the Council for Community and Technical College Education are granted emergency rulemaking authority to develop the formula. The funding formula will be in effect for the 2024 budget year. The bill sets out a number of essential components that the rule is required to emphasize. These are:

- A focus on outcomes on student success and post-secondary education needs in West Virginia;
- Weighted variables that correspond to each institution's mission;
- Incentives for productivity improvements consistent with the goal of strengthening the state's economy and workforce

Elements that are required to be included in the rule include:

- Objective performance metrics supporting the state's higher education goals and objectives;
- A methodology for allocation of funds based upon these metrics;
- The ability to ensure that each institutions base appropriation is based on outcomes over a defined period of time;
- Incentivize postsecondary results geared toward the state's higher education goals and workforce development priorities; and
- Safeguards to allow for revisions to the metrics over time and account for inflation.

That bill also provides that institutions of higher education may receive an exemption from developing new programs on their own campuses if the program is incentivized by the funding formula and if the institutions state appropriation is 40% less than their operating expenses for three consecutive years.

The bill also makes technical updates.

CODE REFERENCE: West Virginia Code §18-1-1f and §18-1B-4 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4019

Relating to deadlines for public charter schools

For public charter schools intending to open in the school year beginning July 1, 2022, only, this bill delays the deadline for executing a charter contract between a schools governing board and its authorizer by two months, from March 15, in State Board Policy 3300, to May 15, 2022, in the bill.

The bill also delays the last day for the primary round of student applications, lottery and enrollment for these schools by one month, from April 15, in State Board Policy 3300, to May 15, 2022, in the bill.

CODE REFERENCE: West Virginia Code §18-5G-16 – new

DATE OF PASSAGE: March 8, 2022

EFFECTIVE DATE: March 8, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4021

Relating to the Medical Student Loan Program

This bill rewrites the section of code relating to the Medical Student Loan Program. It establishes the medical student loan program at the Marshall University School of Medicine, the West Virginia University School of Medicine, and the West Virginia School of Osteopathic Medicine.

The bill authorizes the medical schools, subject to the availability of funds, to make medical student loans to students enrolled in or admitted to their respective medical schools in a course of instruction leading to the degree of doctor of medicine or doctor of osteopathy who enter into a written medical student loan agreement with the medical school. The bill provides that the number of awards is to be determined by the availability of funds in the program at each school.

The bill also continues the special revolving fund accounts at the Marshall University School of Medicine, the West Virginia University School of Medicine, and the West Virginia School of Osteopathic Medicine, which are to be used to carry out the purposes of the Medical Student Loan Program.

The following are the eligibility requirements for a medical student loan:

- Full-time enrollment in a medical school in a program leading to the degree of doctor of medicine or doctor of osteopathy. The person cannot have previously obtained such a degree.
- Demonstrated financial need as determined by the medical schools' individual financial aid offices.
- Demonstrated credit-worthiness by not being in default of any previous student loan or medical student loan issued by any lender.
- United States citizenship as either born or naturalized.

The bill requires that the medical student loans be awarded on a priority basis first to qualified applicants who are West Virginia residents at the time of entry into the medical school, and second to qualified applicants who are not West Virginia residents at the time of entry into the medical school.

The bill provides that in order to be eligible for renewal of a medical student loan, the person must meet the initial minimum eligibility requirements, as well as maintain good academic standing and make satisfactory progress toward degree completion.

The bill also provides that each medical student loan issued by a medical school is to provide to the recipient of the medical student loan a maximum annual amount of \$10,000; and that the medical student loan can be renewed annually for a period not to exceed four years.

The bill also requires that each medical student loan be memorialized in a written medical student loan agreement, which must require, at a minimum, that the person receiving the loan:

- Complete the required course of instruction and receive the degree of doctor of medicine (M.D.) or doctor of osteopathy (D.O.).
- Apply for and obtain a license to practice medicine in West Virginia.
- Engage in the full-time practice of medicine for a period of 12 months within an approved service commitment area.
- Commence the full-time practice of medicine within nine months after completion of an approved post-graduate residency training program and licensure in an approved service commitment area and continue full-time practice in the approved service commitment area for a consecutive period of months equal to the total number of months for which the medical student loan was provided.

- Agree that the service commitment for each agreement entered into is in addition to any other service commitment contained in any other agreement the person has entered or may enter into for the purpose of obtaining any other financial aid.
- Maintain records and make reports to the issuing medical school to document the person's satisfaction of the obligations under the agreement to engage in the full-time practice of medicine in an approved service commitment area and to continue the full-time practice of medicine in the approved service commitment area for a consecutive period of months equal to the total number of months the student received the medical student loan. Persons practicing in a federally designated population-based health professions shortage area shall provide documentation that more than 50 percent of their service is provided to the designated population.
- Upon failure to satisfy the requirements of the agreement that the person engage in the full-time practice of medicine within an approved service commitment area for the required period of time under the medical student loan agreement, the person receiving a medical student loan is required to repay amounts to his or her issuing medical school.

The bill also provides that upon the selection of an approved service commitment area for the purpose of satisfying a service obligation under a medical student loan agreement, the person shall inform the issuing medical school of the service area selected. The person can serve all or part of the commitment in the approved service commitment area initially selected or in a different approved service commitment area. If the person chooses a different approved service commitment area, the person must notify his or her issuing medical school of his or her change of approved service commitment areas.

The bill also provides that upon the person's presentation of a report to the issuing medical school evidencing his or her satisfaction of the terms of the medical student loan agreement, the issuing medical school shall cancel \$10,000 of the outstanding loan for every twelve full consecutive months of service as required in the agreement.

The bill also provides that upon the failure of any person to satisfy the obligation to engage in the full-time practice of medicine within an approved service commitment area of this state for the required period of time under any medical student loan agreement, the person is required to repay to his or her issuing medical school an amount equal to the total of the amount of money received by the person pursuant to the medical student loan agreement plus annual interest at a rate of 9.5 percent from the date the person first received the medical student loan. For any such repayment, the following provisions shall apply:

- The person must repay an amount totaling the entire amount to be repaid under all medical student loan agreements for which the obligations are not satisfied, including all amounts of interest at the rate prescribed. The repayment shall be made either in a lump sum or in not more than 12 equal monthly installment payments.
- All installment payments are required to commence six months after the date of the action or circumstance that causes the person's failure to satisfy the obligations of the medical student loan agreement, as determined by the issuing medical school based upon the circumstances of each individual case. In all cases, if an installment payment becomes 91 days overdue, the entire amount outstanding shall become immediately due and payable, including all amounts of interest at the rate prescribed.
- If a person becomes in default of his or her medical student loan repayment obligations, the medical school shall make all reasonable efforts to collect the debt.

The bill also provides that if, during the time a person is satisfying the service requirement of a medical student loan agreement, the person desires to engage in less than the full-time practice of medicine within an approved service commitment area and remain in satisfaction of the service requirement, the person can apply to the medical school that issued the medical student loan for permission to engage in less than the full-time practice of medicine. Upon a finding of exceptional circumstances made by the medical school that issued the medical student loan, the medical school can authorize the person to engage in less than the full-time practice of medicine within an approved service commitment area for the remaining required period of time under the medical student loan agreement and for an additional period of time that shall be equal to the length of time originally required multiplied by two. The bill also provides that in no event shall the person be allowed to practice medicine less than half-time.

The bill also requires each medical school, by July 31 of each year, to prepare and submit a report on the operations of their respective medical student loan programs to the commission for inclusion in the commission's data publication and reporting. The bill also sets forth the minimum information that is to be included in the report.

CODE REFERENCE: West Virginia Code §18C-3-1 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4065

Allowing the Division of Natural Resources to teach hunter's safety courses in school

This bill requires the state board to establish and implement a hunter safety orientation program with appropriate classes and hands-on training. The program can be scheduled for the regular hours of the school day, so as to work in conjunction with the regular course schedule, or can be scheduled outside of the regular hours of instruction for the school day; and requires that, to the extent possible, the program be conducted at school facilities and scheduled so that students attending the program class can also make use of regularly provided student transportation.

The bill replaces language allowing the hunter safety orientation program to be offered to students in any of grades 6-12 over a two-week period during the school year as part of physical education classes, or as part of the general curriculum offered to students in any of these grade levels, or at the end of the school day with the following:

- Requiring the hunter safety program to be offered at least once every spring semester in every middle school of the state.
- Allowing, at the option of each county board, the programs to also be offered at least once during the fall semester in any middle school or offered in any high school in the state if demand is sufficient and certified instructors are available.
- Providing that if there's an insufficient number of students at a middle school requesting or registering for the class in a given semester, the school is not required to conduct the class that semester; and that the minimum number of students requesting the safety orientation program class in a semester necessary to provide the class is at the discretion of the county board.

CODE REFERENCE: West Virginia Code §18-2-8a – amended

DATE OF PASSAGE: March 9, 2022

EFFECTIVE DATE: June 7, 2022

ACTION BY GOVERNOR: March 28, 2022

House Bill 4074

Require schools provide eating disorder and self-harm training for teacher and students

This bill, entitled “Meghan’s Law”, requires the state board to promulgate a rule to establish training requirements for certain employees focused on developing skills, knowledge, and capabilities related to preventing, recognizing, and responding to students’ self-harm behaviors and eating disorders. The employees subject to the training requirements include all county board employees who might come into contact with a student, including full-time, part-time, and contract employees, as well as any volunteers of a school or school district that might come into contact with a student as such employees and volunteers may be further defined in the rule. The rule:

- Must include instruction and information to better equip schools and their employees to recognize warning signs of self-harm behaviors and eating disorders that can lead to serious health issues and death; support the healthy development of students by learning how to appropriately respond to or refer a student who exhibits warning signs of self-harm or eating disorders; and provide consistent and standard protocols for responding to disclosures or discovery of self-harm or an eating disorder.
- Must contain provisions to ensure that public school employees complete the required training every three years.
- May provide for this training to be administered virtually or through self-review of materials and resources provided by the state board.

The bill also requires that children in grades 5-12 annually receive information regarding self-harm and eating disorder signs, prevention, and treatment. The information can be obtained from the Bureau for Behavioral Health and Health Facilities, a licensed healthcare provider, or from commercially developed awareness and prevention training programs for the awareness, treatment resources and prevention of self-harm behavior and eating disorders approved by the state board in consultation with the bureau to assure accuracy and appropriateness. The bill also allows the state board to promulgate a rule to facilitate the process and develop resources.

CODE REFERENCE: West Virginia Code §18-2-40a – new

DATE OF PASSAGE: February 11, 2022

EFFECTIVE DATE: May 12, 2022

ACTION BY GOVERNOR: Signed February 21, 2022

House Bill 4110

Relating to staffing levels at multi-county vocational centers

County boards of education are required to meet a statutory ratio of instructional personnel per state aid funded professional educators. Failure of county boards to meet the ratio results in a penalty in the form of a pro rata reduction in the county's state aid for professional educators.

This bill exempts a county board of education that is serving as the fiscal agent for a multi-county vocational center (MCVC) from the penalty if the failure to meet the ratio is due to staffing levels at the MCVC.

CODE REFERENCE: West Virginia Code §18-9A-4 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4264

Change designation of Glenville State College to “Glenville State University”

The Act provides that Glenville state college, having met the eligibility requirements established by the Higher Education Policy Commission to attain university status, is hereby designated as a university on the effective date of the amendment of this section.

CODE REFERENCE: West Virginia Code §18B-2A-6 – amended

EFFECTIVE DATE: February 22, 2022

DATE OF PASSAGE: February 22, 2022

ACTION BY GOVERNOR: Signed February 23, 2022

House Bill 4291

Relating to authorizing legislative rules regarding higher education

This bill authorizes Higher Education Policy Commission (HEPC) and Community and Technical College Council (CTCC) legislative rules that have been reviewed and recommended for authorization by LOCEA. The following rules are authorized:

- Series 48 – HEPC – Research Trust Fund: This rule, establishing standards for the distribution of funds in the West Virginia Research Trust Fund has had its Sunset provision extended for a period of five years from the effective date.
- Series 52 – HEPC – Annual Reauthorization of Degree-Granting Institutions: This rule, establishing policy regarding the annual reauthorization of degree-granting institutions above the associate level has had its Sunset provision extended for a period of five years from the effective date.
- Series 8 – CTCC – West Virginia Invests Grant Program: In order to comply with SB335, passed last session, this rule is revised to include academic program fees in the costs that are covered by the West Virginia Invests Grant Program; and further revised to change the drug testing requirement from every semester to every year. The rule also requires the drug test to be verified by the Senior Director of Financial Aid; and modifies consequences for failure to complete the required community service.
- Series 35 – CTCC – Business, Occupational, and Trade Schools: This rule, regarding the issuance, renewal, and revocation of permits to business, occupational and trade schools in West Virginia has had its sunset provision extended for a period of five years from the effective date.
- Series 52 – CTCC – Annual Reauthorization of Degree-Granting Institutions: This rule, establishing policy regarding the annual reauthorization of degree-granting institutions below the associate level has had its Sunset provision extended from the effective date.

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: March 7, 2022

EFFECTIVE DATE: June 5, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4355

Relating to the disclosure by state institutions of higher education of certain information regarding textbooks and digital courseware and certain charges assessed for those items

This bill defines several terms one of which is “course material” which replaces the term “textbook” throughout the section. It requires that the listing of course materials required for any course at higher education institutions include whether the course material is an open educational resource material, and whether all educational materials required for the course or course section are generally available at no cost and without limitation to all students enrolled in the course or course section. It also requires that the list include any associated fee or charge, such as a technology cost, library use cost, or printing or publication fee. Also, if the student will be charged for the course material or for access to digital courseware for a course by the institution or another entity on the student’s enrollment in a course, course section, or program or in the institution for the applicable semester or term, the list is required to include the certain disclosures as set forth below.

The bill requires that an institution disclose to a student enrolled at the institution any charges for course materials or access to digital courseware assessed by the institution or another entity to the student on the student’s enrollment in a course, course section, or program or in the institution for the applicable semester or term, regardless of how the charge is assessed on an opt-in, opt-out, or compulsory basis. This disclosure requirement does not apply to a charge assessed for a purchase initiated by the student separately from the enrollment process at the institution, such as the purchase of course materials at a bookstore that may be charged to the student’s account at the institution.

The bill also provides that if the required course materials or digital courseware has not been selected prior to a student’s enrollment in a course or course section such that the disclosure requirements are not met or if a change to the course materials or digital courseware required would cause an increased charge to the student, the institution is required to:

- Provide individual notice to each student affected of the new or increased charges.
- Provide each student affected with the opportunity to withdraw from the course or course section, or change to a different course or course section, without penalty.
- Only assess the new or increased charge to a student if that student affirmatively opts in to accepting the charge for that specific course or course section.

For a charge for course materials or access to digital courseware assessed by the institution or another entity to the student on the student’s enrollment in a course, course section, or program or in the institution for the applicable semester or term that is assessed based on the cost of required or recommended textbooks or access to digital courseware for a certain course or course section in which the student is enrolled, the bill also requires the institution to:

- In the listing of textbooks required for any course, state or provide an internet website link to:
 - The full amount of the charge.
 - If the charge is for a course material in a primarily electronic format or for access to digital courseware, the terms under which the publisher of the course material or digital courseware collects and uses student data obtained through a student’s use of the course material or digital courseware.
 - Any provision that allows the student to opt in or opt out of the charge or the collection or use of the student’s data.

- Itemize the charge separately from any other charges assessed for the course or course section in the institution's billing to the student.

For a charge for course materials or access to digital courseware assessed by the institution or another entity to the student on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term that is assessed on the basis of the number of semester credit hours or the equivalent or the number of courses in which the student is enrolled, the institution is required to:

- Include the amount of the charge in the institution's tuition or fees.
- In a prominent location in any written or electronic agreement authorizing the charge, disclose:
 - If the charge is for course materials in a primarily electronic format or for access to digital courseware, the terms under which the publisher of the course material or digital courseware collects and uses student data obtained through a student's use of the course material or digital courseware.
 - Any provision that allows the student to opt in or opt out of the charge or the collection or use of the student's data.
- Not assess the charge to a student for a course or course section for which all required educational materials are generally available at no cost in at least one form to the student, such as:
 - An open educational resource material.
 - Digital materials available at no cost through a multi-user license held by the institution's library.
 - Other lawfully made materials available to the public at no cost and without limitation to all students enrolled in the course or course section.

The bill also allows an institution to enter into an agreement between the institution and an entity under which the institution assesses on the entity's behalf or allows the entity to assess a charge for course materials or access to digital courseware assessed by the institution or another entity to the student on the student's enrollment in a course, course section, or program or in the institution for the applicable semester or term to students enrolled at the institution only if:

- The institution's educational materials affordability committee determines the agreement to be consistent with certain enumerated goals.
- The governing board of the institution adopts a policy that provides that:
 - The institution's refund policy would apply with respect to the charges assessed to a student if the student withdraws from the course or course section.
 - A student may opt out of the charge at any time during a period beginning no later than when the student enrolls in the course or course section or takes any other action triggering the assessment of the charge and ending no earlier than the last day to withdraw from the course without penalty.
- The agreement does not provide that the educational materials are made available to the student not later than:
 - The first day of the semester or term, if the student enrolls in the course or course section at least seven days before the first day of the semester or term, or
 - The seventh day after enrollment in the course or course section.
- The agreement does not provide for a penalty or charge added to price of materials provided under the agreement based on failing to meet a target or quota for a number or percentage of:
 - Students to whom the charge is assessed.

- Courses or course sections for which the charge is assessed.
- The agreement prohibits the entity from engaging in, or authorizing third parties to engage in, the sale, disclosure, licensing, use, retention, or other exploitation of any data collected under the agreement, including but not limited to personally identifiable information, location data, anonymized data, and any materials derived therefrom, except as expressly authorized, in each case, in the agreement.

The bill also provides that an agreement authorized above is a public record under the Freedom of Information Act; and that an institution cannot deny, or enter into an agreement with another entity that would permit the entity to deny a student access to educational materials for which the student has been, or would otherwise be, automatically charged on the student's refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of any data pertaining to the student that would be obtained through the student's use of the educational materials.

CODE REFERENCE: West Virginia Code §18B-10-14 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: March 10, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4380

Relating to transportation of athletic teams

This bill:

- Increases the limit from one to two on the number of county board-owned vehicles with a seating capacity of fewer than 10 passengers that can be used to transport students for any school sponsored activity.
- Requires buses to be used to transport nineteen or more passengers for extracurricular activities.
- Allows service employees to be certified to drive county board-owned vehicles having a seating capacity of fewer than 10 passengers that professional employees currently can be certified to drive to transport students for school-sponsored activities.
- Requires the vehicles to be insured.
- Clarifies that the 10 passenger limit of the vehicles includes the driver.
- Allows students to be transported to a school-sponsored activity in a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver.
- Allows a guardian or other adult approved in writing by the parent or guardian to transport students in a privately owned vehicle.
- Removes the limit of 10 or fewer on the number of students that can be transported in a privately owned vehicle by a parent, guardian, or other adult approved in writing by the parent or guardian.

CODE REFERENCE: West Virginia Code §18-5-13 – amended

DATE OF PASSAGE: March 9, 2022

EFFECTIVE DATE: June 7, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4420

To modify definitions of school bus operators

Current law provides that a school bus operator who is currently employed and who is diagnosed with diabetes mellitus requiring insulin is not ineligible for employment as a school bus operator because of the diagnosis under certain conditions. This bill provides that a school bus operator candidate diagnosed with diabetes mellitus requiring insulin is also not ineligible for employment as a bus operator because of the diagnosis under those same conditions.

CODE REFERENCE: West Virginia Code §18A-2-4 – amended

DATE OF PASSAGE: March 8, 2022

EFFECTIVE DATE: June 6, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4466

Relating to School Building Authority's review of school bond applications

This bill allows a county board to apply to the School Building Authority for funding as a part of the county's bond finance plan for a proposed capital improvement bond levy to be submitted to the voters of that county. The county board is required to first submit a request for the funding to the Executive Director of the Authority months prior to the county board's proposed bond levy election. After initial consultation with the Executive Director, the bill requires that the county board prepare a written outline of the bond finance plan, the capital improvements to be made with levy funds, and the amount and timing of funding requested from the Authority. The county board is then required to present its request at a meeting of the members of the Authority.

Grants of financial assistance that have received initial approval are contingent on passage of the bond levy and the final approval of the School Building Authority of the county's bond finance plan. Any materials produced by the county or its county board that refer to the Authority must include a statement of this contingency and terms. Financial assistance to be provided by the Authority can only be used to pay costs of capital improvements and cannot be pledged as security for or repayment of any bonds issued by the county board.

Upon passage of bond levy, the county board has four years to finalize the project. However, the Authority is authorized to grant an extension in extenuating circumstances.

The bill also provides that these new requirements do not apply to any proposed capital improvement bond levy that is scheduled to be submitted to the voters on or before December 31, 2022.

CODE REFERENCE: West Virginia Code §18-9D-15 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4489

Require counties to post open positions on statewide job bank

This bill adds service and extracurricular personnel positions to the professional personnel positions that are required to be included in the State Board of Education's statewide job bank; and requires each county board to provide information to the state board for inclusion in the statewide job bank.

CODE REFERENCE: West Virginia Code §18A-2-7a – amended

DATE OF PASSAGE: March 8, 2022

EFFECTIVE DATE: June 6, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4535

Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle

This bill:

- Replaces the requirement for an instruction permit or motor vehicle license to be denied or suspended whenever a student in a certain age range withdraws from school or fails to maintain satisfactory academic progress with the requirement that the student's instruction permit or license be restricted to driving for work or medical purposes or educational or religious pursuits.
- Removes requirement for driver's eligibility certificate for instruction permit and license applicants under 18.
- Reduces the age for which the school attendance and satisfactory academic progress provisions apply to from those under the age of 18 to those under the age of 17.
- Modifies requirements for a level three graduated driver's license by removing requirements applicable to a licensee 18 or older, leaving the requirements for those who are 17 or older also applicable to those who are 18 or older.
- Provides that any person whose driver's license is suspended, restricted, or revoked after hearing with the Commissioner of the Division of Motor Vehicles can seek judicial review of the final order or decision.

CODE REFERENCE: West Virginia Code §17B-2-3a, §17B-3-6, and §18-8-11 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4562

Relating generally to the suspension and dismissal of school personnel by board and the appeals process

This bill:

- Requires that upon commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, the affected employee be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils.
- Requires an employee charged with a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges. Existing language allows, but does not require, the employee to be reassigned to duties which do not involve direct interaction with pupils.
- Makes it the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours of the allegation.

CODE REFERENCE: West Virginia Code §18A-2-8 – amended

DATE OF PASSAGE: March 9, 2022

EFFECTIVE DATE: June 7, 2022

ACTION BY GOVERNOR: Signed June 30, 2022

House Bill 4565

To exempt temporary employees and employees of the Higher Education Policy Commission from automatic enrollment into the state's 457 (b) plan

This bill addresses existing law which requires that every state employee commencing work on and after July 1, 2007 have a minimum of \$10 per pay period of his or her salary deferred to the state deferred compensation plan unless the employee provides written notice declining to participate. This bill clarifies that temporary employees, employees of the Higher Education Policy Commission, Community and Technical College Council, and the state's public institutions of higher education are exempt from this requirement.

The bill also strikes language limiting the amount of a school employee's salary that can be deferred to the amount excludable from income under a 403(b) plan since those employees can also participate in a 457 plan which has separate limits.

CODE REFERENCE: West Virginia Code §5-10B-2, §5-10B-3a, §18-25-1, and §18A-4-12 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4571

Modifying foundation allowance to account for transportation by electric powered buses

This bill amends Step 4 of the Public School Support Program, the allowance for student transportation operating costs. A part of this allowance is a percentage of the transportation costs incurred by the county for maintenance, operation, and related costs, exclusive of salaries. The percentage is between 87.5 and 95 percent depending on the density category of the county. This bill would increase the percentage by 10 percent for any portion of a county's school bus system that is fully powered by electricity that is stored in an onboard rechargeable battery or other storage device; and also increase the percentage by five percent for the portion of its school bus system that is manufactured within the state.

CODE REFERENCE: West Virginia Code §18-9A-7 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: July 1, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4578

Relating to authorizing the Superintendent of the State Police to administer the Handle with Care program

This bill specifies that the West Virginia State Police, through the West Virginia Center for Children's Justice, will oversee the administration and implementation of the state's Handle with Care program. The duties of the superintendent shall include directing and overseeing the administration and implementation of the program, employing the personnel necessary to administer the program, and establishing and coordinating the education and training of law enforcement and any other necessary parties for the implementation of the program. The superintendent is also responsible for applying for grant funding as well as accepting grants, gifts, bequests, donations, and other funds to accomplish the mission of the program. The bill also specifies that nothing will require the Legislature to appropriate funds to the West Virginia State Police for the administration of the program.

CODE REFERENCE: West Virginia Code §15-2-56 – new

DATE OF PASSAGE: March 7, 2022

EFFECTIVE DATE: June 5, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4600

Making it a felony for a “Person in a Position of Trust” to assault, batter, or verbally abuse a child, or neglect to report abuse they witness

The purpose of this bill is to add protections for disabled children in institutional settings, such as schools and care facilities. It repeals §61-8D-5a which set penalties for and defined verbal abuse of noncommunicative children. It also creates a new article with seven sections.

The first section describes the findings of the Legislature and the purpose of the new article. These findings are that disabled persons, particularly disabled children are often more vulnerable and in greater need of protection than the nondisabled.

The second section defines five terms. These terms are:

- “Disabled child” means a child with any physical, intellectual, developmental, communication, or psychological disability or impairment. A disability includes , but is not limited to one that: (A) Limits the child’s ability to recognize abuse, unlawful activity, or his or her rights to safety and protection, or that makes the child rely on others to recognize that he or she is being abused; (B) Limits the child’s ability to recognize unlawful sexual abuse or misconduct; (C) Causes the child to be dependent on others to assist with any activity of daily living or personal care; (D) Limits the child’s ability to formulate or execute a response to abuse, to verbally or physically defend himself or herself, or to physically escape from an abusive environment; or (E) Limits the child’s ability to disclose abuse.
- “Noncommunicative child” means a child who, due to physical or developmental disabilities, is unable to functionally articulate verbally, in writing, or through a recognized sign language.
- “Person in a position of trust in relation to a disabled child” means any adult who is acting in the place of a parent and charged with any of a parent’s rights, duties, or responsibilities concerning a disabled child or someone with supervisory responsibility for a disabled child’s welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of a disabled child,
- “Repeatedly” means on two or more occasions,
- “Supervisory responsibility” means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility may occur in a residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.

Section three creates a new misdemeanor criminal offense for maltreatment of a disabled child. It expands on House Bill 4362, which passed during the 2020 Regular Legislative Session, and was limited to noncommunicative children who are included in the definition of “disabled child” in §61-8F-2. The penalty is up to one year confined, fined not less than \$500 or more than \$2,500, or both fined and confined.

Section four creates felony offenses, battery, and assault of a disabled child by a person in a position of trust with supervisory responsibility over the child. Battery is punishable by a fine not more than \$1,000, imprisoned in a state correctional facility for not less than one or more than five years, or both fined and imprisoned. The felony assault is punishable with not less than one nor more than three years imprisoned, a fine of not more than \$500, or both fined and imprisoned.

The fifth section creates three new offenses. The first is a misdemeanor (up to one year) for failure to report abuse of a disabled child where one is a person in a position of trust to a disabled child and a

mandated reporter. The second is for impeding or obstructing the reporting of abuse by a person in a position of trust. This is a felony crime punishable by a fine of not more than \$5,000, imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned. The third is for discriminating or retaliating against a reporter. This is a felony crime punishable by a fine of not more than \$5,000, imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

Section 6 of the new article directs the West Virginia Department of Education and the Department of Health and Human Resources to collaborate in the establishment of a program designed to educate staff and supervisors in dealing with disabled children and require employees to successfully complete the program for ongoing or continued employment effective on and after July 1, 2023. It also directs this group to study and report to the legislature about the feasibility of putting in place a system which would allow parents, etc. to be able to view a disabled child's classroom or common area remotely via computer. Additionally, the bill requires the West Virginia Prosecuting Attorney's Institute and the Law Enforcement Professional Standards subcommittee on the Governor's 22 Committee on Crime Delinquency and Correction to put together a program for law enforcement and prosecutors related to specifics of dealing with crimes against disabled children. The three-hour mandatory program is to be in place on or before January 1, 2023.

The seventh section provides the internal effective date for the bill.

CODE REFERENCE: West Virginia Code §61-8D-5a – repealed; §61-8F-1 through §61-8F-7 – new

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: July 1, 2022, for criminal offenses; March 12, 2022, for the remainder

ACTION BY GOVERNOR: Signed March 25, 2022

House Bill 4604

Relating to abolishing the Workforce Development Initiative Program Advisory Council

This bill abolishes the Workforce Development Initiative Program advisory committee which is a committee appointed by the Chancellor to review all applications for workforce development initiative grants and make recommendations to the council for distributing grant funds.

CODE REFERENCE: West Virginia Code §18B-3D-2 – amended

DATE OF PASSAGE: March 10, 2022

EFFECTIVE DATE: June 8, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4642

Relating to pecuniary interests of county and district officers, teachers and school officials in contracts

This bill allows county commissioners, district school officers, a secretary of a Board of Education, supervisor or superintendent, principal, or teacher at public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence or control in the award or letting of the contract under certain circumstances. These criteria are:

- The contract is not for services;
- The contract has been put out for competitive bid, and the contract is awarded based on the lowest cost;
- The party to the contract recuses himself or herself from voting or decision-making if they are in such position as to the contract; and
- The party to the contract has previously obtained a written advisory opinion from the West Virginia Ethics Commission.

CODE REFERENCE: West Virginia Code §61-10-15 – amended

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: June 10, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Bill 4662

Relating to licensure of Head Start facilities in this state

The bill provides that a head start program in good standing with the US Department of Health and Human Services may request to be deemed licensee to operate a child care program to purposes of the WV Clearance for Access Registry and Employment Screening. The bill provides that at the discretion of the Secretary, a deemed license may not permit the licensee to access the other services provided by the Bureau for Family Services as it related to the specific deemed child care license.

The bill provides for legislative rulemaking.

CODE REFERENCE: West Virginia Code §49-2-115a – new

DATE OF PASSAGE: March 12, 2022

EFFECTIVE DATE: March 12, 2022

ACTION BY GOVERNOR: Signed March 30, 2022

House Bill 4829

Modifying definitions of certain school cafeteria personnel

This bill amends the current definition of a cafeteria manager to add language for the Cook III classification, and to include duties for monitoring freezers and temperatures on equipment, communicating with the food service supervisor, and maintaining an appropriate time for ordering/emailing and other paperwork to be performed.

Additionally, the bill strikes out “interpret menus” from the Cook II definition and adds this language along with “assist the cafeteria manager” to the Cook III definition. The bill further provides to the definition of a Cook III that a person in this employee classification may act as the cafeteria manager if the cafeteria manager is absent.

CODE REFERENCE: West Virginia Code §18A-4-8 – amended

DATE OF PASSAGE: March 11, 2022

EFFECTIVE DATE: June 9, 2022

ACTION BY GOVERNOR: Signed March 28, 2022

House Joint Resolution 102

Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection

Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article XII thereof, relating to education and the supervision of free schools; clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2022, which proposed amendment is that section 2, article XII thereof, be amended and reenacted to read as follows:

ARTICLE XII. EDUCATION.

§2. Supervision of free schools.

Subject to the provisions of this section, the general supervision of the free schools of the State is vested in the West Virginia Board of Education which shall perform the duties prescribed by law. Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies which shall be submitted to the Legislature for its review and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years. No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He or she shall be the chief school officer of the state and shall perform the duties prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article VI of this Constitution.

Resolved further, That in accordance with the provisions of §3-11-1 et seq. of the Code of West Virginia, 1931, as amended, the amendment is hereby numbered “Amendment No. 1” and designated as the “Education Accountability Amendment” and the purpose of the proposed amendment is summarized as follows: “The purpose of this amendment is to clarify that the rules and policies promulgated by the State Board of Education, are subject to legislative review, approval, amendment, or rejection.”

DATE OF ADOPTION: March 3, 2022 (General Election ballot 2022)

2021 Regular Session



Senate Bill 11

Declaring work stoppage or strike by public employees to be unlawful

This bill:

- Sets forth legislative findings which includes a declaration that any work stoppage or strike by public employees is unlawful.
- Sets forth when a county board of education employee is considered to be participating in a work stoppage or strike.
- Prohibits accrued and equivalent instructional time and the delivery of instruction through alternative methods from being used to cancel days lost due to a concerted work stoppage and strike.
- Prohibits the State Board from granting a waiver to a county board for its noncompliance with the 200-day minimum employment term or the 180-day minimum instructional term requirements if the noncompliance is the result of a concerted work stoppage or strike.
- Provides that if an employee remains employed by the county board notwithstanding his or her participation in a concerted work stoppage or strike, which the Legislature determines to be grounds for termination, the county board is required to withhold the prorated salary or hourly pay for each day that the employee participates and requires the sums to be forfeited to the county board.
- Prohibits a school closed due to a work stoppage or strike from participating in any extracurricular activities during any day the school is closed for that reason.

CODE REFERENCE: West Virginia Code §18-5-45a – new

DATE OF PASSAGE: March 4, 2021

EFFECTIVE DATE: June 2, 2021

ACTION BY GOVERNOR: Became law without Governor's signature

Senate Bill 14

Providing for additional options for alternative certification

This bill creates a third set of conditions for which a person may be issued a professional teaching certificate with the intent of providing additional options for alternative certification. This third set of conditions includes that the person:

Holds a bachelor's degree from an accredited institution of higher education.

Submits to a criminal history check.

Successfully completes pedagogical training or a pedagogical course or courses in substantive alignment with nationally recognized pedagogical standards; or approved or established by the state board.

Passes the same subject matter and competency test or tests required by the state board for traditional program applicants for licensure.

The bill also requires that teaching certificates granted pursuant to the new set of conditions be equivalent to certificates granted to graduates of teacher preparation programs at higher education institutions.

CODE REFERENCE: West Virginia Code §18A-3-2a – amended

DATE OF PASSAGE: February 26, 2021

EFFECTIVE DATE: May 27, 2021

ACTION BY GOVERNOR: Signed March 10, 2021

Senate Bill 89

Exempting certain kindergarten and preschool programs offered by private schools from registration requirements

This bill exempts from DHHR regulation any kindergarten, preschool, or school education program which is operated by a private, parochial, or church school that is recognized by the WVDE under Policy 2330, relating to non-public school accreditation. The bill also clarifies the programs operated by a county parks and recreation commission, boards, and municipalities that are exempt from DHHR regulation.

CODE REFERENCE: West Virginia Code §49-2-113 – amended

DATE OF PASSAGE: April 5, 2021

EFFECTIVE DATE: July 4, 2021

ACTION BY GOVERNOR: Signed April 15, 2021

Senate Bill 294

Savings and investment programs offered by state

The bill authorizes the Board of the College Prepaid Tuition and Savings Program (“the Board”) to close the 529 Prepaid Tuition Plan (“the Prepaid Tuition Plan”) and the two funds that support it. It also modifies membership of the Board and creates a new special revenue account. [NOTE: The Board administers two separate college savings plans: the older 529 Prepaid Tuition Plan and the more recent SMART529 College Savings Plan. This bill provides for the closure of only the 529 Prepaid Tuition Plan – the SMART529 College Savings Plan will continue under the administration of the Board]

The bill increases the number of private-citizen members of the eight-member Board from two to three members, and requires that they each have “knowledge, skill, and experience in a financial field.” The bill also directs that reasonable efforts must be made to appoint one such private-citizen member as one who “holds a designation of Chartered Financial Analyst, offered by the CFA Institute” to improve the SMART529 College Savings Plan’s national ratings.

The Board is to close the Prepaid Tuition Plan after satisfying “outstanding contract obligations to persons owning Prepaid Tuition Plan accounts, on a pro rata basis as their interests may appear,” as well as “any fees, charges, expenses, penalties, or any other obligation or liability of the Prepaid Tuition Trust Fund or plan.” The Board is to pay these amounts from the Prepaid Tuition Trust Fund, and if its balance is depleted, the Prepaid Tuition Trust Fund is to be closed and the balance of obligations is to be paid from the Prepaid Tuition Trust Escrow Fund.

If a Prepaid Tuition Plan account owner abandons his or her assets, those assets are to be reported and paid over to the unclaimed property administrator in accordance with the Uniform Unclaimed Property Act. That includes any checks issued to the Prepaid Tuition Plan account holder that have not been cashed 60 days after date of issue.

After the Prepaid Tuition Plan is closed, any balances remaining in the Prepaid Tuition Trust Fund and the Prepaid Tuition Trust Escrow Fund are to be allocated as follows:

First, \$5 million must be transferred to the new West Virginia Savings and Investment Program Fulfillment Fund (see below)

Second, the Board may maintain up to \$1,000,000 in the Prepaid Tuition Trust Escrow Fund “for a period not to exceed 10 years following the closure of the Fund for the purpose of satisfying any claims against the Prepaid Tuition Trust Plan arising after the fund’s closure.” The bill contemplates that the Prepaid Tuition Trust Fund is to be closed after depletion, leaving only the Prepaid Tuition Trust Escrow Fund for these purposes. This disposition also requires that unless the Prepaid Tuition Trust Escrow Fund is depleted before the end of the 10-year period, any moneys remaining in the Prepaid Tuition Trust Escrow Fund upon the expiration of 10 years following the date of closure of the Prepaid Tuition Trust Fund shall revert to the state’s General Revenue Fund and the escrow fund will be closed as well.

Third, after the first and second allocations, any remaining balances of the funds shall “revert to the General Revenue Fund.”

Finally, the bill creates a new special revenue account in the State Treasury into which the \$5 million described above is to be deposited. Also to be deposited into the new West Virginia Savings and Investment Program Fulfillment Fund are “any moneys that may be appropriated to the fund by the Legislature; all interest or other return earned or received from investment of the fund; any moneys which the fund is authorized to receive under any provision of this code for the purposes of this article; and all gifts, grants,

bequests, or transfers made to the fund from any source. These moneys are to be used by the State Treasurer to pay “any expenses incurred by the State Treasurer in implementing or administering any savings and investment program with an initial date of operation occurring on or after July 1, 2021.”

CODE REFERENCE: West Virginia Code §18-30-3, §18-30-4 and §18-30-6 – amended; §18-30-6a – new

DATE OF PASSAGE: April 7, 2021

EFFECTIVE DATE: April 7, 2021

ACTION BY GOVERNOR: Signed April 28, 2021



Senate Bill 307

Relating generally to in-state tuition rates for certain persons

Current code defines nonresident active members of a National Guard unit in West Virginia who are participating in the National Guard education services program as “residents” for the purposes in-state tuition at state institutions of higher education.

This bill extends that definition to include active members of a West Virginia reserve unit who are not West Virginia residents, and current members of the United States armed forces who reside in West Virginia. In addition, the bill removes the education services program participation requirement.

CODE REFERENCE: West Virginia Code §18B-10-1a – amended

DATE OF PASSAGE: April 6, 2021

EFFECTIVE DATE: July 5, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

Senate Bill 335

Relating to WV Invests Grant Program for students at accredited community and technical college

This bill modifies the West Virginia Invests Grant program to:

- Clearly indicate that the grant covers the cost of tuition, mandatory, fees, and academic program fees; provided that any academic program fees must be approved by the Council on Community and Technical College Education; and
- Change the drug testing requirement from every semester to every year, and from successfully passing a drug test as a condition to eligibility to requiring drug rehabilitation as a condition to eligibility after a second positive drug test.

DATE OF PASSAGE: April 8, 2021

EFFECTIVE DATE: July 1, 2021

CODE REFERENCE: West Virginia Code §18C-9-3, §18C-9-4, and §18C-9-5 – amended

ACTION BY GOVERNOR: Signed April 15, 2021

Senate Bill 356

Allowing for written part of drivers' exam given in high school drivers' education course

This bill requires the Commissioner of Motor Vehicles to propose rules allowing secondary school driver education instructors to administer a knowledge test developed by the Division of Motor Vehicles; and provides that any person successfully completing a test administered by a driver's education instructor is exempt from the proof of school enrollment requirements.

CODE REFERENCE: West Virginia Code §17B-2-7 – amended

DATE OF PASSAGE: March 26, 2021

EFFECTIVE DATE: June 24, 2021

ACTION BY GOVERNOR: Signed April 7, 2021

Senate Bill 375

Relating to county boards of education policies for open enrollment

This bill:

- Removes language relating to the required contents of a county board open enrollment policy most of which are covered elsewhere in the same section.
- Prohibits the county board to which the student wishes to be transferred from refusing a transfer by virtue of the student transferring from a private, parochial, church, or religious school.
- Provides that an open enrollment application can only be denied by a county board due to lack of grade level capacity or if the nonresident student failed to fill out or submit the application correctly.
- Requires that a denial be in writing, sent to the parent or guardian of the nonresident student and the WVDE within three business days of the decision, and include the reason for the denial and information on appealing the denial of the application.
- Clarifies that appeal is to the State Superintendent.
- Allows county boards accepting the transfer of a student to invoice the county board from which the student transferred if the timing of the transfer results in the county board receiving no state aid funding or special education funding for that pupil for the subsequent school year.

CODE REFERENCE: West Virginia Code §18-5-16 – amended

DATE OF PASSAGE: April 7, 2021

EFFECTIVE DATE: July 6, 2021

ACTION BY GOVERNOR: Signed April 19, 2021

Senate Bill 398

Limiting eligibility of certain employers to participate in PEIA plans

This bill amends the provisions of the West Virginia Code by adding a new section. The new section would eliminate eligibility of certain employers to participate in PEIA. On or after July 1, 2021, employers eligible for participation in PEIA are limited to:

- mandatory participants – the State, its boards, agencies, commissions, departments, institutions or spending units;
- county boards of education or public charter schools that are also 501(c)(3) corporations and have participation required in their charter contract;
- any employer currently participating in PEIA as of the effective date of the bill.

Any county or municipality, public corporations created by counties or municipalities, comprehensive community health centers, county or municipal health departments that are not already participating in PEIA would be ineligible to participate after effective date of the bill.

CODE REFERENCE: West Virginia Code §5-16-29 – new

DATE OF PASSAGE: April 10, 2021

EFFECTIVE DATE: April 10, 2021

ACTION OF GOVERNOR: Signed April 21, 2021

Senate Bill 431

Relating to school attendance notification requirements to DMV

This bill allows the Division of Motor Vehicles to accept from a county board of education electronic notice of a student's compliance with certain enrollment related provisions in lieu of any written form or written statement otherwise required from an applicant for an instruction permit or driver's license.

CODE REFERENCE: West Virginia Code §18-8-11 – amended

DATE OF PASSAGE: March 26, 2021

EFFECTIVE DATE: June 24, 2021

ACTION BY GOVERNOR: Signed April 7, 2021

Senate Bill 435

Requiring county superintendents to authorize certain school principals or administrators at nonpublic schools to issue work permits for enrolled students

This bill:

- Authorizes a person who administers a program of secondary education at a public, private, or home school to issue a work permit to a child 14 or 15 years of age. Current statute only allows the county superintendent or a person authorized by the county superintendent to issue work permits.
- Provides that the person issuing a work permit is required to review rather than receive certain documentation required as a condition of issuance; and removes requirement that the documentation be kept by the person issuing the permit.
- Provides an exception for a homeschooled student to the requirement for a certificate showing that the child is attending school.
- Resolves a current conflict in code by striking through requirement that the work permit certify that the child has appeared before the person issuing the permit.
- Requires the printed forms for work permits furnished to county superintendents to also be made available to others authorized to issue work permits by posting on the Division of Labor's website or other method as determined pursuant to rule.

CODE REFERENCE: West Virginia Code §21-6-3, §21-6-4, §21-6-5, and §21-6-10 – amended

DATE OF PASSAGE: March 26, 2021

EFFECTIVE DATE: June 24, 2021

ACTION BY GOVERNOR: Signed April 7, 2021

Senate Bill 636

Requiring certain history and civics courses be taught in schools

This bill adds specific requirements for what must be included in the required courses on the history of the State of West Virginia, the history of the United States, civics, the Constitution of the United States and the government of West Virginia; requires the state board to consult with certain other entities in prescribing the courses of study; requires the state board to include the basic course requirements for middle school and high school and the academic standards when prescribing the courses of study; requires the state board to publish an approved list of instructional resources; requires the curriculum used in the delivery of instruction to cover the adopted standards; requires the state board to provide testing or assessment instruments for the history and civics courses; and expands the amendments to the United States Constitution that are to be emphasized as a part of the instruction in each social studies class required during Celebrate Freedom Week.

CODE REFERENCE: West Virginia Code §18-2-9 – amended

DATE OF PASSAGE: April 10, 2021

EFFECTIVE DATE: July 9, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

Senate Bill 644

Exempting certain persons pursuing degree in speech pathology and audiology from license requirements

The bill exempts persons seeking a degree in audiology from obtaining a license as a hearing aid dealer. The person seeking the degree must meet specified requirements. The person must be part of a planned course of study, they are designated by a title such as intern, trainee, student, and they work under the supervision of a person licensed by the state to practice audiology.

CODE REFERENCE: West Virginia Code §30-36-2 – amended

DATE OF PASSAGE: April 6, 2021

EFFECTIVE DATE: July 5, 2021

ACTION BY GOVERNOR: Signed April 15, 2021

Senate Bill 651

Allowing county boards of education to publish financial statements on website

This bill:

- Expands the time period after the beginning of each fiscal year in which county boards have to publish their financial statements from 90 days to 120 days.
- Allows county boards to publish their financial statements on their websites instead of as a Class I-0 legal advertisement if:
 - Prior to the first time, the county holds a public hearing at which an interested person can express their view on whether the county board should publish the statement as a Class I-0 legal advertisement or on the county board's website;
 - Upon publishing the financial statement on the county board's website for the first time, the county board publishes public notice of the availability of the website once a week in a qualified newspaper of general circulation for two successive weeks.
- If the financial statement is published as a Class I-0 legal advertisement, prohibits the statement from including the name of any person who has entered in a contract with the county board pursuant to several county board of education employment related sections of code.
- Requires that if published on the county board's website, the financial statement to remain posted on the county board's website at least until publication of the next annual statement and requires the financial statement include:
 - The name of every person who has entered into a contract with the county board pursuant to several county board of education employment related sections of code;
 - Budget estimates; and
 - A list of the names of each firm, corporation, and person who received less than \$250 from any fund during the fiscal year showing the amount paid to each and the purpose for which it was paid.
- Imposes deadline for filing a copy of the published statement with the State Auditor and the State Superintendent of no later than 90 days after the end of the fiscal year.

CODE REFERENCE: West Virginia Code §18-9-3a – amended

DATE OF PASSAGE: April 7, 2021

EFFECTIVE DATE: July 6, 2021

ACTION BY GOVERNOR: Signed April 19, 2021

Senate Bill 657

Relating to free expression on state institution of higher education campuses

This bill regulates possible limitations of free expression on state institution of higher education campuses. It provides that outdoor areas of campuses of state institutions of higher education are public forums for the campus community and prohibits the creation of “free speech zones” or other designated areas of campus outside of which expressive activities are prohibited.

The bill requires that any person who wishes to engage in expressive activity on campus be permitted to do so freely, as long as the person’s conduct is not unlawful and does not materially and substantially disrupt the functioning of the state institution of higher education. The bill allows state institutions of higher education to maintain and enforce reasonable time, place, and manner restrictions that are narrowly tailored to serve a significant institutional interest only when the restrictions employ clear, published, content-neutral and viewpoint-neutral criteria. Any restrictions must allow for members of the campus community to spontaneously and contemporaneously assemble, speak, and distribute literature. The bill does allow state institutions of higher education to prohibit, limit, or restrict expression that the first amendment does not protect and allows them to prohibit harassment. The bill also provides that these provisions do not enable individuals to engage in conduct that intentionally, materially, and substantially disrupts another’s expressive activity if the activity is occurring in a campus space reserved for that activity under the exclusive use or control of a particular group.

The bill prohibits a state institution of higher education from denying a religious, political, or ideological student organization any benefit or privilege available to any other student organization, or otherwise discriminate against such an organization, based on the expression of the organization.

The bill requires state institutions of higher education to develop materials, programs, and procedures to ensure that those persons who have responsibility for discipline, or education of students, such as administrators, campus police officers, residence life officials, and professors, understand the policies, regulations, and duties of state institutions of higher education regarding free expression on campus.

The bill requires that each state institution of higher education post on its website, as well as submit to the governor and Legislature by December 1, 2021, a report that details the course of action implemented to be in compliance with the requirements of the article. A report is also required to be given whenever there are changes or updates to the chosen course of action. The report must be:

- Accessible from the institution’s website home page by use of not more than three links;
- Searchable by keywords and phrases; and
- Accessible to the public without requiring registration or use of a username, a password, or another user identification.

The report must include:

- A description of any barriers to or incidents of disruption of free expression occurring on campus; and
- Any other information each state institution of higher education considers valuable for the public to evaluate whether free expression rights for all members of the campus community have been equally protected and enforced.

If a state institution of higher education is sued for an alleged violation of First Amendment rights, a supplementary report with a copy of the complaint, or any amended complaint, must be submitted to the governor and Legislature within 30 days.

The bill allows any person or student association aggrieved by a violation of this article to bring an action against the state institution of higher education and its employees acting in their official capacities, responsible for the violation and seek appropriate relief, including, but not limited to, injunctive relief, monetary damages, reasonable attorneys' fees, and court costs.

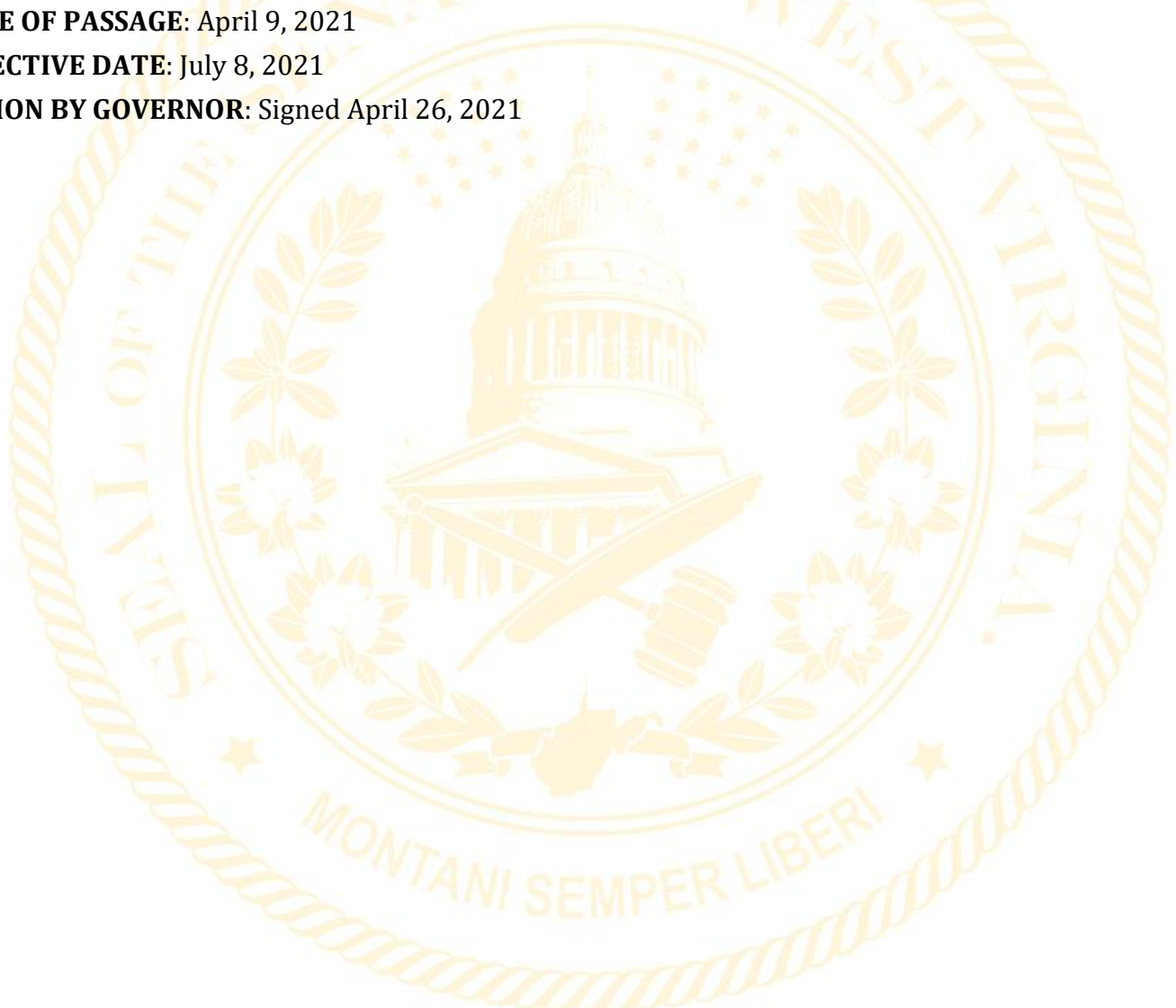
The bill includes a one-year statute of limitations; waives immunity for the state under the Eleventh Amendment of the U.S. Constitution; and includes a severability clause.

CODE REFERENCE: West Virginia Code §18B-20-1 through §18B-20-9 – new

DATE OF PASSAGE: April 9, 2021

EFFECTIVE DATE: July 8, 2021

ACTION BY GOVERNOR: Signed April 26, 2021



Senate Bill 658

Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children

This bill amends and reenacts the West Virginia Sheriffs' Bureau of Professional Standards general power and duties to authorize the Bureau to assist the sheriffs of each county of the state to provide "Handle With Care" program training to law-enforcement supervisors and patrols, and to actively participate in and use all law enforcement related components of the "Handle With Care" program to help trauma-inflicted children in the public or private school system.

The West Virginia Defending Childhood Initiative Handle With Care Program promotes school and community partnerships to protect children with the goal of helping traumatized children heal and thrive. Under the Handle With Care program, if a law enforcement officer encounters a child during a call, that child's information is forwarded to the school before the school bell rings the next day. The school implements individual, class and whole school trauma-sensitive curricula to that traumatized children are "Handled With Care". If a child needs more intervention, on-site trauma-focused mental healthcare is available at the school.

The program requires law enforcement supervisors to attend training and to provide training to patrols on department policy to identify, document, and report children encountered on the scene of calls. Officers must be familiar with appropriate on- scene response when children are present to ensure the impact of trauma is minimized.

CODE REFERENCE: West Virginia Code §7-26-2 – amended

DATE OF PASSAGE: April 9, 2021

EFFECTIVE DATE: July 8, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

Senate Bill 680

Allowing State Superintendent of Schools define classroom teachers certified in special education

This bill allows the State Superintendent to define classroom teacher certified in special education and employed as a full-time special education teacher for the purposes of determining who is to receive the three additional years of experience on the teacher salary schedule.

CODE REFERENCE: West Virginia Code §18A-4-2 – amended

DATE OF PASSAGE: April 6, 2021

EFFECTIVE DATE: July 5, 2021

ACTION BY GOVERNOR: Signed April 19, 2021

House Bill 2001

Relating generally to creating the West Virginia Jumpstart Savings Program

This bill establishes the WV Jumpstart Savings Program. The bill:

- Requires the program to be administered by a WV Jump Start Savings Board consisting of the following seven members:
 - The State Treasurer.
 - The State Superintendent of Schools, or his or her designee.
 - The Chancellor of the WV Community and Technical College System, or his or her designee.
 - Four members appointed by the Governor, with the advice and consent of the Senate, with knowledge, skill, and experience in trade occupations or businesses. One must be a member representing a labor organization that represents tradespersons in this state; one must be a member representing a business or entity offering apprenticeships in this state; and two must be private citizens not employed by, or an officer of, the state or any of its political subdivisions. The appointed members must be state residents, serve for five-year terms and are eligible for reappointment.
- Designates the Treasurer as the chairman and presiding officer of the board and requires the Treasurer to appoint employees the board considers advisable or necessary.
- Addresses vacancies among the appointed members, payment of board member expenses, the adoption of bylaws and rules of procedure; and provides that a majority constitutes a quorum.
- Authorizes the board to take any lawful action necessary to effectuate the provisions of the Jumpstart Savings article and successfully administer the program and sets forth the following minimum specific powers and duties that this authority is to include:
- Adopt and amend bylaws.
 - Execute contracts and other instruments for necessary goods and services, employ necessary personnel, and engage the services of private consultants, auditors, counsel, managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice; provides that the selection of these services is not subject to the statutory purchasing provisions; and provides that all expenditures and monetary and financial transactions are subject to periodic audits by the Office of Chief Inspector, or the Legislative Auditor, or both.
 - Implement the program through use of financial organizations as account depositories and managers.
 - Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program.
 - Establish the method by which funds are to be allocated to pay for administrative costs and assess, collect, and expend administrative fees, charges, and penalties.
 - Authorize the assessment, collection, and retention of fees and charges against the amounts paid into and the earnings on the trust funds by a financial institution, investment manager, fund manager, WV Investment Management Board, the Board of Treasury Investments, or other professional managing or investing the trust funds and accounts.
 - Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the WV Investment Management Board, the Board of Treasury Investments, or other professional investing the funds and accounts;

and provides that the investments made will be made in accordance with the Uniform Prudent Investor Act.

- Solicit and accept gifts, including bequests or other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of the Jumpstart Savings article.
- Propose legislative rules.
- Requires the Treasurer to:
 - Provide support staff and office space for the board.
 - Establish and monitor, at the direction of the board, the methods and processes by which the funds held in accounts are deposited and distributed.
 - Charge and collect any necessary administrative fees, penalties, and service charges in connection with any agreement, contract, or transaction relating to the program.
 - Develop marketing plans and promotional material to ensure that potential program beneficiaries will be aware of the program and the advantages the program offers.
 - Present the annual evaluations and reports at any meeting or proceeding of the Legislature or the Office of the Governor upon request.
- Allows the Treasurer to:
 - Collect all necessary information from program account holders and beneficiaries.
 - Create forms necessary for implementation of the program.
 - Propose legislative rules for legislative approval that are necessary to effectuate the provisions and purposes of the WV Jumpstart Savings Act article.
 - Perform all other lawful actions necessary to effectuate the provisions of the Jumpstart Savings article.
- Includes provisions relating to requiring the board to establish the Jumpstart Savings Program Trust and a Jumpstart Savings Program Trust Fund Account, entitled the Jumpstart Savings Trust Fund, to receive all moneys from account owners on behalf of beneficiaries or from any other source, public or private.
- Establishes the Jumpstart Savings Program Expense Fund to receive all fees, charges, and penalties collected by the board; and provides that all expenses incurred by the board or the Treasurer in developing and administering the program are to be payable from the fund.
- Allows the board to implement the program through the use of financial organizations as account depositories and managers; sets forth the criteria for selecting the financial organizations; and sets forth the minimum provisions a management contract with a financial institution must include.
- Requires that in order to open a Jumpstart Savings account, an account owner must:
 - Provide all information required by the Treasurer.
 - Make a minimum opening deposit of \$25.
 - Name a single person as the designated beneficiary which may be the account owner him or herself.
- Requires the Treasurer to deposit \$100 from the Jumpstart Savings Expense Fund into a newly opened Jumpstart Savings account if the beneficiary is a WV resident; and the account is opened when the designated beneficiary is under 18 years of age; or the account is opened within the 180 days following the date of the designated beneficiary's enrollment in a qualifying apprenticeship or educational program.

- Allows any person to make a contribution to a Jumpstart Savings account.
- Requires the Treasurer to prescribe all forms required to open and make deposits to a Jumpstart Savings account and make the forms available in a prominent location on the Treasurer's website.
- Sets forth the following as qualified expenses:
 - The purchase of tools, equipment, or supplies by the beneficiary to be used exclusively in an occupation or profession for which the beneficiary is required to:
 - Complete an apprenticeship program registered and certified with the U.S. Department of Labor.
 - Complete an apprenticeship program required by any provision of code or legislative rule.
 - Earn an Associate degree or certification from a community and technical college.
 - Fees for required certification and licensure to practice certain trades or occupations in this state.
 - Costs incurred by the beneficiary that are necessary to establish a business in this state in which the beneficiary will practice certain occupations or professions when the costs are exclusively incurred and paid for the purpose of establishing and operating the business.
- Includes provisions relating to requiring annual reports to the account owners and quarterly reports to the Joint Committee on Government and Finance; requiring an annual external audit of all accounts administered under the program; authorizing the board and an apprenticeship provider, training or educational institution, or employer to exchange information regarding participants in the program to carry out the purposes of the Jumpstart Savings article; and providing that the board, Treasurer, the state, or any agency or instrumentality of the state is under no obligation to guarantee the return of the principal or rate of interest.
- Requires the board to promulgate rules that at least include requirements for any contract to be entered between the board and an account holder; examples of qualified expenses; and procedures for Jumpstart Savings accounts, making contributions to and requesting distributions from the accounts, and instructions for accessing any necessary forms.
- Provides a decreasing modification to WV adjusted gross income, not to exceed \$25,000, for a contribution to a Jumpstart Savings account in an amount equal to the contribution; and allows the deduction to be carried forward over a period not to exceed five years.
- Provides a decreasing modification to WV adjusted gross income for the beneficiary or the account owner, not to exceed \$25,000, equal to the portion of a distribution from a Jumpstart Savings account that is used to pay for qualified expenses.
- Creates a decreasing modification to WV adjusted gross income in an amount equal to a distribution from a Jumpstart Savings account that the account owner rolls over into a WV ABLE account within 30 days of receiving the distribution, the effect of which is to ensure that money rolled over from the Jumpstart Savings Account to a WV ABLE account isn't treated as taxable income based on the transfer.
- Creates a decreasing modification to WV adjusted gross income equal to the portion of a distribution from a Smart529 college savings account if the taxpayer deposits the amount into a Jumpstart Savings account within 30 days of receiving the distribution, the effect of which is to ensure⁴ that money rolled over from the Smart 529 account to a Jumpstart Saving account isn't treated as taxable income based on the transfer.

- Creates a nonrefundable credit, not to exceed \$5,000, for a matching contribution made to a Jumpstart Savings account if the beneficiary of the account is an employee of the taxpayer and a WV resident.

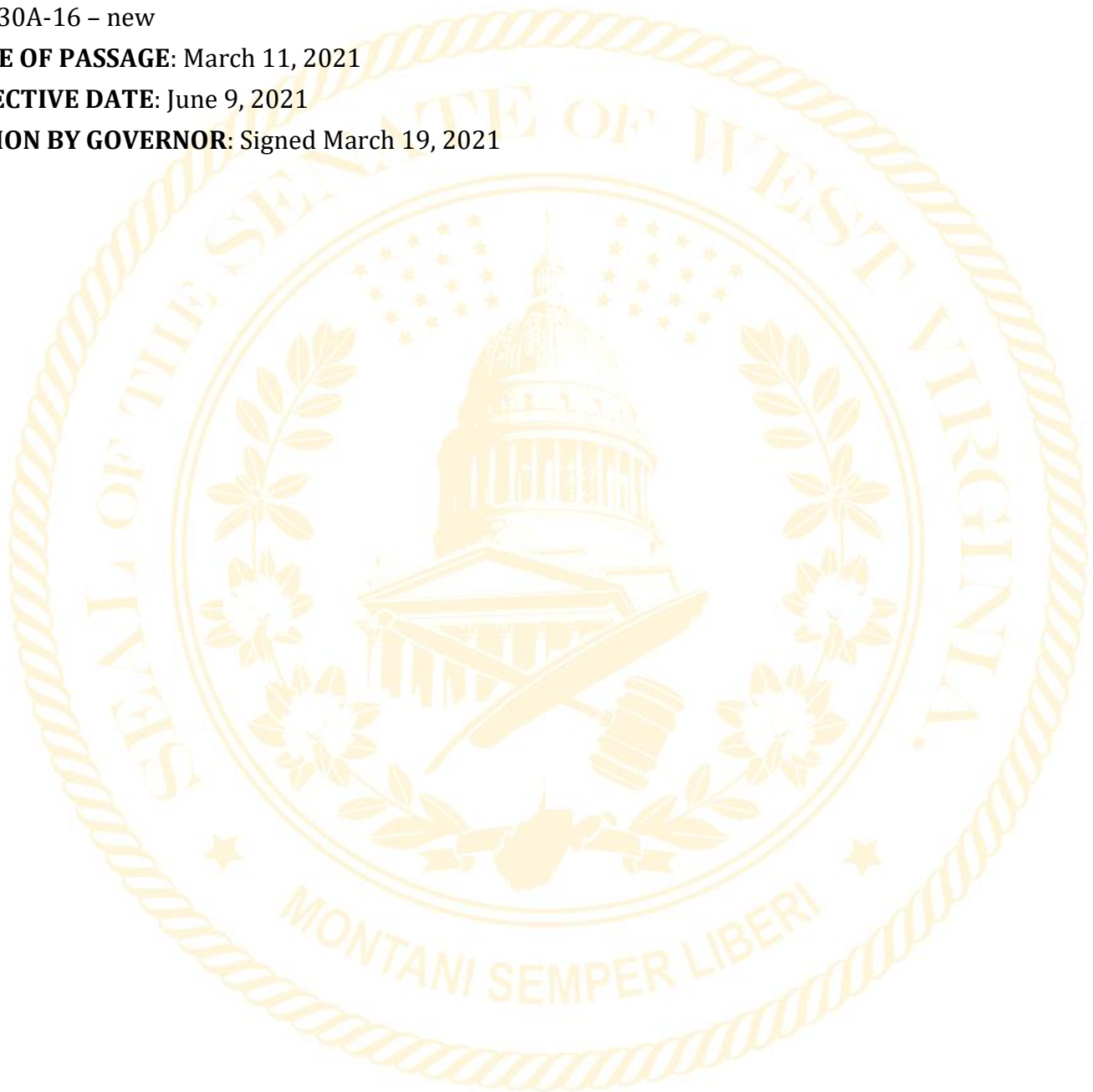
The House and Senate adopted HCR 24 requesting the United States Congress to adopt provisions in the Federal Code granting income tax relief for income earned in West Virginia Jump Start accounts.

CODE REFERENCE: West Virginia Code §11-21-12m, §11-21-25, §11-24-10a, and §18-30A-1 through §18-30A-16 – new

DATE OF PASSAGE: March 11, 2021

EFFECTIVE DATE: June 9, 2021

ACTION BY GOVERNOR: Signed March 19, 2021



House Bill 2009

Relating to limitations on the use of wages and agency shop fees by employers and labor organizations for political activities

This bill amends two sections in the Wage Payment and Collection Act, W. Va. Code §21-5-1 et seq. The changes to these sections preclude deductions of union, labor organization, or club dues or fees from the wages of public employees, except for municipal employees covered by a collective bargaining agreement with a municipality which is in effect on July 1, 2021. It expands the definition of “deductions” to include union and club fees, labor organization dues or fees, and any form of insurance offered by an employer; defines a new term, “assignment”, which incorporates the definition of “assignment of earnings” from the Consumer Credit & Protection Act.

The bill also replaces the notarization requirement for assignments with a requirement that an assignment or order must be in writing. It also expressly protects the right of private employers and employees to agree between themselves as to payroll deductions, and expressly protects the right of employees to join, become a member of, contribute to, donate to, or pay dues to a union, labor organization, or club. The bill amends one section in the Consumer Credit and Protection Act, W. Va. Code §46A-1-1 et seq., by adding union or club fees, labor organization dues or fees, and any form of insurance offered by an employer as deductions which are excluded under the definition of “assignment of earnings”.

The bill makes the following additional changes elsewhere in the Code to correspond with the changes described above: The bill creates one new section in Chapter 7 (County Commissions and Officers) which provides that no deductions or assignments of earnings are allowed for union, labor organization, or club dues or fees from the compensation of county officers or employees. The bill amends one section in Chapter 8 (Municipal Corporations) by providing that no deductions or assignments of earnings are allowed for union, labor organization, or club dues or fees from the compensation of municipal officers or employees, except for municipal employees covered by a collective bargaining agreement with a municipality which is in effect on July 1, 2021. The bill amends one section in Chapter 12 (Public Moneys and Securities) by removing language that currently allows state officers and employees to authorize voluntary deductions for payment of membership dues or fees to an employee association. It also authorizes the Auditor to approve and authorize voluntary other deductions as defined in the Wage Payment and Collection Act; removing a proviso regarding existing arrangements for dues deductions between employers or political subdivisions and employees; and clarifying that no deductions or assignments of earnings are allowed for union, labor organization, or club dues or fees from the compensation of state officers or employees.

Finally, the bill amends one section in Chapter 18A (School Personnel) by providing that no deductions or assignments of earnings are allowed for union, labor organization, or club dues or fees from the compensation of teachers or other school employees.

CODE REFERENCE: West Virginia Code §8-5-12, §12-3-13b, §18A-4-9, §21-5-1, §21-5-3, §46A-2-116 – amended; §7-5-25 – new

DATE OF PASSAGE: March 19, 2021

EFFECTIVE DATE: June 17, 2021

ACTION BY GOVERNOR: Signed March 30, 2021

House Bill 2012

Relating to public charter schools

This Act makes numerous changes to related to Public Charter Schools as follow:

- The limit of 3 authorized and operating pilot public charter schools until July 1, 2023, and to 3 additional in every 3-year period thereafter is increased to 10 in both instances.
- An audit by the Legislative Auditor of the public charter school program is required two years after the first public charter school commences operation. The findings are to be reported to LOCEA.
- Requires two or more county boards to initially act together when application is made to form a public charter school with a primary recruitment area that encompasses territory in two or more counties. If the application is rejected by the collective group, one or more of the individual county boards may approve the application, but the school must be located in one of the counties where the application was approved.
- The newly created West Virginia Professional Charter School Board is added as an authorizer empowered to review, approve or reject applications, enter into contracts and oversee public charter schools.
- The definition of an “Education service provider” is amended to mean a public or private nonprofit or for-profit education management organization, etc.
- A “full-time virtual public charter school” is defined as a public charter school that offers educational services predominantly through an online program.
- The deadline for applying to establish a public charter school is reset to August 31 of the year prior to proposed beginning of operation in the following school year.
- Local Education Agency (LEA) status is changed to make a public charter school as its own LEA for all purposes except as needed under the provisions of the public school support plan (school aid formula) for funding purposes.
- Any rule promulgated by the State Board to clarify and address unforeseen issues with the charter school statute is prohibited from conflicting with the code. The rules required by these statutes must be promulgated by July 1, 2021 and may by emergency rules.
- Each authorizer now must require each charter school it oversees to submit an annual report to assist the authorizer in gathering the information it needs about the school consistent with the statutory requirements and the charter contract.
- The provisions related to charter contracts are modified as follows:
 - All or parts of an approved application may be incorporated into a charter contract as long as the application contains all of the requirements of the contents required for a contract.
 - A requirement that the contract contain the specific commitments of the authorizer relating to its obligations to oversee, monitor progress and supervise the charter school are deleted.
 - The contract must contain conditions under which a contract may be non-renewed and the non-renewal process, including the time period for notice of potential non-renewal and the reasons, the right to be represented by counsel, and not less than 60 days to provide a response. Contract revocation is removed from these provisions.
 - A June 30 deadline of the final year of a charter school’s operation is established for the authorizer to issue contract renewal application guidance to the charter school. The guidance must be specific to the named charter school.

- Annual performance audits and any required financial audits are added to the evidence to be considered by an authorizer in making decisions on charter contract renewal.
- A governing board may be represented by counsel and call witnesses at a recorded public hearing it may request to provide supporting information when the authorizer declines to renew its charter contract. The nonrenewal of a contract may be appealed to the State Board.
- A listing conditions for which a charter contract may be revoked at any time or not renewed. Is changed to apply only to non-renewals. Note, however, that the provision allowing a charter contract to be revoked at any time the authorizer determines that the health and safety are threatened is reinserted as discussed below.
- A charter contract may be revoked at any time if the authorizer determines that the health and safety of students attending the public charter school is threatened, an administrator employed by or member of the governing board over the charter school is convicted of fraud or misappropriation of funds, there is a failure to meet generally accepted standards of financial management, there is a material breach of the charter contract, there is a substantial violation of any provision of law from which the public charter school is not exempted, or there are dire and chronic academic deficiencies.
- Charter school applicants and governing boards are provided 30 days following an authorizer's decision to deny an application or not renew a contract to appeal the decision to the State Board. The State Board is to promulgate a rule establishing the process and timelines for these filed appeals. The State Board is required to remand the decision back to the authorizer for further proceedings if the substantive rights of the applicant have been prejudiced by certain listed violations or actions.

Virtual public charter schools may be authorized and are subject to the same requirements as non-virtual public charter schools to the extent those requirements do not conflict with the provisions of this section. The section permits the Professional Charter School Board to authorize one (2) statewide virtual charter schools that are limited to no more than 5% of the headcount enrollment per year. Each county board also may authorize one virtual charter school with enrollment limited to students within the primary recruitment area identified in the application and may not exceed 10% of the county's headcount enrollment.

When enrolling a student who may require special education services, the same obligations apply to a virtual public charter school as applies to all other public charter schools. Enrollment may not be denied or delayed on the basis of a disability and the charter school must convene an Individualized Education Program (IEP) meeting after admission to ensure that the school develops an appropriate IEP in accordance with all of the requirements set forth in the Individuals with Disabilities Education Act (IDEA).

To the extent the charter contract delineates instruction outside of a school building, the student or parent are not subject to penalties for being absent from a building and to the extent the instruction is learned at your own pace, are not subject to instructional term requirements.

The governing body of a virtual charter must undergo at least one training per year on appropriate oversight of virtual charters. Virtual charters are required to offer student orientation and require students to attend the orientation before completing any other instructional activity as defined in the section. The virtual charter is also required to have a policy with consequences for students that fail to participate in instructional activities, including disenrollment when certain conditions are met. The virtual must coordinate directly with the district of residence regarding appropriate educational placement based on

assessments for a student transferring from a virtual charter. Virtual charter schools must provide data on student progress toward graduation as agreed to in the charter contract and shall maintain clear requirements relating to student engagement and teacher responsiveness. The authorizer may establish additional requirements for students in grades six and below to ensure they are developmentally appropriate. The West Virginia Professional Charter School Board is created and will report directly to and be responsible to the State Board, separate from the Department. The mission of the board is to authorize high-quality public charter schools throughout the state that provide more options for students, particularly through schools designed to expand the opportunities for at-risk students. The Professional Charter School Board and public charter schools authorized in accordance with this article are subject to the general supervision of the state board solely for the purposes of accountability for meeting the standards for student performance required of other public school students.

The Professional Charter School Board has 5 members appointed by the Governor with advice and consent of the Senate, who will serve for staggered 2-year terms.

- The Chairs of the Senate and House Education Committees will serve as nonvoting ex-officio members.
- Qualifications are listed for the appointed members along with grounds for removal.
- The Board may appoint an executive director to serve at its will and pleasure and may employ staff.

The Professional Charter School Board must investigate official complaints submitted to it that allege serious impairments in the quality of education in a public charter school or virtual public charter school it has authorized pursuant to this article, or that allege such schools are in violation of the policies or laws applicable to them. The Board also may at its own discretion conduct or cause to be conducted audits of the education and operation of public charter schools or virtual public charter schools it has authorized pursuant to this article that it determines necessary to achieve its mission of authorizing high-quality public charter schools. Upon a determination that serious impairments or violations exist, the Board shall promptly notify in writing the public charter school governing board of the perceived serious impairments or violations and provide reasonable opportunity for the school to remedy the serious impairments or violations. The Board shall take corrective actions or exercise sanctions in response to apparent serious impairments or violations. If warranted, the actions or sanctions may include requiring a charter school to develop and execute a corrective action plan within a specified time frame.

CODE REFERENCE: West Virginia Code §18-5G-1, §18-5G-2, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-9, §18-5G-10, and §18-5G-11 – amended; §18-5G-13, §18-5G-14, and §18-5G-15 – new

DATE OF PASSAGE: April 3, 2021

EFFECTIVE DATE: June 1, 2021

ACTION BY GOVERNOR: Signed April 11, 2021

House Bill 2013

Relating to the Hope Scholarship Program

The purpose of this bill was to create the Hope Scholarship Program. The provisions of the bill:

- Create a compulsory school attendance exemption for eligible recipients participating in the Hope Scholarship Program who provide a notice of intent to the county superintendent; and requires the county superintendent to enter certain information regarding the recipient into WVEIS.
- Require the Department of Education to include in its budget request, and the Governor to include in each budget bill submitted to the Legislature, an appropriation to the Department of Education for the greater of an amount not less than two percent of net public school enrollment adjusted for state aid purposes or the total number of eligible Hope Scholarship applications received by the Hope Scholarship Board, if available, multiplied by the prior year's statewide average net state aid allotted per pupil; requires the amount appropriated to be transferred by the Department to the Hope Scholarship Board to meet its Hope Scholarship obligations; requires the Governor to also provide in each budget for the reappropriation for expenditure during the ensuing fiscal year the balance to the Department of Education that was not transferred to the Hope Scholarship Board due to an accumulated balance from prior years; and requires the amount requested and included in the budget bill to be reduced by any unused accumulated amounts transferred to the Hope Scholarship Board in previous years and any unused appropriations made to the Department of Education that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior years.
- Define terms, one of which is a definition for "eligible recipient" which means a child who:
 - Is a resident of this state; and
 - Is enrolled full-time and attending a public elementary or secondary school program in this state for at least 45 calendar days during an instructional term at the time of application and until an award letter is issued by the board; or enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year; or is eligible at the time of application to enroll in a kindergarten program in this state, except that if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment adjusted for state aid purposes for the previous school year, then, effective July 1, 2026, a child is considered to meet these requirements if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program or public elementary or secondary school program in this state at the time of application.
- Create the West Virginia Hope Scholarship Board to administer the Hope Scholarship Program; requires that the board consist of the State Treasurer, the State Auditor, or a designee, the State Attorney General, or a designee, the State Superintendent of Schools, or a designee, the Chancellor for Higher Education, or a designee, the director of the Herbert Henderson Office of Minority Affairs, or a designee, and three members appointed by the Governor with the advice and consent of the Senate, who are parents of Hope Scholarship students, or for the initial appointments, parents who intend to apply for the Hope Scholarship on behalf of eligible recipients; includes further provisions for the appointed members relating to qualifications, terms, and vacancies; provides for reimbursement of expenses for the members; provides that the Treasurer is the chairman and

presiding officer of the board; authorizes the Treasurer to provide office space and staff to the board; authorizes the State Superintendent to provide staff to the board; provides that a majority constitutes a quorum; and subjects the members to the Governmental Ethics Act requirements.

- Authorize the Board to take any action necessary to effectuate the provisions of the Hope Scholarship article and sets forth the minimum powers the authority includes.
- Require the Hope Scholarship Program to be operational no later than July 1, 2022.
- Require the board to create a standard application form that a parent can submit to establish his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal education savings account to be used for qualifying education expenses on behalf of the eligible recipient; and requires information about scholarship funds and the application to be available on the board's website.
- Require the board to make the applications available by March 1, 2022 and to begin accepting applications immediately thereafter; requires the board to issue an award letter to eligible recipients within 45 days of receipt of an application and all required documentation; and requires the board to approve an application if all of the following conditions are met:
 - A parent submits an application.
 - The student is an eligible student.
 - The parent signs an agreement with the board, promising to:
 - Provide an education for the eligible recipient in at least the subjects of reading, language, mathematics, science, and social studies.
 - Use the Hope Scholarship funds exclusively for qualifying expenses.
 - Comply with the rules of the program.
 - Afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature.
 - The board confirms with the West Virginia Department of Education that the student satisfies the 2nd part of the definition of an eligible student, but if the West Virginia Department of Education does not respond within 30 days, this criteria is considered satisfied.
- Provide that an application for a Hope Scholarship is confidential and not subject to release pursuant to FOIA.
- Create a West Virginia Hope Scholarship Program Fund to be administered by the Treasurer and consist of funds transferred by the Department of Education.
- Require the amount of Hope Scholarship funds made available to an eligible recipient on a yearly basis be equal to 100% of the prior year's statewide average net state aid share allotted per pupil subject to administrative costs; and requires that the amount be prorated when an eligible students is awarded the scholarship for less than a full fiscal year.
- Require an amount not to exceed 5% of the fund to be transferred annually to the West Virginia Hope Scholarship Program Expense Fund to cover annual administrative costs; and allows the Treasurer to request an appropriation if the number of Hope Scholarship accounts increases significantly after any fiscal year.
- Require half of the annually required deposit to be made no later than August 15 of every year into an eligible recipient's Hope Scholarship account and half to be made no later than January 15 of every year; and provides that any funds remaining at the end of the fiscal year can be carried over to the next fiscal year.

- Provide that funds deposited in a student's account, other than funds for transportation services, do not constitute taxable income to the parent or student.
- Require the board to continue to make deposits into an eligible recipient's Hope Scholarship account unless any of the following occur:
 - The parent fails to renew the account or withdraws from the program.
 - The board determines that the student is no longer eligible for the Hope Scholarship.
 - The board suspends or revokes participation in the program for failure to comply with the program requirements.
 - The Hope Scholarship student successfully completes a secondary education program.
 - The student reaches 21 years of age.
- Require that if any of the foregoing conditions occur, the board must notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to adequately address the condition upon which closure is based within 30 days of receipt of notice, the board shall close the account and any remaining fund shall be returned to the state.
- Set forth the following as qualifying expenses:
 - Ongoing services provided by a public school district, including without limitation, individual classes and extracurricular activities and programs.
 - Tuition and fees at a participating school.
 - Tutoring services provided by an individual or a tutoring facility except that the tutoring services cannot be provided by a member of the Hope Scholarship student's immediate family.
 - Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, and tuition and/or fees for preparatory courses for the aforementioned exams.
 - Tuition and fees for programs of study or the curriculum of courses that lead to an industry-recognized credential that satisfies a workforce need.
 - Tuition and fees for nonpublic online learning programs.
 - Tuition and fees for alternative education programs.
 - Fees for after-school or summer education programs.
 - Educational services and therapies, including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies.
 - Curriculum.
 - Fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider.
 - Any other qualified expenses as approved by the board.
- Require annual renewal of the Hope Scholarship; provides that the recipient remains eligible to apply for renewal until one of the above conditions for ceasing deposits into an account occurs; and requires that the board verify the following with the West Virginia Department of Education by July 1 of every year:
 - A list of all active Hope Scholarship Accounts.
 - The resident school district of each Hope Scholarship student.
 - For a Hope Scholarship student who chooses to attend a participating school, annual confirmation of his or her continued attendance at a nonpublic school that complies with all requirements that other nonpublic school students must comply with.

- For a Hope Scholarship student who chooses an individualized instructional program:
 - He or she has annually taken a nationally normed standardized achievement test of academic achievement; the mean of the child's test results in the subject areas of reading, language, mathematics, science and social studies for any single year is within or above the fourth stanine or, if below the fourth stanine, show improvement from the previous year's results; and the child's test results are reported to the county superintendent; or
 - A certified teacher conducts a review of the student's academic work annually; the certified teacher determines that the student is making academic progress commensurate with his or her age and ability; and the certified teacher's determination is reported to the county superintendent.
- Require each county superintendent to submit the test results and determinations to the West Virginia Department of Education each year on or before June 15.
- Provide that if the parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify the parent that the eligible recipient's account will be closed within 45 calendar days; and provides that if a parent chooses not to renew or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys are to be returned to the state.
- Include provisions relating to allowing the board, in consultation with the West Virginia Department of Education, to adopt rules and policies for Hope Scholarship students who want to continue to receive services provided by the public school or district, including individual classes and extracurricular programs, in combination with an individualized instructional program.
- Include other provisions relating to the board's providing certain information pertaining to the Hope Scholarship Program; allowing the board to contract with private organizations to administer the program; requiring the board to implement a commercially viable, cost effective, and parent-friendly system for payment of services from Hope Scholarship accounts; addressing an education service provider's requiring partial payment of tuition or fees prior to the start of the academic year to reserve space for a student; allowing the board to propose legislative rules, including emergency rules, if necessary, to meet the required timelines that are necessary for the administration of the program.
- Require the board to conduct or contract for the random auditing of individual Hope Scholarship accounts as needed to ensure compliance with the Hope Scholarship statutory and rule requirements; allows the board to remove a parent or eligible recipient from the program and close an account for failure to comply with the terms of the parental agreement, failure to comply with applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of Hope Scholarship funds; and requires a parent or Hope Scholarship student be able to appeal the decision to make the student ineligible for funds to the board.
- Allow the board to conduct or contract for the audit of education service providers accepting payments from Hope Scholarship accounts in certain instances; allows the board to bar the education service provider from continuing to receive payments if the board determines that an education service provider has intentionally and substantially misused funds; and requires that an education service provider be able to appeal a decision to bar it from receiving payments to the board.

- Set forth specific requirements applicable in order for an education service provider to be eligible to accept payments from a Hope Scholarship account.
- Include language relating to the provision of a student's school records to an education service provider, legal proceedings, and severability.

CODE REFERENCE: West Virginia Code §18-8-1 and §18-8-1a – amended; §18-9A-25 and §18-31-1 through 13 – new

DATE OF PASSAGE: March 17, 2021

EFFECTIVE DATE: June 15, 2021

ACTION BY GOVERNOR: Signed March 29, 2021



House Bill 2029

Relating to teacher preparation clinical experience programs

The purpose of this bill is to remove a potential nomenclature conflict between the statutory teacher in residence program enacted in 2012 and a senior year resident teacher program approved by the State Board more recently. The resident teacher program is a year-long clinical placement in lieu of the typical student teaching. The statutory teacher in residence program enables the placement of a prospective teacher who has completed all requirements for teacher certification, including passing the licensure tests, except student teaching, in an open posted teaching position as the teacher of record. They are to receive intensive supervision and mentoring under a formal agreement between the institution and the county board. Both programs are clinical experience programs within teacher education at institutions of higher education and are under the direction of the State Board.

The bill changes the name of the statutory “Teacher in Residence” program to “Clinical Teacher of Record” in both the program description in §18A-3-1 and in the type of permit they are required to hold in §18A-3-2a. It also adds the resident teacher clinical experience as a type of higher education program in teacher preparation, in addition to the current student teaching.

CODE REFERENCE: West Virginia Code §18A-3-1 and 2a – amended

DATE OF PASSAGE: April 10, 2021

EFFECTIVE DATE: July 9, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

House Bill 2145

Relating to student aide class titles

This bill provides for two new classifications of aides, each with an accompanying temporary authorization for persons who do not meet the qualification but are enrolled and pursuing the requirements as prescribed by the State Board of Education. The first new classification is “Aide V (Special Education Assistant Teacher)” which means a service person referred to in the “Aide I” classification who holds a high school diploma or a general educational development certificate and who has completed the requirements and experience prescribed by the State Board of Education. The second new classification is “Aide VI (Behavioral Support Assistant Teacher)” which means a person who works with a student or students who have identified behavior difficulties, holds at least an Aide III classification, and has completed the requirements and experience prescribed by the state board of education. The bill also assigns a pay grade (E) for both of the new temporary authorizations and (F) for both of the full authorization positions.

CODE REFERENCE: West Virginia Code §18A-4-8 and 8a – amended

DATE OF PASSAGE: April 10, 2021

EFFECTIVE DATE: July 9, 2021

ACTION BY GOVERNOR: Signed April 28, 2021

House Bill 2267

Establishing an optional bus operator in residence program for school districts

This bill allows county boards of education to establish locally funded recruitment and training programs for prospective bus operators. County board funded recruitment and training programs for prospective bus operators are subject to the following:

- The program must be submitted to the West Virginia Department of Education and be approved.
- The program can only be used if the county board is unable to maintain an adequate number of bus operators or substitute bus operators in its pool or is experiencing a shortage in adequately staffing its school transportation system.
- The program must include requirements for program participants to submit to and pass a background check and submit to and pass pursuant to the West Virginia School Bus Transportation Policy and Procedures Manual (Policy 4336), a drug screen.
- The program must specify the amount of any stipend to be paid to program participants or any reimbursement of participant costs or other benefit upon successful completion, if any, and any penalties for failure to complete the program, if any.
- The program must specify any obligation on participants who successfully complete the program to apply or become employed by the county board as a bus operator or substitute bus operator for a period of time, if any, and any penalty for failure to comply with any post program completion requirements, if any.
- The county board is required to post bus operator training program position openings on the county board web site and can advertise them in other media, including any appropriate qualifications.

A bus operator recruitment and training program approved by the Department of Education must ensure that all of the requirements to become classified as a bus operator are met for successful program completion.

The bill also provides that completion of a county board bus operator recruitment and training program does not entitle a participant to employment as a bus operator or substitute bus operator for the county board providing the program; and allows the person to attain regular employment status only upon successful application for an open bus operator or substitute bus operator position with the county.

The bill also provides that a person completing a bus operator recruitment training program does not accrue seniority for time spent in the training program.

CODE REFERENCE: West Virginia Code §18A-2-15 – new

DATE OF PASSAGE: April 8, 2021

EFFECTIVE DATE: July 7, 2021

ACTION BY GOVERNOR: Signed April 27, 2021

House Bill 2529

Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing

This bill prohibits a state institution of higher education from requiring a person who has obtained a diploma or other appropriate credential from a nonpublic or home school, and who has acceptable test results on the ACT, SAT, or other admission test recognized by the institution of higher education, to submit to alternate testing as a condition of admission; prohibits the rejection of a person from admission to an institution of higher education solely because their secondary education was not accredited by the State Board of Education or any accrediting agency approved by the board; and allows an institution, once a student has been fully admitted, to administer placement tests or other assessments to determine the appropriate placement of students into college-level course sequences or to assess the content thereof for the purposes of determining whether a person meets other requirements for a specific program.

CODE REFERENCE: West Virginia Code §18-8-12 and §18B-1-1e – amended

DATE OF PASSAGE: April 7, 2021

EFFECTIVE DATE: July 6, 2021

ACTION BY GOVERNOR: Signed April 21, 2021

House Bill 2785

Relating to public school enrollment for students from out of state

This bill provides that the parent or guardian determines whether a child is to be removed from a kindergarten program rather than having the principal make the final determination; provides that attendance at a state-approved, nonpublic kindergarten program, including a Montessori kindergarten program, homeschool kindergarten program, Hope Scholarship kindergarten program, or private, parochial, or church kindergarten program is considered school attendance; provides that students entering the public school system after the kindergarten program must be placed in the developmentally and academically appropriate grade level; requires that a student from another state or who is eligible to enroll in a public school in this state be enrolled in the same grade in a public school in West Virginia as the student was enrolled at in the school or program from which the student transferred; and requires that a transcript or other credential provided by a public school program, private school program, homeschool program or HOPE Scholarship program be accepted by a public school in this state as a record of a student's previous academic performance for the purposes of placement and credit assignment.

CODE REFERENCE: West Virginia Code §18-8-1a – amended

DATE OF PASSAGE: April 7, 2021

EFFECTIVE DATE: July 6, 2021

ACTION BY GOVERNOR: Signed April 21, 2021

House Bill 2791

Relating to end costs of homeschooled or private school students at vocational schools

The Act requires county boards of education to permit students who are homeschooled or attend private schools to enroll and take classes at county vocational schools, if any are provided and as capacity allows, at no expense or cost greater than expenses or costs normally charged to public school students. If a homeschooled or private school student is denied admission to a county vocational school, the county board must provide written notice to the parent or guardian of the student and Department of Education.

CODE REFERENCE: West Virginia Code §18-5-15g – new

DATE OF PASSAGE: April 5, 2021

EFFECTIVE DATE: July 4, 2021

ACTION BY GOVERNOR: Signed April 15, 2021

House Bill 2852

Relating to distribution of the allowance for increased enrollment

This bill strikes the required September distribution of the allowance for increased enrollment that's based on projections and provides for a full distribution on or before December 31st that's based on the actual increase in enrollment, but does not prohibit the state superintendent from advancing a partial distribution to a school district before the actual enrollment is available, if the district requests it. Whenever an advance partial distribution is made, the bill requires that the Department of Education to notify the Joint Committee on Government and Finance and LOCEA.

CODE REFERENCE: West Virginia Code §18-9A-15 – amended

DATE OF PASSAGE: April 1, 2021

EFFECTIVE DATE: June 30, 2021

ACTION BY GOVERNOR: Signed April 15, 2021

House Bill 2906

Relating to the School Building Authority's allocation of money

This bill increases the discretion of the School Building Authority to spend up to 10 percent of their funds available for distribution, excluding funds from the School Major Improvement Fund and School Access Safety Fund, for projects that service the educational community statewide, for school facilities under the direct supervision of the state board or an administrative council of an area vocational center, and for other purposes. The current limit is 3 percent.

CODE REFERENCE: West Virginia Code §18-9D-15 – amended

DATE OF PASSAGE: April 6, 2021

EFFECTIVE DATE: July 5, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

House Bill 3177

Removing expired, outdated, inoperative and antiquated provisions and report requirements in education

The purpose of this bill to remove outdated, antiquated, inoperative or superseded provisions of code. The language and code references throughout the amended sections of the bill are updated in accordance with current bill drafting rules.

§18-2-5d is repealed. This section required the State Board to assess and report to the Governor and LOCEA by December of 1995, on guidelines for productive safe schools adopted by county boards. It is outdated.

§18-2-13b is repealed. This section granted additional authority to the State Board to transfer revenue from dormitories for teachers and students financed from bonds issued per §18-2-13 into another bond's sinking fund or use them for other purposes. The §18-2-13 referred to as authorizing the revenue bonds was amended in 1947, repealed in 1996 and reenacted as Character Education Integration in 2001. It is antiquated.

§18-2-24 is repealed. The stated intent of the section is to provide a structure to enhance collaboration between teacher preparation institutions, the Center for Professional Development (CPD), the State Board and Regional Education Services Agencies (RESA's) in providing professional development programs. It charges WVU and MU to assist the CPD with meeting the goals in the State Board's Master Plan for Professional Development, which has been repealed. The CPD at the time was an independent agency under the Department of Education and the Arts, which has been repealed, and the CPD reconstituted under the State Board. It also allocated the RESA's between WVU and MU who were charged with coordinating delivery by the RESA's, which have been repealed, and by other teacher prep institutions within their assigned RESA's. It is inoperable.

§18-2-29 is repealed. This section, enacted in 1988, required the State Board to establish a competitive grant program for schools to implement exemplary and innovative programs to improve instruction and listed several considerations for prioritizing awards. The program ceased functioning some time ago and was superseded by a series of Innovation Zone acts in 2012 to 2016.

§18-2-35 is repealed. This section required the State Board to promulgate rules under which a county board may adopt a policy requiring school student uniforms. It is antiquated.

§18-2E-4a is repealed. This section allowed a report card on the performance of schools to be given to students to take home to their parents, rather than sent by mail, at the county's option. The report card section, §18-2E-4, was rewritten in 2017, providing for the schools' report cards to be posted or linked on the county board's website. It is antiquated.

§18-3-9b is repealed. This section required the state superintendent to reduce the Department's budget for personal services, employee benefits, and contractual expenditures during FY 2014 and FY 2015, excluding the school aid formula and certain pass-through accounts. It has expired.

§18-4-12 is repealed. This section created an exception, for the fiscal year beginning July 1, 1961, to §18-4-4 which governed the meeting for a county board to set the compensation for the county superintendent. Since that time, §18-4-4 has been updated and the section 12 exception is antiquated.

§18-5-18e is repealed. This section, enacted in 2002, required the Legislative Oversight Commission on Education Accountability to conduct a study on the limits on student-teacher ratios in elementary and middle school classrooms, specifically the effect of a limit on a grade level under a middle school format. It

is expired. § 18-5-43 is repealed. This section required county boards to report productive and safe schools plans to the State Board by November 1995 (Note §18-2-5d above for the State Board to make a report on the plans to the Governor and LOCEA). It is expired. §18-7A-36 is repealed. The section required a study of the state retirement system to be completed by the end of June 1989. It is expired.

§18-9A-6a is amended to update code references, correct the name for the State Teachers Retirement System Fund, and remove a reference to a previously repealed section of code.

§18-9A-7 is amended to remove language phasing out an incentive for the use of bio-diesel as an alternative fuel that ended in 2015.

§18-9A-8a is repealed. The section formerly provided funding for RESA's which were abolished in 2017. It is antiquated.

§18-9A-16 is amended to replace a reference to the state board of school finance, which is no longer operative, with the state superintendent who now administers the general school fund. It also strikes outdated language protecting salaries when the section became law in 1971.

§18-9B-1 through 21 "State Board of School Finance" is amended to strike all references to the board of school finance and replace it with the State Superintendent of Schools. Note in 9B-3, the State Board of School Finance consisted of the State Superintendent, Tax Commissioner and director of the budget. As more in-depth formula methods for school aid funding were adopted, it ceased meeting with the state superintendent assuming the oversight functions. References to the Tax Commissioner as chief inspector and supervisor of public offices also are replaced by State Auditor to whom these functions were transferred per §6-9-11 in 1999.

§18-9B-11a is repealed. The section authorized the state board of school finance to change a county's average daily attendance for use in the computation of aid when abnormal circumstances cause an abnormal reduction in any one year. The primary factor determining state aid for personnel and other distributions in the current formula is the net enrollment for the 2nd month of the previous school. This section is antiquated.

§18-10H-4 is repealed. This section required the Board of Regents to establish a plan for a coordinated interdisciplinary doctor program in vo-tech education by July 1, 1991. The section is antiquated.

CODE REFERENCE: West Virginia Code §18-2-5d, §18-2-13b, §18-2-24, §18-2-29, §18-2-35, §18-2E-4a, §18-3-9b, §18-4-12, §18-5-18e, §18-5-43, §18-7A-36, §18-9a-8a, §19-9B-11a, and §18-10H-4 – repealed; §18-9A-6a, §18-9A-7, §18-9A-16, §18-9B-1, §18-9B-2, §18-9B-3, §18-9B-4, §18-9B-5, §18-9B-6, §18-9B-6a, §18-9B-7, §18-9B-8, §18-9B-9, §18-9B-10, §18-9B-12, §18-9B-13, §18-9B-14, §18-9B-15, §18-9B-17, §18-9B-18, §18-9B-19, §18-9B-20, and §18-9B-21 – amended

DATE OF PASSAGE: April 10, 2021

EFFECTIVE DATE: July 9, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

House Bill 3266

Providing for termination of extracurricular contract upon retirement

This bill provides for the termination of any extracurricular contract of an employee upon retirement for retirements on or after July 1, 2021. A retired employee may still apply for and become employed in an extracurricular assignment consistent with the rules established by the consolidated public retirement board.

CODE REFERENCE: West Virginia Code §18A-4-16 – amended

DATE OF PASSAGE: April 9, 2021

EFFECTIVE DATE: July 1, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

House Bill 3293

Relating to single-sex participation in interscholastic athletic events

This bill includes:

- Legislative findings regarding the state's important government interest in ensuring equal athletic opportunity for biological females;
- Definitions for "biological sex", "female", and "male";
- Requiring all public secondary schools and public schools of higher education to designate teams according to biological sex, using the "male, men, or boys", "female, women, or girls", and "coed" classifications;
- Prohibiting biological males from competing on teams designated for biological females where selection for such team is based upon competitive skill or the activity involved is a contact sport;
- Providing a cause of action for students aggrieved and harmed by a violation of this section and protecting identity of minor students involved in such action; and
- Requiring the promulgation of legislative rules, including emergency rules.

CODE REFERENCE: West Virginia Code §18-2-25d – new

DATE OF PASSAGE: April 9, 2021

EFFECTIVE DATE: July 8, 2021

ACTION BY GOVERNOR: Signed April 28, 2021

House Bill 3299

Authorizing Higher Education Rules

This bill authorizes legislative rules of the Higher Education Policy Commission:

Title 133, Series 63 – Mental Health Loan Repayment Program

This new rule is promulgated pursuant to SB 1009 (2019 1X). The bill established a loan repayment program to help repay the student loans of mental health providers who provide therapy and counseling services in an underserved area of West Virginia. The rule sets forth guidelines and procedures to reflect the mandates of the bill.

The rule provides that in order to be eligible, an applicant must:

- Certify that he or she possesses education debt in an amount equal to or exceeding the proposed award amount;
- Be a graduate of an accredited program at a higher education institution having obtained a degree preparing them for licensure as a licensed:
 - Doctoral clinical psychologist
 - Master's level psychologist,
 - Clinical social worker
 - Certified social worker
 - Professional counselor,
 - Marriage and family therapist,
 - Psychiatric mental health nurse practitioner (by House amendment), or
 - Other mental health disciplines identified by the Senior Director for Health Services; and
 - Be employed in an underserved area in West Virginia, providing individual or group therapy or counseling for a majority of his or her practice.

The rule also includes provisions relating to the application process, the selection of recipients, the award amount, and requirements for an award agreement which must include the recipient practicing at least one year full-time or two years part-time in an underserved area of the state.

Title 134, Series 64 – Administrative Exemption

This new rule is promulgated pursuant to SB 760 (2020) which allowed any state college or university to apply for designation as an administratively exempted school. The rules mirror the statutory provisions which relate to the requirements for the designation, maintaining the designation, and revocation of the designation.

CODE REFERENCE: West Virginia Code §18B-17-2 – amended

DATE OF PASSAGE: April 10, 2021

EFFECTIVE DATE: July 9, 2021

ACTION BY GOVERNOR: Signed April 26, 2021

2020 Regular Session



Senate Bill 42

Permitting faith-based electives in classroom drug prevention programs

This bill allows comprehensive drug awareness and prevention programs for students in grades K through 12 to include faith-based electives, along with nonfaith-based electives, for drug awareness in classrooms; and requires the state board to promulgate a rule on how the faith-based electives can be offered in a way that is consistent with constitutional requirements.

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: June 5, 2020

CODE REFERENCE: West Virginia Code §18-2-7b – amended

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 230

Requiring State Board of Education provide routine education in suicide prevention

This bill requires the State Board of Education to annually provide for the routine education of all professional educators, including principals and administrators, and those service personnel having direct contact with students on warning signs and resources to assist in suicide prevention under guidelines established by the state board; and allows the education to be accomplished through self-review of suicide prevention materials and resources approved by the state board. These provisions were inadvertently removed with the passage of HB 4006 in 2018 which eliminated the Department of Education and the Arts.

CODE REFERENCE: West Virginia Code §18-2-40 – amended

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: March 7, 2020

ACTION BY GOVERNOR: Signed March 24, 2020

Senate Bill 241

Requiring State Board of Education develop method for student transportation costs as stand-alone consideration

This bill requires the State Board of Education to propose revisions to the calculation of the allowance for service personnel (Step 2 - §18-9A-5) to provide additional funded service personnel positions for the lower-population density districts that cover a large geographic area; and requires that the proposal be reported to the Legislature before September 1, 2020.

CODE REFERENCE: West Virginia Code §18-9A-7a – new

DATE OF PASSAGE: February 29, 2020

EFFECTIVE DATE: May 29, 2020

ACTION BY GOVERNOR: Signed March 24, 2020

Senate Bill 291

Requiring PEIA and health insurance providers provide mental health parity.

The purpose of this bill is to ensure mental health parity among the various types of insurance plans offered in West Virginia.

The bill defines the terms behavioral, mental health and substance use disorder. These are defined as a condition or disorder regardless of etiology that may be the result of a combination of genetic and environmental factors that falls under any of the diagnostic categories listed in the mental disorders section of the international statistical classification of diseases, the diagnostic and statistical manual of mental disorder or the diagnostic classification of mental health and developmental disorders of infancy and early childhood and includes autism spectrum disorder.

The Public Employees Insurance Agency and the enumerated insurance carriers are required to:

- Include coverage for behavioral health screenings with coverage and reimbursement no less extensive than coverage and reimbursement for the annual physical examination;
- Comply with nonquantitative treatment limitations requirements specified in federal regulations and precludes PEIA and the carriers from applying nonquantitative treatment limitations to behavioral health, mental health or substance use disorder that do not apply to medical and surgical benefits;
- Comply with financial requirements and quantitative treatment limitations in federal regulations and preclude carriers from applying quantitative limitations to behavioral health, mental health or substance use disorder that do not apply to medical and surgical benefits;
- Not apply any nonquantitative treatment limitations to benefits to behavioral health, mental health, and substance abuse that are not applied to medical and surgical benefits within the same class of benefits;
- Establish procedures to authorize treatment with a nonparticipating provider if a service is not available-network adequacy issues; and
- Authorize payment at the same rate used to pay for medical and surgical benefits.

The bill provides that coverage for behavioral health, mental health and substance use disorder will continue while a claim is under review until PEIA or the insurance carriers notify the covered person of the determination of the claim.

- The bill provides that unless the claim is denied for nonpayment of premium, a denial for reimbursement for the prevention of, screening for, or treatment of behavioral, mental health or substance use disorder by PEIA and the insurance carriers must include the following language:
- A statement explaining that covered persons are protected under this section, which provides that limitations placed on the access to mental health and substance use disorder benefits may be no greater than any limitations on access to medical and surgical benefits;
- A statement providing information about the Consumer Services Division of the Insurance Commissioner; and
- A statement that persons are entitled to a copy of the medical necessity criteria for any behavioral health, mental health, and substance use disorder.

The bill requires that PEIA and the Insurance Commissioner submit a parity report to the Joint Committee on Government and Finance. The report will be submitted June 21, 2021, and it will only be submitted in any year thereafter if significant changes on how they design and apply medical management

protocols. The report contains data to demonstrate parity compliance, medical necessity criteria used in determining benefits for behavioral health, mental health, and substance use disorder and the medical necessity in determining medical and surgical benefits. The report will also include identification of all nonquantitative treatment limitations that are applied to benefits for behavioral, mental health and substance use disorder and to medical and surgical benefits within each classification of benefits.

The bill provides that the Insurance Commission shall adopt legislative rules to implement the provisions of this bill and provides for an effective date of January 2, 2021.

CODE REFERENCE: West Virginia Code §33-15-4A – repealed; §5-16-7, §33-24-4 – amended; §33-15- 4u, §33-16-3ff, §33-24-7u, §33-25-8r, and §33- 25A-8u – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: June 5, 2020

ACTION BY GOVERNOR: Signed by Governor March 25, 2020



Senate Bill 303

Enacting Students' Right to Know Act

This bill creates the “Students’ Right-to-Know Act”. It requires the State Board, in collaboration with the HEPC and the CCTC, to collect the following information annually:

- The most in-demand occupations in the state, including entry wage and common degree levels for entering the occupation.
- The average cost of two and four-year colleges, universities, and vocational schools in the state by type of institution; and federal and state scholarship, merit, and need-based aid programs available for attending two and four-year colleges, universities, and vocational schools by type of institution.
- The average monthly student loan payment and the average total amount of student loans for individuals who attend all two and four-year colleges, universities, and vocational schools in the state by the type of institution.
- The average student loan default rate for two and four-year colleges, universities, and vocational schools in the state by type of institution; and, information relating to the availability of paid internship and externship opportunities for students attending two and four-year colleges, universities, and vocational schools in the state by type of institution.
- The average graduation rate for two and four-year colleges, universities, and vocational schools in the state by type of institution.
- The completion rates for apprenticeship programs, high school credential programs, and career and technical education programs, if available.
- The percentage of college graduates working in an occupation that does not require a college degree for each major, if available.
- Median annual wages for public college/university graduates by degree level and degree area.
- The average starting salary of career-technical education completers.
- The number of military first-term enlistments and each branch’s starting salary.
- Contact information for each of the two and four-year colleges, universities, and vocational schools in the state and each branch of the U.S. Armed Forces, National Guard, and Reserves.
- Any other information the State Board, the Higher Education Policy Commission, or the Council for Community and Technical Colleges deem appropriate to assist high school students in weighing the costs and benefits of post-high school training and education.

The bill also requires that no later than October 15 of each year the State Superintendent of Schools distribute the information to every high school in the state for distribution to students by school guidance counselors; and to the public by making it readily available through publishing on the Department of Education’s website. It also allows the State Board to execute a memorandum of understanding with any department, agency, or division for acquiring the required information; and requires any department, agency, or division possessing any of the required information to provide that information to the State Board of Education. All the requirements are to be effective on January 1, 2021.

CODE REFERENCE: West Virginia §18-10P-1 et seq. – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: January 1, 2021

ACTION BY GOVERNOR: Signed March 24, 2020

Senate Bill 614

Changing method of allocating funding from Safe School Funds

This bill:

- Require that for any distributions for the 2019-2020 year and continuing until all school districts have fully complied with the special education video camera requirements, county boards have the flexibility to spend the safe schools allocation at any school within the district requiring cameras in special education classrooms.
- Require the Department of Education to first allocate the funding appropriated for the Safe Schools Fund for the 2020-2021 year be based on the remaining need for special education classroom video cameras in each district until all districts have fully complied with the special education video camera requirements.
- Require that after all districts have been provided sufficient funds to meet the video camera requirements, the funding distribution return to the previously specified method based on the number of public schools.
- Remove appropriation of funds by the Legislature as a prerequisite to the requirement for video cameras in special education classrooms; and clarifies that any available funds can be used to satisfy the requirement.

CODE REFERENCE: West Virginia Code §18-5-48 and §18-20-11– amended

DATE OF PASSAGE: March 6, 2020

EFFECTIVE DATE: March 6, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 623

Allowing noncitizen of US be eligible for teaching certificate

This bill allows a certificate to teach or an alternative program teacher certificate to be granted to a noncitizen of the United States who holds a valid Permanent Resident Card, Employment Authorization Document (EAD), or work permit issued by the United States Citizenship and Immigration Services (USCIS).

CODE REFERENCE: West Virginia Code §18A-3-1 and §18A-3-1f – amended

DATE OF PASSAGE: February 21, 2020

EFFECTIVE DATE: February 21, 2020

ACTION BY GOVERNOR: March 5, 2020

Senate Bill 652

Authorizing School Building Authority promulgate legislative rules

This bill authorizes 164 CSR 5, a School Building Authority (SBA) legislative rule relating to School Building Authority Contracts and Agreements; Post-Project Evaluation; Suspension of Right to Bid. The rule makes changes to the “Contractor’s Qualification Statement”, which is a prerequisite to the award of a contract. It also adds new sections regarding Post-Project Evaluation and Suspension of the Right to Bid.

The following changes are made to 164 CSR 5:

Bidding Qualifications/Procedure:

- The rule clarifies existing Contractor Qualification Statement requirements for the project’s lowest qualified bidder. The criteria shall include:
 - Relevant experience and years of the bidder in the construction, renovation, or building repair business.
 - Continuity, experience, and skill of the bidder’s workforce and subcontractors.
 - Bidder’s performance on similar construction projects.
 - Bidder’s ability to successfully complete projects and meet deadlines.
 - Bidder’s history of compliance with:
 - Worker’s Compensation and Unemployment Compensation laws.
 - Occupational Safety and Health Administration (OSHA) requirements.
 - Federal Prevailing Wage, Fair Labor Standards and Wage Payment laws.
 - Bidder’s subcontractor’s compliance with state regulatory agencies.
 - Bidder’s local hiring plan and history of compliance with the WV Jobs Act (use of local labor market).
 - Bidder’s participation as a party in any legal action where the outcome could negatively impact the ability of the bidder to complete the contract.
 - Bidder’s references and recommendations.

Post-Project Evaluation:

- The rule creates a new section 3 which requires the SBA staff to evaluate the performance by all parties to ensure compliance with project specifications and compliance with project requirements.
- The following is required to be evaluated, on the basis of compliance with contract documents:
 - Architect/Engineer - criteria
 - Meeting design deadlines.
 - Adherence to the project budget.
 - Clarity of contract documents.
 - Any standard notices of non-conformance or non-compliance issued.
 - Overall quality and performance.
 - Contractor and all subcontractors - criteria:
 - Completion within the time specified in the contract documents.
 - Performance of the work in conformance with the contract documents.
 - Project closeout in a timely manner in compliance with the contract documents.
 - Construction Manager (where applicable) - criteria:
 - Management of the project.
 - Accuracy of the project budget and schedule.

- Documented assurances that the contractor is in compliance with the contract documents.
- Value the team brings to the project.

Suspension of Right to Bid:

- The proposed rule creates a new section 4, which gives the SBA the power to suspend the right to bid due to issues found in the post-project evaluation.
- The architect/engineer, contractor(s), or construction manager may be suspended from participation/right to bid for nonconformance with contract documents or for being a major contributor in the project deficiencies. The SBA must show causes relied upon for the proposed suspension.
- Within 30 days of receipt of notice of proposed suspension, the architect/engineer, contractor or construction manager shall have the right to respond in writing or to appear before the SBA.
- The SBA shall make a suspension decision and make a specific finding, based upon the substantial record, whether the public interest requires that commodities and services be suspended or if it is limited to specific commodities and interest. The suspension may be for a period of not less than 1 year and not more than 2 years.

CODE REFERENCE: West Virginia Code §18-9D-21 – amended

DATE OF PASSAGE: February 28, 2020

EFFECTIVE DATE: February 28, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 691

Limiting programs adopted by State Board of Education

This bill provides that additional alternative programs to prepare teachers established or adopted solely by the State Board:

- Are separate from the programs established under certain other alternative certification sections of code.
- Do not require a partner.
- Are applicable only to persons who hold a bachelor's degree from an accredited institution of higher education.
- Are subject to certain other statutory provisions only to the extent specifically provided for in state board rules.
- Can be an alternative to the standard college and university programs for the education of teachers and also may address the content area preparation of these persons.

CODE REFERENCE: West Virginia Code §18A-3-1j – new

DATE OF PASSAGE: March 5, 2020

EFFECTIVE DATE: June 3, 2020

ACTION BY GOVERNOR: March 25, 2020

Senate Bill 703

Increasing earning limit for employees who accept separation incentive

This bill increases the amount an employee granted a retirement or separation incentive from a state institution of higher education can earn through contract employment with the institution from \$5,000 to \$25,000 per fiscal year.

CODE REFERENCE: West Virginia Code §18B-1-1d – amended

DATE OF PASSAGE: February 28, 2020

EFFECTIVE DATE: February 28, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 707

Relating to nursing career pathways

This bill requires the State Superintendent, the Higher Education Policy Commission Chancellor and the Community and Technical College Council Chancellor to establish a West Virginia Nursing Career Pathway Workgroup consisting of representatives of:

- Health care providers that need nurses and could potentially provide clinical space (Provided that West Virginia Health Care Association and West Virginia Hospital Association must be invited).
- Department of Education.
- Higher Education Policy Commission.
- Community and Technical College Council.
- Institutions of higher education.
- Board of Registered Professional Nurses.
- Board of Examiners for Licensed Practical Nurses.
- Other persons determined beneficial by the Superintendent and Chancellors.

The work group is charged with developing a career pathway to address the unmet need for nursing assistants, licensed practical nurses, registered nurses, and registered nurses with a bachelor's degree in nursing. The pathway will begin in high school and progress through college, providing employment opportunities with industry partners and pathway re-entry at specified attainment points: Nursing assistant certification; licensed practical nurse diploma and licensure; registered nurse associate degree and licensure; or, bachelor of science in nursing completion.

The career pathway must align affordable, effective and sustainable secondary to post-secondary nursing programs to increase credential attainment for a broad and diverse student population.

The bill also sets forth a career pathway that shall be made available beginning with the cohort of students entering ninth grade during the 2021-2022 school year. The pathway shall include participating high school students enrolled in specified college preparatory courses, career and technical health science courses, dual-college-high school credit courses, or participating career experiences. The student is to have the opportunity to apply for admission to the next step in the pathway.

The Superintendent, Chancellors, or any combination thereof, shall report to LOCEA as requested, but at least annually, on the progress in implementing the career pathway up until the pathway has been fully implemented statewide.

The bill also provides that, in the event that difficulties arise during the implementation process, the work group shall consider online programs to be used to increase statewide accessibility of nursing programs, and that the pathway includes the use of any available financial assistance in order to significantly reduce, or if possible, eliminate, tuition costs of this program. Finally, the bill lists financial aid that may be included and encourages health care providers to establish scholarship programs.

CODE REFERENCE: West Virginia Code §18-2E-11a – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: March 7, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 712

Correcting name of Forensic Analysis Laboratory

This bill corrects the statutory reference to the Forensic Analysis Laboratory of the Marshall University Forensic Science Center by striking the letters “DNA” from its name.

CODE REFERENCE: West Virginia Code §5-2-24c – amended

DATE OF PASSAGE: February 28, 2020

EFFECTIVE DATE: February 28, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 723

Requiring Department of Education develop plan based on analyzed data on school discipline

This bill requires the Department of Education to analyze statewide data collected on school disciplinary action and, based on the findings of this data, create a statewide program aimed at addressing the number of disciplinary actions taken by school personnel and county school boards against students enrolled in grades K-12. This program must include information by subgroup, including but not limited to, race, gender, and disability. It also requires the county boards of education to implement the program with the ultimate goal of improving disciplinary outcomes.

Additionally, the Department of Education is required to:

- Prepare a report on their findings and the progress of the statewide program and individual county programs, evaluating the extent to which the programs have successfully led to making a positive impact in disciplinary actions in West Virginia school systems.
- Present the report LOCEA every two years starting in 2022.

CODE REFERENCE: West Virginia Code §18-2-43 – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: March 7, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 750

Establishing extended learning opportunities

This bill requires the State Board of Education to promulgate a rule requiring the county boards of education to develop an alternative educational opportunities policy for elective credit; and requires the county boards of education to adopt an alternative educational opportunities policy that recognizes learning opportunities outside of the traditional classroom and grants elective course credit. The policy is required to:

- Provide for an application process for entities to submit proposals.
- Define which entities are eligible to submit applications, provided that entities which are considered eligible must be broadly defined and include, but not be limited to:
 - Nonprofit organizations.
 - Businesses with established locations in the state.
 - Trade associations.
 - Parents of students involved in programs that may otherwise qualify as an alternative educational program.
 - Teachers involved in programs outside the traditional classroom.
 - School personnel involved in programs outside of the traditional classroom.
- Provide for criteria to be used to evaluate the alternative educational program.
- Describe any communication and collaboration needed between the local school, county board, or State Board of Education to implement alternative educational opportunities.
- Place requirements on the entity, such as background checks for key personnel, and minimum accountability standards.
- Provide a process for student credit transfer.

The county boards are given the authority to approve or deny an application for an alternative education program, provided that if the application is denied, the county board is required to provide a detailed explanation of the reasons for its denial and suggest ways to improve the application. The county boards are also given authority to audit the alternative educational programs at any time and to disqualify, immediately, any program that is not meeting these statutory provisions or county policy. Finally, the bill also includes a requirement for the Department of Education to report to LOCEA after three years of implementation.

CODE REFERENCE: West Virginia Code §18-2-7e – new

DATE OF PASSAGE: March 6, 2020

EFFECTIVE DATE: June 4, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 760

Allowing state college or university apply to HEPC for designation as administratively exempt school

This bill provides that any state college and university, as that term is currently defined in code, can apply to the Higher Education Policy Commission for designation as an administratively exempted school. As currently defined, State college and university includes Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, West Liberty University, or West Virginia State University.

The Commission is required to make its determination as to whether to grant or deny the exemption designation based on the definition of administratively exempted school. Administratively exempted school is defined as either:

- A state college and university that maintains three out of the following five criteria:
 - A three-year average graduation rate of not less than 45%.
 - A three-year average retention rate of not less than 60%.
 - A three-year credit head count enrollment increase, or a decrease of not more than 5% over the same period.
 - A three-year average of not less than 50 days cash reserved.
 - A Composite Financial Index (CFI) of not less than one as reported in the college and university's audited financial statements.
- A state college or university whose governing board requests a review by the chancellor of any special circumstances and the commission grants administratively exempted status based on those special circumstances as verified by the chancellor after his or her review.

The bill also requires the Commission to propose rules to implement the state college and university exemption status section and that address the loss of an administratively exempted designation. The rules must at least provide that:

- After the first year an administratively exempted school fails to meet three of the five criteria under the definition of administratively exempted schools, the Commission may advise the institution on strategies that may be implemented in order to meet three of the five criteria before next year.
- An institution may not lose its designation as an administratively exempted school until it has failed to meet three of the five criteria under the definition of administratively exempted schools for two consecutive years.
- The Commission can revoke the administratively exempted status of a state college and university if it determines that the special circumstance that the state college and university's administratively exempted status is based on no longer exists.
- The Commission must provide notice to an institution at least 30 days before revoking the institution's administratively exempted status.

The bill also confirms the currently exempted school status of WVU, Marshall, and WVSOM, but changes references to these schools from exempted schools to statutorily exempted schools to avoid confusion with administratively exempted schools.

Any state college and university that is designated as an administratively exempted school is exempt from the following:

- The required approval of capital projects.
- The development and approval of institutional mission definitions.
- Program approval.
- The rules providing guidance to the governing boards in filling vacancies in the office of president.
- The Commission's rule governing and controlling acquisitions and purchases upon adoption by the board of governors of its own rule.
- The required approval of capital improvement projects exceeding \$3 million.
- The required approval of lease-purchase agreements for capital improvements and equipment of \$1.5 million or greater.
- The required approval of real estate transactions, lease-purchase, and new building construction exceeding \$1 million.

The bill also requires the Commission to submit an annual report to LOCEA relating to the administratively exempted schools eligibility criteria, including data for each of the three preceding years, as available, and the three-year average for each of the institutions under its jurisdiction. The Commission is also required to share the report with the institutions.

Additionally, the bill also:

- Removes for all institutions the requirement that the Commission advise and confirm the appointment of the presidents of the institutions under its jurisdiction.
- Makes the statutorily and the administratively exempted schools eligible for any incentive funds to influence institutional behavior in ways that are consistent with public priorities.
- Amends existing code to require that by October 1 of each year the Commission and Council report to the Joint Committee on Government and Finance and LOCEA a recommendation on a formula or methodology for allocating appropriations to the institutions on a ratable basis, by enrolled student, by credit hour, or by other relevant measures; requires the Commission and Council to take into consideration the needs of each institution relating to a base level of appropriation support and mission differentiation; requires the Commission and Council to recommend to the Legislature as to the amounts that each institution should have appropriated to it in the general revenue budget for the next fiscal year based on the total general revenue appropriations that the institutions receive in aggregate in the enacted budget for the current fiscal year; requires the Commission and Council to engage with the institutions to seek to develop a consensus on the formulas and methodologies underlying any recommendations; and requires the Commission and Council to provide the institutions with at least 30 days written notice to comment on any recommendations before any report is provided to the Legislature.
- Removes the requirement for confirmation by the Commission for appointment of institutional presidents.
- Requires that if any classified employees are employed by an institution, they be included with the institutional personnel that are to be used when doing evaluations of institutional presidents.
- Provides that the geographic areas of responsibility for WVSOM, Marshall, and WVU are statewide.
- Requires each state institution of higher education to establish benchmarks in collaboration with the Commission or Council, as applicable.

- Removes for all institutions under the Commission the requirement that campus development plans be confirmed by the Commission.
- Makes a number of changes throughout to be consistent with the elimination of the statewide master plan and the state and institutional compacts by SB 673 last session.

CODE REFERENCE: West Virginia Code §18B-1-2, §18B-1B-4, §18B-1B-6, §18B-1D-7, and §18B-19-4 – amended; §18B-1-1F – new.

DATE OF PASSAGE: March 5, 2020

EFFECTIVE DATE: June 3, 2020

ACTION BY GOVERNOR: Signed March 25, 2020



Senate Bill 770

Revising requirements for post-doctoral training

The bill revises the requirements for post-doctoral training as a requirement for licensure as an osteopathic physician. The bill removes an alternative requirement that a minimum of one year post-doctoral an applicant complete 40 hours of continuing medical education in osteopathic manipulative medicine. The removal of this requirement will create parity with MDs. The proposed bill provides definitions. Additionally, the bill makes technical changes and removes the requirements for moral character.

CODE REFERENCE: West Virginia Code §30-14-2 and §30-14-4 – amended

DATE OF PASSAGE: March 5, 2020

EFFECTIVE DATE: June 3, 2020

ACTION BY GOVERNOR: Signed by the Governor on March 25, 2020

Senate Bill 781

Relating to reports regarding collaborative agreements between community and technical colleges and federally registered apprenticeship programs

This bill removes information required to be included in the report to the Legislature and Governor regarding the collaborative agreements between community and technical colleges and federally registered apprenticeship programs due to the Council for Community and Technical College Education having no way to obtain the data. The information removed includes:

- The number of students employed in a relevant field of study during the apprenticeship programs and for the year after completion of the apprenticeship programs.
- The average compensation of the students employed in a relevant field of study during their enrollment in the apprenticeship programs and for the year after completion of the apprenticeship programs.

In place of the above information, information on the number of students employed and the average hours they worked in a relevant field during the apprenticeship programs is to be included in the report if available.

CODE REFERENCE: West Virginia Code §18B-3C-16 – amended

DATE OF PASSAGE: March 3, 2020

EFFECTIVE DATE: June 1, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

Senate Bill 839

Creating State Advisory Council on Postsecondary Attainment Goals

This bill establishes the State Advisory Council on Postsecondary Attainment Goals Council (Council). The purpose of the Council is to ensure that students are provided opportunities to learn and earn the most relevant industry-demanded knowledge, skills, and credentials to prepare students for the challenges of college, careers, and life, while helping the state and its employers attain economic growth through collaboration with K-12 education leaders, employers, and industry leaders, state agency leaders, the Higher Education Policy Commission (HEPC) and the Council for Community and Technical College Education (CTTC) to identify high-value and in-demand postsecondary credentials and to develop a plan to assist the state in achieving its postsecondary attainment goal of having 60% of West Virginians between the ages of 25 and 64 hold a degree, certificate, or other postsecondary workforce credential of value in the workplace by 2030.

The Council is to consist of the following members:

- The Chancellor of the HEPC, or his or her designee.
- The State Superintendent of Schools, or his or her designee.
- The Secretary of the Department of Commerce, or his or her designee.
- The Director of WorkForce West Virginia, or his or her designee.
- Two presidents representing the state's four-year institutions of higher education, at least one of which shall be the president of a regional institution, appointed jointly by the President of the Senate and the Speaker of the House.
- Two presidents representing the state's community and technical colleges appointed jointly by the President of the Senate and the Speaker of the House.
- Representatives from at least two employers, industry associations, or chambers of commerce, appointed jointly by the President of the Senate and the Speaker of the House.
- Representatives from at least two regional economic development and workforce investment boards, appointed jointly by the President of the Senate and the Speaker of the House.
- The chair of the Senate Committee on Education as an ex officio nonvoting member.
- The chair of the House Committee on Education as an ex officio nonvoting member.
- Any other individuals deemed appropriate and appointed jointly by the President of the Senate and the Speaker of the House.

The Council is to be chaired by the Chancellor of the HEPC and shall meet at least quarterly and at the call of the Chair. A quorum is a simple majority of the Council. The administrative functions of the Council are the responsibility of the joint staff of the HEPC and the CTCC.

The Council shall consult with and advise the Legislature on matters related to its progress and may:

- Make recommendations to the Legislature.
- Provide guidance to the Legislature on potential statutory solutions relative to achievement of the state's postsecondary attainment goal.
- Establish workgroups or subcommittees, as the Council considers necessary.
- Consult with entities and persons with expertise in the areas being studied by the Council as the Council considers necessary.
- Provide a forum for a full and fair discussion of issues relating to achievement of the state's postsecondary attainment goal.

The Council is required to conduct a review of career and technical education offerings in K-12 and the state's community college and technical education system to determine the alignment of existing offerings with employer demand, postsecondary degree or certificate programs, and professional industry certifications. The review must identify career and technical education offerings that are linked to occupations that are in high-demand by employers, require high-level skills, and provide middle- and high-level wages. The review must include an analysis of:

- Participating students and their outcomes in certain specified areas.
- Demographics of participating students by pathway and credential attainment.
- Educational settings of the courses.
- Alignment with high-growth, high-demand and high-wage employment opportunities.
- Current and projected economic, labor, and wage data on the needs of the state, regional, and global economy and workforce.
- Alignment with certificate or degree programs offered at the postsecondary level or professional industry certifications.
- Employment outcomes, including wages, by career and technical education program offerings.
- Apprenticeship and pre-apprenticeship offerings.
- Qualifications and specialized knowledge and expertise of instructors and opportunities for these educators to upskill in the latest in-demand skills of employers.
- Extent to which federal, state, and local funding is used to foster career and technical education program success and program efficiency.

The Council is required to report its findings to LOCEA and the Joint Committee on Government and Finance by December 31, 2020 and annually thereafter until the Council terminates. The report must include, at a minimum:

- Conclusions and recommendations about the means to achieve the state's postsecondary attainment goal;
- Recommendations for statutory and regulatory modifications, if necessary;
- Identification of any action that the Legislature may take to better foster awareness of the actions being taken to achieve the state's postsecondary attainment goal; and
- Any other ancillary issues relative to achievement of the state's postsecondary attainment goal.

The State Board of Education, the State Superintendent of Schools, the Department of Commerce, WorkForce West Virginia, the presidents of the state's public institutions of higher education, and all other entities of state government shall cooperate with the Council in the exchange of data, information, and expertise, if so requested by the Council, including, but not limited to:

- Providing the entity's plans to assist in achievement of the state's postsecondary attainment goal.
- Identifying equity gaps among certain high-risk populations, including, but not limited to,
 - Returning adults.
 - Academically underprepared students.
 - The economically disadvantaged.
 - Underrepresented racial or ethnic minorities.
- Sharing information on the economic impact of achievement of the state's postsecondary goal on the state.
- Providing an assessment of the benefits of implemented programs and activities aimed at achieving the state's postsecondary attainment goal.

- Assisting in the development or revision of detailed action plans to achieve the state's postsecondary attainment goal.
- Providing resources required to implement the plan to achieve the state's postsecondary attainment goal.

The Council and all provisions contained in this bill will terminate on December 31, 2023.

CODE REFERENCE: West Virginia Code §18B-1D-11 – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: June 5, 2020

ACTION BY GOVERNOR: Signed March 25, 2020



Senate Bill 842

Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years

This originating bill requires the State Superintendent to immediately establish a Behavior Interventionist Pilot Program to be implemented in not less than two nor more than ten county school districts for the duration of three years. In selecting the two county school districts, the state superintendent is required to select districts meeting the following criteria:

- The districts must have among the highest number in the state of students with an IEP.
- The districts must have schools that have a significant number of students enrolled with behavior issues.
- The districts shall have the resources to hire and train personnel who specialize in addressing students with behavior issues.

The bill also allows the school districts designated for the pilot programs to immediately create a new employment position, entitled “behavior interventionist”, which is a school-based position that specializes in addressing behavior issues at a school. Once the counties are chosen, the county superintendent is required to convene an advisory committee consisting of principals, teachers, classroom aides, and the education organizations to advise the county superintendent and county board on qualifications and hiring. Behavior interventionists must be designated by the county board as either a professional person or a service person. If the behavior interventionist is designated as a service person, he or she is to be assigned a pay grade D, at a minimum, for the purpose of the salary schedule. The school districts designated for the pilot programs are required to establish qualifications and initial and continuing training requirements for the personnel employed in the position.

The bill also includes an annual requirement that for the duration of the pilot programs and once after the conclusion of the pilot programs, the county superintendents of the county school districts designated for the pilot programs report to LOCEA certain specified information and recommendations relating to the pilot programs.

CODE REFERENCE: West Virginia Code §18-3-13 – new

DATE OF PASSAGE: March 6, 2020

EFFECTIVE DATE: March 6, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 3127

Relating to the Secondary School Activities Commission and participation by home schooled students

This allows home-schooled students to participate in extracurricular activities at the public school serving their attendance zone under the following conditions:

- Satisfactory evidence of academic progress for 1 year in compliance with home school instruction statutory provisions, provided that the student's average test results are within or above the 4th stanine in all subject areas.
- Enrollment in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policy of the county board in which the home-schooled student lives and the State Board.
- The student has not reached the age of 19 by August 1 of the current school year.
- The student is an amateur who receives no compensation, but participates solely for the educational, physical, mental and social benefits of the activity.
- Agreement to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission (SSAC) and the county board in which the home-schooled student lives.
- Agreement to obey all rules of the SSAC governing awards, all-star games, parental consents, physical examinations and vaccinations applicable to all high school athletes.

The bill further provides that if a home-schooled student leaves a member school during the same school year, the same transfer protocols apply as member-to-member transfers. In addition, reasonable fees may be charged.

CODE REFERENCE: West Virginia Code §18-2-25 – amended

DATE OF PASSAGE: March 2, 2020

EFFECTIVE DATE: May 31, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4022

Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission

This bill clarifies that the Chancellor for Higher Education can also serve as the Chancellor for Community and Technical College Education; limits the Chancellor to only receiving one form of salary if he or she serves as the chancellor for both the Higher Education Policy Commission and the Council for Community and Technical College Education; renames the Vice Chancellor for Health Sciences as the Senior Director for Health Sciences; and eliminates the position of Vice Chancellor for State Colleges.

CODE REFERENCE: West Virginia Code §18B-1B-5 – amended

DATE OF PASSAGE: March 5, 2020

EFFECTIVE DATE: June 3, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4069

West Virginia Student Religious Liberties Act

This bill creates the Student Religious Liberties Act, effective beginning with the 2020-2021 school year. Under the Act, a public school district may not discriminate against students or parents on the basis of a religious viewpoint or religious expression. The bill establishes certain religious rights for students, including that:

- Students can express their beliefs in homework, artwork, and other written and oral assignments free from discrimination and cannot be penalized or rewarded on account of the religious content of their work.
- Students in public schools can pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression.
- A school district is required to treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject.
- Students are allowed to express their beliefs about religion in homework, artwork, and other assignments free from discrimination based on the religious content of the student's submission.
- Students are allowed to organize prayer groups, religious clubs, and religious gatherings to the same extent that students are permitted to organize other noncurricular student activities and groups.
- Students are allowed to wear clothing, accessories, and jewelry that display religious messages or symbols in the same manner and to the same extent that other types of clothing, accessories, and jewelry that display messages or symbols are permitted.

The bill provides that the Act cannot be construed to require any person to participate in any religious activity or to violate a person's constitutional rights. The bill also provides that the Act cannot be construed to limit a school's authority to maintain order and discipline in a neutral manner; protect the safety of students, employees, and visitors; or adopt policies and procedures consistent with law.

CODE REFERENCE: West Virginia Code §18-33-1 through §18-33-8 – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: June 5, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4077

Increasing the amount of the bond required to be posted by proprietary schools

This bill:

- Increases the amount of the bond that must accompany an application for a permit to operate a proprietary school from \$35,000 to between \$50,000 and \$100,000, as determined by the council; and requires the bond to be payable to the State of West Virginia and conditioned on the school faithfully performing all of certain proprietary school requirements.
- Provides that for a school that has changed ownership within the last 10 years by transfer of ownership control to a person who is a spouse, parent, sibling, child, or grandchild of the previous owner, the bond amount be changed from \$35,000 to the amount determined by the Council; the period of liability for bond coverage is to begin with the issuance of the permit and continue for the full term of the permit, plus any renewals; requires the council to release the bond upon satisfaction that the conditions of the bond have been fully performed; and requires that, upon release of the bond, any cash or collateral securities deposited by the school be returned to the school that deposited the cash or collateral securities.
- For any school that has operated in West Virginia for fewer than 10 years, excluding those schools which have changed ownership within the last 10 years, and any school located in another state which applies for a permit, replaces the requirement that the school provide a surety bond of \$50,000 with the requirement that the school provide a surety bond, as determined by the council; requires the form of the bond to be approved by the Chancellor; allows the form of the bond to include, at the option of the school, surety bonding, collateral bonding (including cash and securities), establishment of an escrow account, submission of a letter of credit, or a combination of these methods; allows if collateral bonding is used, the school to elect to deposit cash or certain specified collateral securities or certificates; requires the cash deposit or market value of the securities or certificates to be equal to or greater than the penal sum of the bond; requires the Chancellor to promptly place the cash, securities, or certificates with the State Treasurer; and allows the school making the deposit to receive from the State Treasurer, upon the written approval of the Chancellor, the whole or any portion of any deposited cash, securities or certificates, upon depositing with him or her in lieu thereof cash or other securities or certificates having value equal to or greater than the sum of the bond.
- Requires that upon 10 days written notice, the council suspend the permit when the proprietary school is no longer covered by a surety bond or other collateral; and requires the suspension to remain in effect until the school obtains another bond or establishes other collateral.

CODE REFERENCE: West Virginia Code §18B-2B-9 – amended

DATE OF PASSAGE: March 3, 2020

EFFECTIVE DATE: June 1, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4165

West Virginia Remembers Program

This bill creates the “West Virginia Remembers Program” whereby children in public schools can learn about military service, patriotism, and courage in defense of our country from veterans who volunteer to share their experiences in the educational setting. Participation in the program is voluntary. The bill also allows the state board to promulgate a rule to implement the program with regard to solicitation of speakers from veterans’ groups and maintenance of lists by county boards of available speakers.

CODE REFERENCE: West Virginia Code §18-2-8b – new

DATE OF PASSAGE: March 5, 2020

EFFECTIVE DATE: June 3, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4166

Prohibiting certain sex offenders from being in a supervisory position over children

This bill prohibits any person found guilty of first-degree sexual assault or first-degree sexual abuse from being in a supervisory position, playing a supervisory role, or being responsible for groups of children. Although the law previously provided some restrictions on certain sex offenders, sex offenders were not prohibited from working or volunteering in supervisory roles over children. Roles subject to the new restrictions include supervisory roles for the Boy Scouts, the Girl Scouts, 4-H organizations, sporting and scholastic teams, music groups, sporting and theatre groups and camps, and summer day camps.

CODE REFERENCE: West Virginia Code §62-12-26 – amended

DATE OF PASSAGE: February 17, 2020

EFFECTIVE DATE: May 17, 2020

ACTION BY GOVERNOR: Signed March 5, 2020

House Bill 4365

Granting of college credit hours for learning English as a second language

This bill authorizes state institutions of higher education to offer college credit hours for English learned as a second language and allows them to accept English learned as a second language to satisfy an institution’s foreign language requirement. It further provides that in order to obtain college credit the student must be enrolled in the institution granting credit and be certified as having reached a satisfactory score on the test of English as a foreign language. The HEPC and the CCTCE are required to jointly propose rules to set and identify scores that are required on the test.

CODE REFERENCE: West Virginia Code §18B-14-3 – new

DATE OF PASSAGE: March 2, 2020

EFFECTIVE DATE: May 31, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4378

Relating to disciplining teachers

This bill requires a county board to complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation. It also adds to the duty of the county superintendent to report to the State Superintendent any employee suspended or dismissed the duty to also report any employee who resigned during the course of an investigation of the employee's alleged misconduct; and requires the report to the State Superintendent be made within seven business days of the suspension, dismissal, or resignation.

This bill allows the State Superintendent, in addition to his or her existing authority to revoke a teacher's certificate, to suspend a teacher's certificate. The State Superintendent is also given the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The bill also allows the State Superintendent to issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the State Superintendent. The bill also adds the following to the list of reasons for which a teacher's certificate is to be automatically revoked: The teacher pleads guilty to or is convicted under the provisions of §61-2-1, relating to first and second degree murder, or has been convicted under any law of the United States or any other state for an offense which has the same elements as those offenses. This bill also requires a teacher to maintain a professional relationship with all students at all times, both in and out of the classroom; and provides that following a hearing, any teacher found to have committed any act of sexual abuse of a student or minor or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in, or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in grooming a student or minor will have his or her license revoked for a period of time of not less than five years. The bill also adds to current law which requires a county superintendent who knows of any acts on the part of any teacher for which a certificate can be revoked or for which other action can be taken to report this to the State Superintendent by imposing the same requirement on a public school principal and public charter school administrator.

The bill requires the State Superintendent to maintain a public database of individuals who have adverse action taken against their teaching certificate; and provides that individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board.

It also provides that the code section on revoking or suspending certificates applies to all public school teachers whether employed by a county board or a public charter school governing board; requires the State Superintendent to periodically ensure that county boards are acting in compliance with the code section on revoking or suspending certificates; and allows the State Board to propose legislative rules that are necessary to implement the provisions of the code section on revoking or suspending certificates.

CODE REFERENCE: West Virginia Code §18A-2-8 and §18A-3-6 – amended

DATE OF PASSAGE: March 6, 2020

EFFECTIVE DATE: June 4, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4412

Relating to education benefits to members of the West Virginia Army National Guard and West Virginia Air National Guard

This bill amends a section of code that provides for payment of tuition and fees for members of the Army National Guard and Air National Guard to provide that if a member of the Army National Guard or the Air National Guard uses education benefits that are administered by the U.S. Department of Veterans Affairs, the institution of higher education must first assess the U.S. Department of Veterans Affairs for payment of tuition and fees payable under its programs before assessing the state.

CODE REFERENCE: West Virginia Code §15-1B-21 – amended

DATE OF PASSAGE: March 2, 2020

EFFECTIVE DATE: March 2, 2020

ACTION BY GOVERNOR: Signed March 25, 2020



House Bill 4414

Relating to the selection of language and development milestones for the deaf and hard-of-hearing children

This bill provides that for the purposes of developing and using language for a child who is deaf or hard of hearing, the following modes of communication can be used as a means for acquiring language: American Sign Language services, spoken language services, dual language services, cued speech and tactile, or a combination of those means. It also provides that this section only applies to children from birth through five, and that implementation is subject to appropriation by the Legislature.

The bill also requires the WVDHHR and the WVDE report measures specific to language and literacy for children ages three to five to the advisory committee, required to be established below, and others upon request.

The bill also requires the WVDHHR and the WVDE to jointly select language developmental milestones from existing standardized norms, to develop a family resource for use by families, providers, early interventionists, speech pathologists, educators, and other service providers to understand and monitor deaf and hard-of-hearing children's receptive and expressive language acquisition and progress toward English literacy development, and also sets forth specifics as to what the family resource shall include.

The bill also requires the WVDHHR and WVDE to prepare a list of valid and reliable existing tools or assessments for providers, early interventionists, speech pathologists, educators, and other service providers that can be used periodically to determine the receptive and expressive language and literacy development of deaf and hard-of-hearing children, and sets forth specific requirements for these educator tools and assessments.

The bill also imposes additional requirements on the WVDHHR and WVDE relating to the dissemination of the developed family resource and the selected educator tools and assessments, as well as providing informational materials on the use of the resources, tools, and assessments to assist deaf and hard-of-hearing children in becoming linguistically ready for formal school entry using the modes of communication and languages chosen by the parents.

The bill also provides that if a deaf or hard-of-hearing child does not demonstrate progress in receptive and expressive language skills, the child's IFSP team and IEP team is to explain in detail the reasons why the child is not meeting the language developmental milestones or progressing towards them, and is to recommend specific strategies, services, and programs that must be provided to assist the child's success toward English literacy development.

The bill also requires the WVDHHR and the WVDE to establish an advisory committee to solicit input from stakeholders on the selection of language developmental milestones for children who are deaf or hard-of-hearing that are equivalent to those for children who are not deaf or hard-of-hearing, for inclusion in the developed family resource; and sets forth the volunteer individuals who are to be included on the advisory committee. The advisory committee is authorized to advise the WVDHHR and WVDE on the content and administration of the existing instrument used to assess the development of children with disabilities pursuant to federal law, as used to assess deaf and hard-of-hearing children's language and literacy development to ensure the appropriate use of that instrument with those children, and make recommendations regarding future research to improve the measurement of progress of deaf and hard-of-hearing children in language and literacy.

The bill also requires the WVDHHR and the WVDE to provide the advisory committee with a list of existing language developmental milestones from existing standardized norms, along with any relevant information held by the departments regarding those language developmental milestones for possible inclusion in the developed family resource. After reviewing, the advisory committee is to recommend to the WVDHHR and the WVDE language developmental milestones for selection.

Beginning on or before July 31, 2021, and on or before each July 31 thereafter, the WVDE are required to annually produce an aggregated report, using existing data reported in compliance with the federally required state performance plan on children with disabilities, that is specific to language and literacy development of children whose primary exceptionality is deaf and hard-of-hearing from birth to five years of age, inclusive, including those who are deaf or hard-of-hearing and have other disabilities, relative to their peers who are not deaf or hard-of-hearing; and are required to make the report available to the advisory committee, LOCEA, LOCHRA, and others upon request.

The bill also requires that all activities of the WVDHHR and the WVDE in implementing these requirements be consistent with federal law regarding the education of children with disabilities and federal law regarding the privacy of student information.

CODE REFERENCE: West Virginia Code §16-1-20 – new

DATE OF PASSAGE: March 5, 2020

EFFECTIVE DATE: June 3, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4480

Relating to legislative rules for the Higher Education Policy Commission

This bill authorizes Higher Education Policy Commission (HEPC) and Community and Technical College Council (CTCC) legislative rules that have been reviewed and recommended by the Legislative Oversight Commission on Education Accountability (LOCEA).

LOCEA recommends the following rule to be repealed:

Series 49 – HEPC – Accountability System

Senate Bill 673 (2019) repealed requirements for the development of a system master plan and institutional compacts. A majority of Series 49, Accountability System, addressed these requirements and, therefore, the rules pertaining thereto are no longer necessary. The remaining elements of Series 49 have been merged into the revised version of Series 3, set forth below.

LOCEA recommends the following rules to be authorized:

Series 3 – HEPC – Higher Education Report Card Accountability System

Senate Bill 673 (2019) provided for additional flexibility in the reporting of institutional and system-level data by streamlining requirements for published annual reports and allowing the Commission staff to make data available to the public using internet based tools and the agency's official website. This rule addresses these changes and merges portions of the previous Series 49, retitling it as "Series 3, Higher Education Accountability System."

Series 26 – HEPC – Underwood-Smith Teacher Scholarship Teaching Scholars Program and Teacher Education Loan Repayment Program

HB 206 (2019) made significant changes to the Underwood-Smith Scholarship Program and renamed it the Underwood-Smith Teaching Scholars Program and Teacher Education Loan Repayment Program. This rule is revised to reflect these statutory changes.

The proposed rule differs from the current rule in that it is designed to specifically address critical teacher shortage needs in the state. The teacher shortage areas will be identified annually by the West Virginia Department of Education. The revised rule provides for additional academic support and mentoring and increases the award from \$5,000 to \$10,000. Upon graduation and teacher certification, recipients must fulfill their teaching obligation to teach in an identified critical teaching shortage field in an elementary, middle, or secondary public school in West Virginia for five years.

The rule also includes the Teacher Education Loan Repayment Program. This revision is designed to assist teachers and school counselors with loan repayment if they are employed in a West Virginia public school as a teacher in a critical shortage teaching field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of the state identified as an area of need for such field. The loan recipient is eligible for renewal of a loan repayment assistance reward only during periods when the recipient complies with all other criteria and conditions established by the rule.

Series 8 – CTCC – West Virginia Invest Grant Program

SB 1 (2019) created the "free community college" program. The proposed rule establishes guidelines and procedures to reflect the mandates of that bill.

The rule sets eligibility requirements for institutions and students. It sets forth the "last dollar in" award process and requires prospective recipients to complete a FAFSA. The rule states the conditions for renewal of the award and the process for any post-award changes. It provides for monetary repayment if

the student does not meet the after-graduation residency requirement. The rule establishes due diligence requirements for collection of monetary repayment and sets forth an appeals process. Finally, the rule provides accounting, reporting and auditing requirements.

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: March 3, 2020

EFFECTIVE DATE: June 1, 2020

ACTION BY GOVERNOR: Signed March 25, 2020



House Bill 4497

Requiring an external defibrillator device at any secondary school athlete event

This bill provides that in memory of Alex Miller, a Roane County football player who collapsed and died during a school football game, this law is to be known as The Alex Miller Law.

It provides that the WVSSAC, by the 2021-2022 school year, is to require that an automated external defibrillator device and a posted emergency action plan be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision, and regulation of the commission, and that all school sports personnel be trained in the use of the device.

The commission is required to propose rules for promulgation by the State Board to implement these requirements including proximity.

Finally, the bill provides that no individual, school, county board of education, or other entity shall be held liable for civil damages when the individual, school, county board of education, or other entity in good faith attempted to comply with the requirements of this section or rules promulgated pursuant to this section.

CODE REFERENCE: West Virginia Code §18-2-25c – new

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: June 5, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4519

Establishing a summer youth intern pilot program within Department of Commerce

This bill establishes a summer youth intern pilot program within the Department of Commerce to provide high school students with internship opportunities that allow these youths to explore and prepare for high-demand careers, gain work experience, and develop the life characteristics necessary for success in occupations and entrepreneurship. The Department of Commerce:

- Is required to work with employers, nonprofit organizations, and educational institutions to provide for the placement of youth in internships primarily in high-demand career fields with a prioritization of offering equitable opportunities for all students.
- Subject to appropriation by the Legislature, is authorized to award grants to assist employers with costs of summer youth intern pilot projects on a competitive basis.
- Is required to annually issue a request for proposals to the public, specifying the expectations, requirements, and qualifications for the summer youth intern pilot program grant, including, but not limited to, the provision of facilities, programming, staffing, and outcomes.
- Is required to give full and fair consideration to each proposal and to award grants after considering certain factors set forth in the bill.

The bill also allows a county board to establish a diverse stakeholder working group which may include, but is not limited to, educators from both public and higher education, businesses and business organizations, associations and authorities, families, students, community leaders, and any other stakeholders they may choose.

Working with the school system leadership, the purpose of the stakeholder working group is to assist in the development of a succinct profile of a future ready graduate of the school system containing the knowledge, college and career skills, and life characteristics that they agree are needed for success in occupations and entrepreneurship in the changing world of work.

School system leadership can include the stakeholders in creating visibility and support for their unique, shared vision of a future-ready graduate and in setting the stage for planning and action steps that may be necessary to prepare future-ready graduates; and can engage external champions who are committed to the shared vision of a future-ready graduate to help generate community awareness and support for the project and to build strategic partnerships for program implementation.

The bill provides that the action steps should include clearly articulating the profile of the future-ready graduate to participating schools, parents, and the community, nurturing the whole child, and beginning the development of foundational knowledge, skills, and characteristics beginning in the early years of school, and establishing multiple paths toward college and career readiness for students that include internships, externships, and credentialing.

The bill also recognizes that LSICs can play a key role in the implementation of programs at the age appropriate grade levels by engaging the school's business and community partners, including two-year and four-year institutions of higher education, to help develop within students an awareness of the changing world of work and an appreciation of the relevancy of academic subject matter for success in various occupations and entrepreneurship. This can include, but is not limited to, presentations by guest speakers, demonstrations, hands-on creative projects, virtual or on-site visits to work places, and internships, externships, and credentialing appropriate for the grade levels of the school to reinforce the

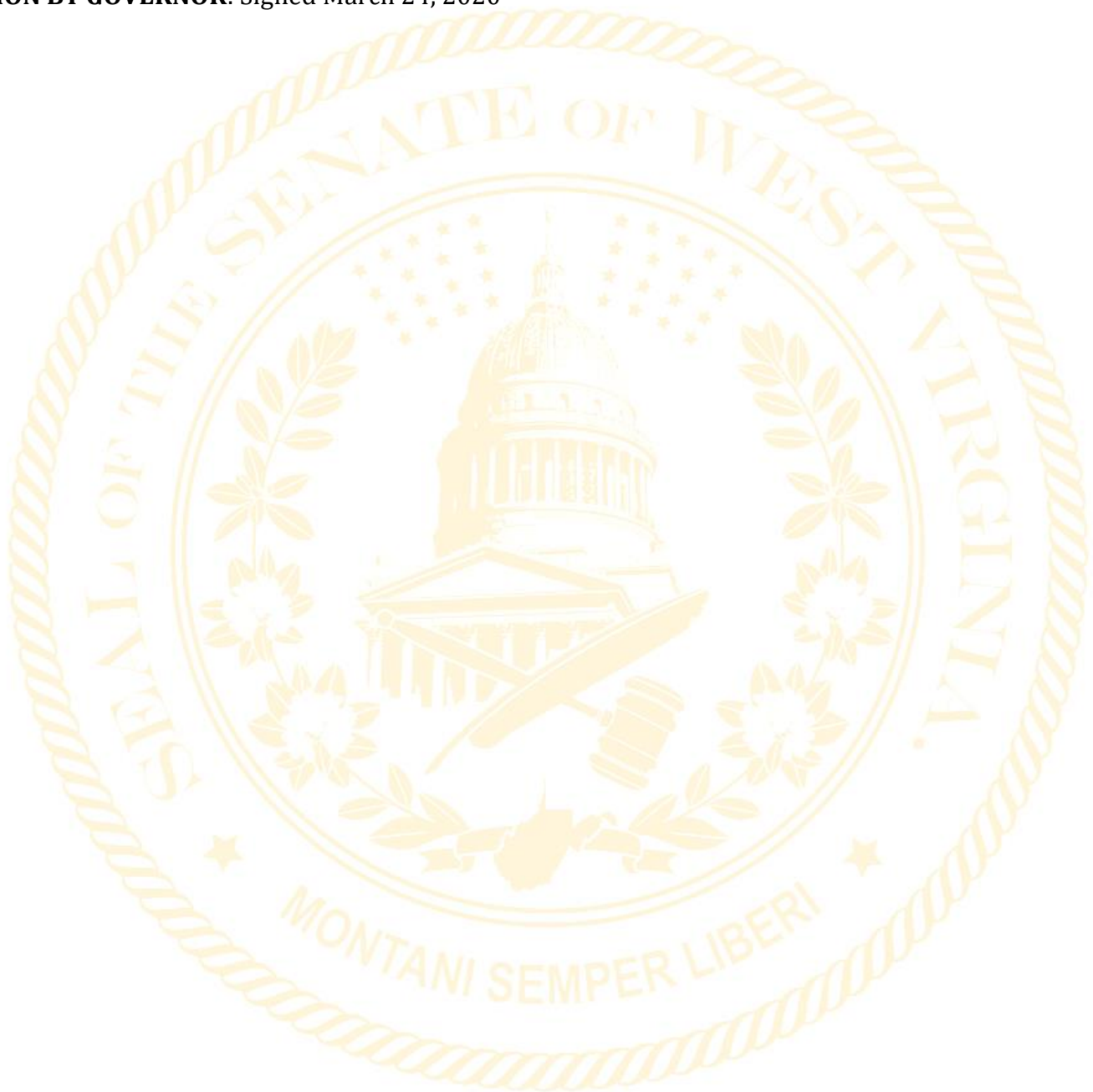
competencies students will need for success. The bill also authorizes LSICs to exercise their statutory authority to seek waivers from rules, policies, interpretations, and statutes for plan implementation.

CODE REFERENCE: West Virginia Code §5B-2D-8 and §18-2-7e – new

DATE OF PASSAGE: March 4, 2020

EFFECTIVE DATE: June 2, 2020

ACTION BY GOVERNOR: Signed March 24, 2020



House Bill 4546

Relating to tuberculosis testing for school superintendents

This bill removes the requirement that after his or her initial test, the county superintendent have an approved tuberculin skin test once every two years or more frequently if medically indicated. Instead, it allows the Commissioner of the Bureau for Public Health to require selective testing of superintendents for tuberculosis when there is reason to believe that they may have been exposed or they have signs and symptoms indicative of the disease. The bill also provides that the county superintendent should contact the local health department in instances where they have reason to suspect that they have been exposed or have symptoms indicative of the disease.

CODE REFERENCE: West Virginia Code §18-4-2 – amended

DATE OF PASSAGE: March 4, 2020

EFFECTIVE DATE: June 2, 2020

ACTION BY GOVERNOR: Signed March 24, 2020



House Bill 4691

Relating to employment in areas of critical need in public education

This bill extends the expiration date for provisions authorizing the employment of retired teachers in critical need areas beyond the 140-day post-retirement limit from June 30, 2020 to June 30, 2025. It also includes school counselors within the definition of “teacher or substitute teacher”, making them eligible to be employed beyond the post-retirement limit.

Additionally, the bill moves and completely rewrites provisions pertaining to employment of prospective employable professional personnel to a new section, and makes the following changes:

- Changes references to prospective employable professional personnel to prospective teachers and other professional personnel.
- Provides that the intent of the section is to enable school systems to recruit and employ prospective teachers and other professional personnel during the prime recruiting season for new graduates in positions in which the county board has a critical need.
- Limits the condition for hiring prospective teachers and other professional personnel that no qualified applicants are available and willing to fill the critical need position to only applicants currently employed by the county.
- Removes limitation that only allows employment from candidates at a job fair.
- Replicates existing language from §18A-2-2 that provides that when necessary to facilitate the employment of prospective teachers and other professional personnel who have not yet attained certification, the contract can be signed on the condition that the certificate is issued to the employee prior to the beginning of the employment term.
- Removes the authority to employ the personnel without the need for additional postings and without the need for additional faculty senate involvement other than the initial faculty senate involvement required in the case of a classroom teaching position.

CODE REFERENCE: West Virginia Code §18A-2-3 – amended; §18A-2-2b – new

DATE OF PASSAGE: March 4, 2020

EFFECTIVE DATE: March 4, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4729

Requiring higher education institutions to use previous versions or editions of instructional materials

The bill requires that each governing board of a state institution of higher education to establish, or if already established, continue, an educational materials affordability committee consisting of faculty, students, administrators, and bookstore representatives; and requires the committee to make recommendations to the governing board on performing certain duties that are currently the responsibility of the governing boards as well as recommendations on some new additional duties. The current duties of the governing board that the committee would make recommendations on include:

- Ensuring that bookstores operated at institutions under its jurisdiction minimize the costs to students of purchasing educational materials.
- Requiring the repurchase and resale of educational material on an institutional basis.
- Providing for the use of certain basic educational materials for a reasonable number of years.

The new added duties that the committee would make recommendations on include:

- Ensuring appropriate, high quality course educational materials are selected by course instructors.
- Encouraging and incentivizing the use of previous or older versions of basic educational materials to the extent those older versions are available and less costly to students and remain relevant, high quality educational materials with up-to-date information and content.
- Encouraging and incentivizing the use of emerging technologies, such as electronic textbooks, online textbooks, print-on-demand services, and other open resource materials.
- Prohibiting employees from profiteering by requiring the purchase of one-time use materials (such as worksheets) or receiving payment or other consideration as an inducement to require students to purchase particular textbooks.

The bill also replaces the word “textbooks” throughout the bill with the term “educational materials”, and defines “educational materials” to mean textbooks and other supplementary course materials that come at a cost to the student, regardless of format.

CODE REFERENCE: West Virginia Code §18B-10-14 – amended

DATE OF PASSAGE: March 3, 2020

EFFECTIVE DATE: June 1, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4737

Clarifying student eligibility for state-sponsored financial aid

This bill provides the qualifications for state financial aid are separate and apart from the requirements for federal financial aid, and the inability of a student to complete the Free Application for Federal Student Aid (FAFSA) because of extenuating family circumstances, as determined by the Vice Chancellor for Administration in consultation with the student's high school, does not affect the student's eligibility for state financial aid. The bill also provides the number of students determined eligible for financial aid despite his or her inability to complete the FAFSA be published to the HEPC and CTCC websites.

CODE REFERENCE: West Virginia Code §18C-1-1 – amended

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: March 7, 2020

ACTION BY GOVERNOR: Signed March 24, 2020

House Bill 4780

Permitting county boards to offer elective courses of instruction on the Bible

This bill provides that county boards of education may offer to students in grades nine and above an elective social studies course on the:

- Hebrew Scriptures, Old Testament of the Bible.
- New Testament of the Bible.
- Hebrew Scriptures and the New Testament of the Bible.

The bill sets forth the purpose of the course and provides that a student cannot be required to use a particular translation as the sole text of the of the Hebrew Scriptures or New Testament.

The bill also requires a county board to submit to the WV Department of Education the course standards for any elective course offered, including the teacher qualifications and required professional development.

The course is required to follow applicable law and all federal and state guidelines in maintaining religious neutrality and accommodating the diverse religious views, traditions, and perspectives of students in the school. The course cannot endorse, favor, promote, disfavor, or show hostility toward any particular religion or nonreligious faith or religious perspective. County boards are prohibited from violating any provision of the U.S. Constitution or federal law, the WV Constitution or any state law, any administrative regulations of the U.S. Department of Education, or any rule of the State Board. The state board is required to provide guidance to the county boards in complying with all of the above requirements.

CODE REFERENCE: West Virginia Code §18-2-9a – new

DATE OF PASSAGE: March 4, 2020

EFFECTIVE DATE: June 2, 2020

ACTION BY GOVERNOR: Signed March 25, 2020

House Bill 4790

Relating to Career Technical Education for middle school students

Current code requires the state board to adopt by rule a program of instruction in general workforce and career preparedness. This bill broadens information to be communicated to students under the program to include the knowledge, college and career skills, and life characteristics needed for success in occupations and entrepreneurship; and allows at the middle school level, the program to be integrated with comprehensive career exploration which also may include Career Technical Education foundational courses, stand-alone Career Exploration courses and mini courses, field trips, guest speakers, and career mentors.

The bill also requires that the county boards provide elective Career Technical Education courses for middle school students that may include foundational Career Technical Education courses, Career Technical Education courses developed with a focus on high need occupational areas within the area or region, agriculture, industrial arts, and family and consumer sciences.

CODE REFERENCE: West Virginia Code §18-2-7d – amended

DATE OF PASSAGE: March 4, 2020

EFFECTIVE DATE: June 2, 2020

ACTION BY GOVERNOR: Signed March 24, 2020

House Bill 4804

Relating to comprehensive systems of support for teacher and leader induction and professional growth

This bill allows a county board to adopt a teacher leader framework as part of its comprehensive system of support for improving professional practice. It provides that if the county board adopts a county salary supplement to provide additional compensation to teachers who, in addition to teaching duties, are assigned certain other duties, then appropriations made for supporting the purposes of a county board's plan for implementation of a comprehensive system of support for improving professional practice can be applied to that salary supplement and other associated costs. These associated costs can include a reduction in the teaching load of the teacher leader. The other duties mentioned above can include duties related to new teacher induction, improving professional practice, and furthering professional growth among teachers.

The bill also requires the WVDE to assist county boards with the design and implementation of a teacher leader framework; and sets forth specific goals for a teacher leader framework. It also allows the WVDE to form networks among schools, school systems, or both of comparable size and interests for the design and implementation of teacher leader frameworks. The bill also sets forth specific components that a teacher leader framework must include and requires LOCEA to review the comprehensive systems of support for teacher and leader induction and professional growth.

This bill also amends Step 7d of the school aid formula which provides 20% of the growth in local share added to the previous year's appropriation to fund county level implementation of the comprehensive systems of support for teacher and leader induction and professional growth. The Step is amended to provide for retention of \$100,000 of these funds each year for a five-year period, for use by WVDE to assist county boards in the design and implementation of teacher leader frameworks.

CODE REFERENCE: West Virginia Code §18-9A-10 and §18A-3C-3 – amended

DATE OF PASSAGE: March 7, 2020

EFFECTIVE DATE: June 5, 2020

ACTION BY GOVERNOR: March 25, 2020

House Bill 4925

Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs

This bill requires the WVSSAC to recognize preparatory athletic programs, whose participants attend a secondary school in WV for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level. It also:

- Requires the preparatory athletic program to pay the same fees as member schools.
- Provides that the recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events.
- Gives the WVSSAC authority to promulgate an emergency rule to carry out the intent of these requirements.

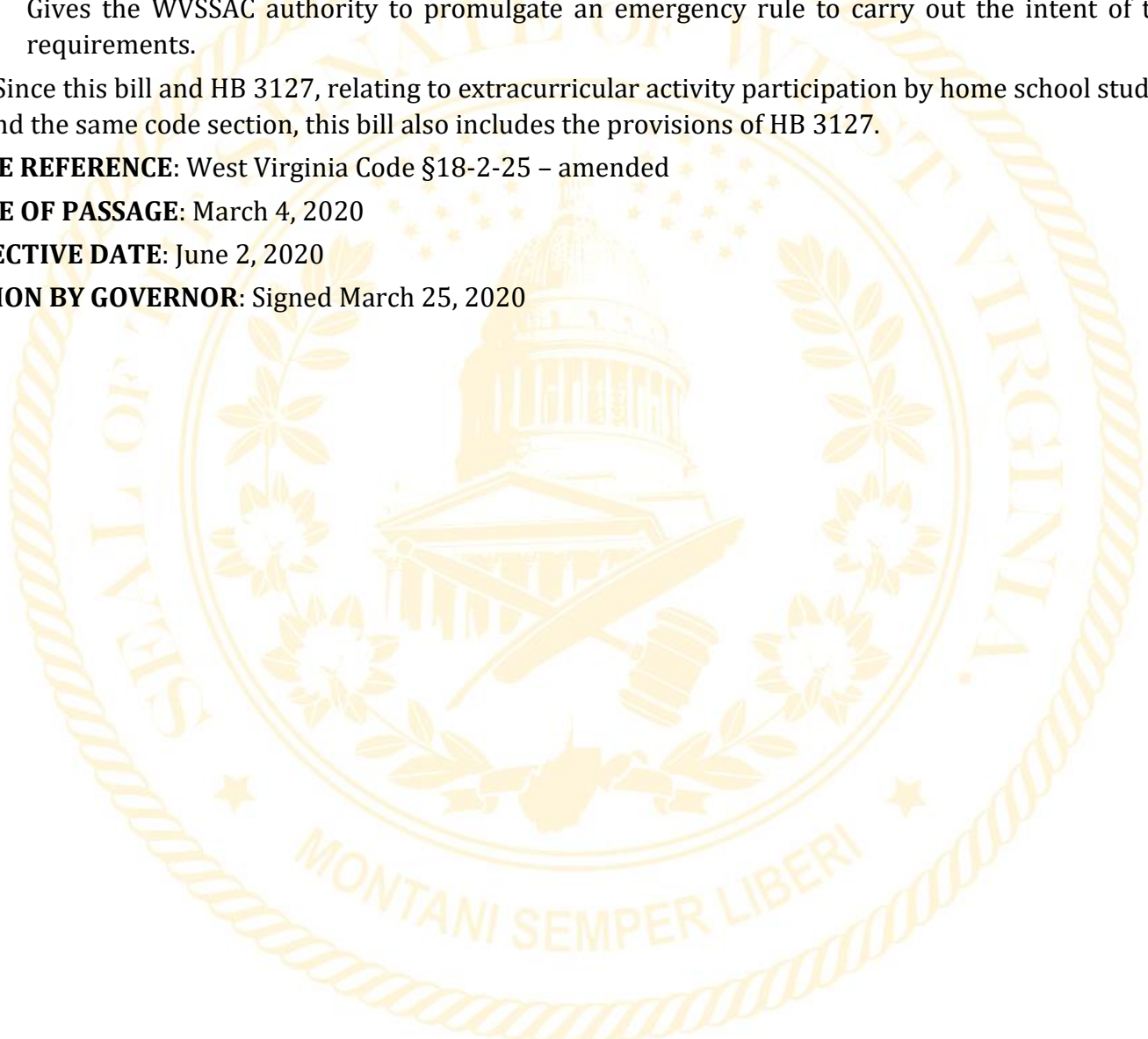
Since this bill and HB 3127, relating to extracurricular activity participation by home school students, amend the same code section, this bill also includes the provisions of HB 3127.

CODE REFERENCE: West Virginia Code §18-2-25 – amended

DATE OF PASSAGE: March 4, 2020

EFFECTIVE DATE: June 2, 2020

ACTION BY GOVERNOR: Signed March 25, 2020



2019 Regular Session



Senate Bill 1

Increasing access to career education and workforce training

The purpose of this bill is to establish an Advanced Career Education (ACE) program and create the WV Invests Grant Program, both of which are for the purpose of increasing access to career education and workforce training.

The purpose of ACE programs (§18-2E-11) is to: 1) Connect secondary schools with community and technical colleges and four-year colleges that offer associate degrees to prepare secondary students for success in post-secondary education and the workforce; and 2) to provide more opportunities for secondary students to earn post-secondary college credits, certifications, and associate degrees. [§18-2E-11(b)(1) and (2)]

The community and technical colleges, public baccalaureate institutions, career technical education centers, county boards of education, or both are required to establish partnerships that establish ACE programs. An ACE program would feature multiple defined pathways that begin when a student is in high school and end with the student obtaining a credential or an associate degree. The bill also requires that the ACE programs be available to public, non-public, and home school students. [§18-2E-11(c)]

An ACE program is required to include of a curriculum of courses leading to an associate degree or advanced certification that has been determined to satisfy an area of workforce need as determined the Department of Commerce. The Department of Commerce is required to at least annually provide written notification to the State Board of Education and the WV Council for Community and Technical College Education of a determination of areas of workforce need within the state. These areas of workforce need could be determined on a statewide basis or regional basis. [§18-2E-11(d)]

The State Superintendent, the Chancellor of the Council for Community and Technical College Education, the Chancellor of the Higher Education Policy Commission, or their designees, are required to facilitate the ACE programs. [§18-2E-11(e)(1 through 5)] At a minimum, an ACE program must satisfy the following objectives:

- Provide additional opportunities to students to attain college credentials through ACE pathways;
- Increase the number of students in this state that attain college credentials through ACE pathways;
- Allow students to attain college credentials through ACE at little or no cost;
- Ensure that ACE provides a clear roadmap to the courses and requirements necessary to attain college credentials; and
- Ensure that course requirements within ACE pathways are not duplicated.

The State Board and the Council are required to jointly promulgate guidelines for the administration of ACE programs and pathways. [§18-2E-11(f) (1 through 5)] The guidelines are required to be adopted by both the State Board and the Council. At a minimum, the guidelines are required to include the following:

- That ACE program partnerships be reduced to written partnership agreements;
- The information required to be in the partnership agreements;
- That ACE programs and pathways must meet the requirements of the accrediting entity for the community and technical college or the baccalaureate institution awarding the associate degrees;
- That partnership agreements must be approved by the State Superintendent, the Chancellor for the Council for Community and Technical College Education and he Chancellor of the Higher Education Policy Commission; and
- Any other necessary provisions.

Additionally, the bill requires that the Division of Vocational Education and the Council annually report certain information to the Governor and LOCEA. The reporting requirements are set out in the bill. [§18-2E-11 (g)]

This bill also provides that students that have completed a secondary education program in a public, private, or home school and have continued to be enrolled in a program leading to an advanced certification or an ACE program are considered adults enrolled in regular secondary programs under the definition of “net enrollment” for state aid purposes. The number of adults enrolled in secondary vocational programs that may be included in “net enrollment” for state aid purposes is increased from 1,000 to 2,500. The bill also provides that, beginning with the 2021 fiscal year, a career technical education center can only receive funding for enrollment if the center has satisfied certain ACE requirements including the requirement to partner with at least one community and technical college. [§18-9A-2(I)(1)(A)]

This bill also creates the WV Invests Grant Program (§18C-9-1 et seq.) which is to be administered by the vice chancellor for administration. Necessary terms are defined. [§18C-9-3] Under the program, the Council is to award grants pursuant to the following:

- A grant can only be awarded to applicants satisfying the eligibility requirements;
- The maximum amount of the grant is the cost of tuition charged to all students for coursework leading to completion of the chosen associate degree or certificate, less all other state and federal aid for which the student is eligible;
- Grant payments are to be made directly to the eligible institutions;
- In the event that a grant recipient transfers from one eligible institution to another, the grant is transferable only with approval of the vice chancellor for administration;
- The grant can be used at any eligible institution to seek an associate degree or certificate in an eligible post-secondary program; and
- If the grant recipient terminates enrollment for any reason during the academic year, the unused portion must be returned by the institution to the council for return to the WV Invests Grant Fund for allocation and expenditure. [§18C-9-4]

The bill also requires the Council to report to the Legislature and Governor on the WV Invests Grant Program, which must include research and data concerning student success and grant retention. [§18C-9-4(c)] The Council is required to propose legislative rules to implement the provisions of this article that provide for: (1) Application requirements and deadlines; (2) appeal procedures for the denial or revocation of the grant; and (3) any other necessary provisions. Authority for an emergency rule is also included. [§18C-9-4(d) and (e)]. To be eligible for a WV Invests Grant, an individual must satisfy the following requirements [§18C- 9-5 (a)(1 through 11)]:

- Be a citizen or legal resident of the United States and have been a resident of West Virginia for at least one year immediately preceding the date of application;
- Have completed a secondary education program in a public, private, or home school;
- Have not been previously awarded a post-secondary degree;
- Be at least 18 years of age (except that individuals younger than 18 can qualify upon completion of a secondary education program in a public, private, or home school);
- Meet the admission requirements of, and be admitted into, an eligible institution;
- Satisfactorily meet any additional qualifications of financial need, enrollment, academic promise, or achievement as established by the Council through rule;
- Have filed a completed FAFSA;

- Be enrolled in an eligible post-secondary program;
- Be enrolled in at least six credit hours per semester;
- Have completed a WV Invests Grant application as provided by the Council in accordance with a schedule established by the Council; and
- Have, prior to the start of each semester, satisfactorily passed a drug test administered by the eligible institution with the applicant being responsible for the actual cost of the drug test.

Also, each grant can be renewed until the course of study is completed, as long as the following qualifications, as determined by the vice chancellor for administration and Council, are satisfied[§18C-9-5(b)(1 through 5)]:

- Maintaining satisfactory academic standing, including a cumulative GPA of at least 2.0;
- Making adequate progress toward completion of the eligible post-secondary program;
- Satisfactory participation in a community service program authorized by the Council (Council is required to promulgate rules to provide for the administration of this requirement, including, but not limited to, requiring completion of at least eight hours of unpaid community service during the time of study, which may include, but is not limited to, participating with nonprofit, governmental, institutional or community-based organizations designed to improve the quality of life for community residents, meet the needs of community residents or foster civic responsibility);
- Continued satisfaction of the initial eligibility requirements; and
- Satisfaction of any additional eligibility criteria established by the Council through legislative rule.

The bill also requires that each recipient of a WV Invests Grant enter into an agreement with the vice chancellor for administration, which requires repayment of an amount of the grants awarded to the recipient, in whole or in part, if a recipient chooses to reside outside the state within two years following obtainment of the degree or certificate for which the grant was awarded. The Council is prohibited from requiring a recipient to repay grants, in whole or in part, unless the prospective recipient has been informed of this requirement in writing before initial acceptance of the grant award.

Each WV Invests Grant agreement must include the following:

- Disclosure of the full terms and conditions under which assistance under this article is provided and under which repayment can be required; and
- A description of the appeals procedure.

Recipients who are not in compliance with the agreement must be required to repay the amount of the grant awards received, plus interest, and where applicable, reasonable collection fees on a schedule and at a rate of interest, prescribed in the Council's rules. The Council also must provide for proration of the amount to be repaid by a recipient who maintains employment in the state for a period of time within the two-year time period.

The bill further provides that a recipient is not in violation of the agreement during any period in which the recipient is meeting any of the following conditions:

- Pursuing a half-time course of study at an accredited institution of higher education;
- Serving as a member of the armed forces of the United States;
- Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician; or
- Satisfying the provisions of any additional repayment exemptions prescribed by the Council through rule.

Lastly, the bill creates in the State Treasury a special revenue fund to be known as the “WV Invests Fund” which is to be expended for the purpose of administering the WV Invests Grant Program.

CODE REFERENCE: West Virginia Code §18-2-6 and §18-9A-2 – amended; §18-2E-11 and §18C-9-1 through §18C-9-6 – new.

DATE OF PASSAGE: March 7, 2019

EFFECTIVE DATE: June 5, 2019

ACTION BY GOVERNOR: Signed March 25, 2019



Senate Bill 26

Permitting certain employees of educational service cooperatives participate in state's teacher retirement systems

The bill amends the provisions of the West Virginia Code relating to participants in the State Teachers Retirement System (TRS) and in the Teachers' Defined Contribution Retirement System (TDC). The bill authorizes full-time employees of educational services cooperatives to be members of TRS and TDC.

The definitions of the terms "teacher member" and "nonteaching member" in the TRS statutes are amended to include employees of educational services cooperatives who are performing services of an educational nature. The bill also amends the definition of "member" or "employee" in the TDC statutes to include persons who are regularly employed for full-time service by any educational services cooperative.

Note: The provisions of this bill were contained in H. B. 4219 of the 2018RS which passed the House of Delegates and was on 3rd reading in the Senate when it was referred to the Senate Rules Committee and was not returned to the Senate calendar before the end of the session.

CODE REFERENCE: West Virginia Code §18-7A-3 and §18-7B-2 – amended

DATE OF PASSAGE: February 25, 2019

EFFECTIVE DATE: May 26, 2019

ACTION BY GOVERNOR: Signed March 7, 2019

Senate Bill 154

Using school facilities for funeral and memorial services for certain community members

This bill requires county boards of education to allow school facilities in the county to be used for the funeral or memorial service of a community member of distinction who was a military service member or veteran who served under honorable conditions or who served as a first responder. County boards are authorized to set up a process by which requests to use school facilities may be made. The bill provides that county boards are not responsible for any additional costs that may be incurred. Additionally, the bill prohibits a funeral or memorial service held at a school facility from disrupting or interfering with classroom instruction, other scheduled school event or activity, or other official governmental use such as when a school serves as a polling place for an election.

CODE REFERENCE: West Virginia Code §18-5-13d – new

DATE OF PASSAGE: March 7, 2019

EFFECTIVE DATE: June 5, 2019

ACTION BY GOVERNOR: Signed March 25, 2019

Senate Bill 329

Relating to agricultural education in high schools

This bill, beginning in the 2020-2021 school year, encourages school districts and multi-county vocational centers to make available agricultural programs to high school students, including but not limited to programs that would allow for and support the establishment of a local FFA chapter. It requires the Department of Education to assist in establishing agricultural programs available to high school students in the district upon request; and to the extent funding is the primary reason that an agricultural program is not established, it requires the Department of Education to report the same to LOCEA.

CODE REFERENCE: West Virginia Code §18-2E-8g – new

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed March 22, 2019

Senate Bill 440

Relating to Antihazing Law

This bill modifies the definition of “hazing” in the Antihazing Law to include hazing by any type of organization whose members include students at any public or private institution of higher education. Currently, only an organization operating under the sanction of or recognized by an institution of higher education is covered by the anti- hazing law.

CODE REFERENCE: West Virginia Code §18-16-2 – amended

DATE OF PASSAGE: February 28, 2019

EFFECTIVE DATE: May 29, 2019

ACTION BY GOVERNOR: Vetoed March 27, 2019

Senate Bill 441

Relating to higher education campus police officers

This bill allows institutional governing boards to widen their campus police officer applicants to out-of-state residents. The bill also removes language which would have limited institutional governing boards that may hire campus police officers to Marshall University and West Virginia University. In practice, other institutional governing boards are already hiring campus police officers.

CODE REFERENCE: West Virginia Code §18B-4-5 – amended

DATE OF PASSAGE: March 4, 2019

EFFECTIVE DATE: June 2, 2019

ACTION BY GOVERNOR: Signed March 22, 2019

Senate Bill 587

Relating to PEIA reimbursement of air ambulance providers

This bill establishes the amount the West Virginia Public Employees Insurance Agency will reimburse air-ambulance providers for the transportation of individuals covered by its plans, consistent with *Air Evac EMS, Inc. v. Cheatham*, 910 F.3d 751 (4th Cir. 2018). The bill provides that the plan reimburse a provider the amount in effect for the federal Medicare Program, including any Geographic Practice Cost Index. Further, the bill clarifies that where 49 U.S.C. §41713(b) (the ADA fee schedule) applies to reimbursement of a provider under §5-16-8a, any administrative, civil, or criminal penalties of the WV Code are inapplicable.

CODE REFERENCE: West Virginia Code §5-16-8a – amended

DATE OF PASSAGE: March 6, 2019

EFFECTIVE DATE: June 4, 2019

ACTION BY GOVERNOR: Signed March 25, 2019

Senate Bill 605

Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries

This bill provides that member SSAC schools be subject to disciplinary actions by the SSAC for not complying with: the code section addressing concussions and head injuries; the code section requiring all member schools submit an emergency action plan for athletics to the SSAC and their county boards of education; and rules promulgated under either code section.

It requires the SSAC to promulgate rules to establish guidelines for noncompliance and related disciplinary actions; and that before state board approval, the state board submit the rule to LOCEA. Finally, it modifies qualifications of athletic trainers and physical therapists for purposes of removing an athlete from competition due to concussion and head injury and authorizing the athlete to return to play.

CODE REFERENCE: West Virginia Code §18-2-25a and §18-2-25b – amended

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed by the Governor on April 16, 2019

Senate Bill 624

Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act

This bill requires the State Board to allow county boards to use an alternative assessment, such as the ACT, pursuant to the locally selected assessment option provided for in the Every Student Succeeds Act. It also prohibits the state Department of Education from paying any more than the general summative assessment per-student cost for a locally selected assessment. If required by the U.S. Department of Education, the bill provides that the state department is responsible for contracting and paying no more than \$100,000 total, of the costs of any studies required as part of the peer review process to satisfy the requirements of federal law. If the U.S. Department of Education determines that an alignment study is needed for a locally selected assessment option, the state department is required to ensure that an independent alignment study is used to evaluate the degree of alignment between the assessment and the state academic standards and the study is required to include at least three test forms. If the locally selected assessment is approved by the U.S. Department of Education and meets federal and state law, the state department is required to enter into a contract that allows for county boards to implement the locally selected assessment.

CODE REFERENCE: West Virginia Code §18-2E-5 – amended

DATE OF PASSAGE: March 9, 2019

EFFECTIVE DATE: March 2, 2019

ACTION BY GOVERNOR: Vetoed March 27, 2019

Senate Bill 632

Improving student safety

This bill creates the requirement that video cameras be installed in certain classrooms in public education classrooms in the state of West Virginia.

Safety and Security Measures for school facilities

- Requires county boards and multi-county vocational centers to annually assess the safety and security of each of its school facilities.
- Requires safety and security measures of each facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of the students within each facility.
- Requires each county board to report annually the safety and security measures it has put in place, including upgrades to those measures, to the department of education; and requires the department to compile the information from the county boards annually, and report the information to LOCEA.
- Creates a "Safe Schools Fund", and requires that, subject to appropriation, the funds be distributed to the county board and multi-county vocational centers, with the funding amount per school determined by dividing the total annual appropriation by the total number of public schools throughout the state.

Video Cameras In Special Education classrooms

- Provides that, upon appropriation of funds by the Legislature, a county board of education place video cameras in self-contained classrooms as set out in board policy.
- Defines necessary terms which includes a definition of "self-contained classroom" which is a classroom at a public school where the majority of the students are provided special education instruction.
- Requires county boards to provide a camera for each self-contained classroom; and provides that the principal of the school is the custodian of the records made by the camera.
- Requires public schools who receive the camera to operate and maintain the camera. Any interruption in operation requires that a written explanation be submitted to the school principal and the county board.
- Requires that a video camera placed in a self-contained classroom be capable of monitoring all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes; and recording audio from all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes.
- Prohibits a video camera placed in a self-contained classroom from monitoring a restroom or any other area in the self-contained classroom where a student changes his or her clothes.
- Provides that a video camera placed in a self-contained classroom is not required to be in operation during the time in which students are not present in the self-contained classroom.
- Requires that before a public school places a video camera in a self-contained classroom, the public school provide written notice of the placement to the parent or legal guardian of a student who is assigned to the self-contained classroom, the county board, and the school employee(s) who is assigned to work with one or more students in the self-contained classroom.
- Requires that the video be retained for three months unless:

- If there is a request to view the video, then it must be retained until the video is reviewed. A person who requests to review the video must be available within thirty days of the request being granted.
 - The exhaustion of all appeals if the recording results in an investigation or administrative or legal proceedings.
- Provides that any immunity from liability of a public school district or employee of a public school district is not waived; and that no liability for a cause of action against a public school, school district, or employee is created.
- Prohibits a public school or school district from allowing regular, continuous, or continual monitoring of the video; and prohibits using the video for teacher evaluations or any purpose other than the promotion of the health, well-being, and safety of students receiving special education and related services in a self-contained classroom.
- Provides that a video recording of a student is confidential and that it cannot be released or viewed except as otherwise provided in the bill.
- Requires that within seven days of receiving a request, a public school or school district allow viewing of a video recording by a public school or school district employee who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district; a parent or legal guardian of a student who is involved in an alleged incident that is documented by the video recording and has been reported to the public school or school district; an employee of a public school or school district as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the public school or school district; a law-enforcement officer as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the law-enforcement agency; or DHHR as part of a child abuse and neglect investigation so long as FERPA is complied with.
- Prohibits the use of any video showing a violation of a school's disciplinary code in disciplining a student when the infraction was found while monitoring the video in the course of an investigation of an incident unless it reveals a separate incident. "Incident" is defined in the definition section as a raised suspicion by a teacher, aide, parent, or guardian of a child of bullying, abuse, or neglect of a child or of harm to an employee of a public school by an employee or another student.
- Provides that it is not a violation of the confidentiality requirements if a contractor or other employee of a public school or school district incidentally views a video recording if the contractor or employee of a public school or school district is performing job duties related to the installation, operation, or maintenance of video equipment or retention of video recordings.
- Provides that these provisions do not limit the access of a student's parent or legal guardian to a video recording regarding the student under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.
- Requires a public school or school district to: (1) Take necessary precautions to conceal the identity of a student who appears in a video recording but is not involved in the alleged incident documented by the video recording for which the public school allows viewing; and (2) provide procedures to protect the confidentiality of student records contained in a video recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, or any other law.
- Allows a person who is eligible to make a request for a video camera to appeal to the state board any action by a public school or school district that the person believes to be in violation of these

provisions; and requires the state board to grant a hearing on an appeal within 45 days of receiving the appeal.

- Allows a public school or school district to use funds from the “Safe Schools Fund” to meet the video camera related requirements; and allows a public school or school district to accept gifts, grants, or donations to meet the video camera related requirements.
- Allows the state board to promulgate a rule to clarify these requirements and address any unforeseen issues that might arise relating to the implementation of these requirements.

Suspension and Dismissal of School Personnel

- Adds to the justifications for suspending or dismissing a school employee: A finding of abuse by DHHR, or a conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee’s job.
- Allows suspension or dismissal of any person at any time should the health, safety, and welfare of students be jeopardized, or the learning environment of students has been impacted.
- Requires the state superintendent to maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for impacting the learning environment of students.

CODE REFERENCE: West Virginia Code §18A-2-8 – amended; §18-5-48 and §18-20-11 – new

EFFECTIVE DATE: July 1, 2019

DATE OF PASSAGE: March 9, 2019

ACTION BY GOVERNOR: March 25, 2019

Senate Bill 636

Authorizing legislative rules for Higher Education Policy Commission

This bill authorizes the legislative rules that apply to the Higher Education Policy Commission and Council for Community and Technical College Education.

Rules of the Higher Education Policy Commission

- **Title 133, Series 15 (Acceptance of Advanced Placement); and Title 133, Series 53 (Human Resources Administration)**
 - Authorizes repeal of both rules.
 - This stems from the Governor's directive to eliminate unnecessary rules.
 - Series 15 is being merged into Series 59 and the title has been changed to "Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program".
 - Series 53 was replaced with Series 55, effective July 9, 2018.
- **Title 133, Series 5 (Guidelines for Governing Boards in Employing and Evaluating Presidents)**
 - Makes changes to be consistent with HB2815, passed in 2017.
 - Removes authority of the Commission over the appointment and compensation of presidents at exempted schools (Marshall, WVU, and the WVSOM).
 - Changes the Commission's role in the appointment of presidents at all other schools to one of "confirmation" instead of "approval".
 - Requires the Commission to receive notice, but provides that the Commission need not approve or confirm an increase in the compensation of a President that is exactly in the ratio of compensation increases allocated to all institutional employees if approved by the governing board.
 - Removes language that prohibits persons directly employed by a governing board from assisting a governing board in the evaluation of its president.
- **Title 133, Series 7 (WV PROMISE Scholarship Program)**
 - Amends rule originally proposed by HEPC.
 - Makes changes to be consistent with SB319, passed during the 2018 regular session.
 - Allows homeschooled students to qualify for PROMISE by meeting the 3.0 cumulative and core grade point average instead of being required to take a high school equivalency exam.
 - Removes section that relates only to home school eligibility requirements, and instead incorporates those requirements into the section that currently only addresses eligibility for public and private school students.
 - Relating to requirement that summer school students be enrolled for at least 12 hours, removes exception for students graduating at the end of the summer term who are only required to take at least 6 hours, and instead authorizes the Commission to grant a waiver to the full-time requirement.
 - Streamlines language by replacing the terms "two semesters" and "12 month period" with the term "academic year" in section 10, relating to eligibility for renewal of awards.

Rules of the Council for Community and Technical College Education

- **Title 135, Series 32 (Tuition and Fees)**

- Aligns the rule with HB2815, passed in 2017.
- Increases the annual minimum percentage tuition increase subject to Council approval from 5% to 10%, and requires Council approval for increases in excess of a 7% three-year rolling average.
- Provides that tuition and fee increases for online courses are not subject to approval by the Council.
- Amends current language which allows governing boards to establish a policy that provides for a deferred payment plan by instead simply requiring governing boards to permit fee payments to be made in installments over the course of an academic term.

- **Title 135, Series 15 (Acceptance of Advanced Placement Credit); and Title 135, Series 53 (Human Resource Administration)**

- Authorizes repeal of both rules per Governor's directive to eliminate unnecessary rules.
- Series 15 is being merged into Series 59 and the title has been changed to "Awarding Undergraduate College Credit for Prior Learning, Advanced Placement Credit, and College-Level Examination Program".
- Series 53 was replaced with Series 55, effective July 9, 2018.

- **Title 135, Series 20 (Initial Authorization of Degree-Granting Institutions)**

- Series 35, relating to Business Occupational and Trade Schools, was revised in 2017 part of which required all schools planning to offer a degree at the specialized associate's degree, associate's degree, or higher must receive approval from the Council and/or Commission.
- Changes to this rule address conflicts with Series 35 by removing conflicting exemptions and exceptions to the requirement for authorization to operate in this state.
- Removes language that allows the Council to waive all or part of certain reporting requirements due to conflicting with state code that now requires all schools, including public, private, and for-profit, to submit specific information to the Council related to authorization.

- **Title 135, Series 27 (Workforce Development Program(Learn and Earn))**

- Incorporates Procedural Rule, Series 7, Technical Program Development and WV Advance Rapid Response Workforce Development, into this rule for the purpose of eliminating redundancy so that all three workforce development grants administered by the Council are incorporated into one rule.
- Streamlines grant administration for all three projects including application criteria, distribution of funds, and performance evaluation and adds a provision to the learn and earn program to allow the Chancellor to waive the requirement of academic credit to expand the program to include training in high-demand occupation areas.
- Removes language about a required match to align the rule with 2016 code changes.

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: March 4, 2019

EFFECTIVE DATE: March 4, 2019

ACTION BY GOVERNOR: Signed March 26, 2019

Senate Bill 670

WV College Prepaid Tuition and Savings Program

The bill amends the provisions of the West Virginia Code relating to the West Virginia College Prepaid Tuition and Savings Program Act. This program is administered by the State Treasurer's Office. The bill adds to the eligible educational institutions where moneys from a savings plan may be used private or religious primary, middle or secondary schools. Current law includes only an institution of higher education.

The bill also changes the membership of the Board of the College Prepaid Tuition and Savings Program by:

- adding the State Superintendent of Schools, or his or her designee;
- eliminating the two members appointed by the Governor representing the public; and
- adding one member appointed by the Governor representing the interests of private institutions of higher education located in this state appointed from one or more nominees of the West Virginia Independent Colleges and Universities.

CODE REFERENCE: West Virginia Code §18-30-2, §18-30-3, §18-30-4 and §18-30-7 – amended

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed March 25, 2019

Senate Bill 672

Authorizing School Building Authority to promulgate legislative rules

This bill ratifies the School Building Authority's (SBA) proposed rules changes which were reviewed and authorized by LOCEA of February 19, 2019.

The bill repeals Title 164, Series One of the Code of State Regulations ("CSR"), School Building Authority and Procedures Handbook, and Series Six, SBA Reporting Procedures because they are procedural, rather than legislative.

Series Two, Funding School Building Authority Projects; Series Three, SBA School Planning and Design Criteria; Series Four, SBA Project Administration and Review; Series Five, SBA Contract and Agreements; and Series Seven, School Access Safety Act are revised by deleting provisions that are procedural in nature.

The intent of the proposed revisions is to reflect industry standards, to make the rules compliant with changes made to the West Virginia Board of Education Policy 6200, and to meet the state's directives for localized decision-making. These changes are recommended to make the rules less cumbersome and to remove all references to procedural policy guidelines and SBA forms.

Specific procedural policy location references and all incorporations by reference are procedural in nature. In addition, removal allows for clarity and flexibility of the SBA's policy and procedures handbook and enables the SBA to remain current with changes in best practices in the fields of design, engineering, and construction.

The following is a summary of the changes in each Series:

- The bill repeals Series One, School Building Authority and Procedures Handbook, because it is procedural and is listed as a procedural rule on the Secretary of State's website.
- The bill revises the date that Series Two, Funding School Building Authority Projects rule was filed in the state Register to reflect the correct date of June 26, 2018, and:
 - Amends the rule to:
 - Ensure the use of federal funds is aligned with requirements in the West Virginia code.
 - Require grants are awarded in accordance with SBA guidelines.
 - Require counties provide the SBA annual facility corrective and preventive maintenance data for joint review as a prerequisite for eligibility.
 - Amends eligibility for 3% state-wide funds to multi-county vocational-technology centers.
 - Requires that applicants for 3% state-wide fund provide required information in WVBOE Policy 6200.
 - Requires that emergency grant applications be in accordance with SBA guidelines.
 - Allows the SBA to grant a one-time extension of not greater than 12 months for planning grants and transfers unused monies at the end of any extension to the construction fund.
 - Requires counties to submit a "needs" executive summary to the SBA for "needs" grants.
 - Makes the SBA's appointment of planning advisory teams discretionary instead of mandatory.

- Requires counties seeking Major Improvement Plan funds to annual maintenance plans.
 - Allows SBA to hold release of final payment until submission of a completion certificate.
 - Gives state and county agencies authority to grant occupancy of educational facilities and removes SBA role in such decisions.
 - Delete all outdated SBA Handbook Appendix references previously incorporated by reference.
- The bill revises the date that Series Three, School Building Authority School Planning and Design Criteria rule was filed in the state Register to reflect the correct date of June 26, 2018, and:
 - Amends the rule to:
 - Delete specific minimum gross area allocations (total students divided by capacity) but ensure that such utilization will be an important factor in determining funding priorities.
 - Allows local education agencies to justify alternate gross area allocations to the SBA.
 - Deletes the requirement of prototypical school design.
 - Deletes specific design capacity requirements.
 - Deletes vocation space requirements for comprehensive high schools as such are already required under the code.
 - Deletes restrictions on combined art and music classrooms based solely on school enrollment size.
 - Deletes prohibition on use of SBA funds for repaving of existing parking lots.
 - Deletes set percentages for renovation versus replacement funding.
 - Delete all outdated SBA Handbook Appendix references previously incorporated by reference.
- The bill revises the date that Series Four, School Building Authority Project Administration and Review rule was filed in the state Register to reflect the correct date of June 26, 2018, and:
 - Amends the rule to:
 - Make the SBA's assistance with sample advertisements and statements of qualifications discretionary if assistance requested by educational agency.
 - Raise the threshold for clerk-of-the-works monitoring from \$100,000 to \$750,000.
 - Delete the tying of clerk-of-the-works pay to prevailing Journeyman Carpenter wage.
 - Grant SBA discretionary authority to review any SBA funded project and requiring that SBA be included in all phases of planning, design, and construction.
 - Grant the local education agency to work with the assigned design professional to develop the project construction management strategy subject to SBA review of the construction management contract.
 - Delete all Design Build Project Delivery provisions due to potential conflict with the West Virginia Design Build Board's requirements.
 - Delete all outdated SBA Handbook Appendix references previously incorporated by reference.
- The bill revises the date that Series Five, School Building Authority Contract and Agreements rule was filed in the state Register to reflect the correct date of June 26, 2018, and:
 - Amends the rule to:

- Ensure that construction bidder's Contractor's Qualification Statement is maintained in strict confidence and reviewed only by those involved in the selection of the contractor.
 - Delete all outdated SBA Handbook Appendix references previously incorporated by reference.
- The bill revises the date that Series Six, School Building Authority Reporting Procedures rule was filed in the state Register to reflect the correct date of June 26, 2018; and
 - Repeals the rule in its entirety.
 - Provisions repealed deal with SBA procedures related to reporting procedures; procurement of architectural and construction services; use of outdated AIA contract forms; procedures for fee calculation and modification, procedures for change orders; procedures for disqualification of contractors, procedures for construction project development; clerk-of-the-works requirements; construction bid coordination and reporting; contractor and architect evaluation; certificates of completion; requirements for construction analysts and construction managers; educational structure specifications; sample forms; and model flow charts.
 - These deleted procedural requirements are captured in the SBA's policy Handbook and guidelines which are updated in accordance with current best industry practices and publicly available.
- The bill revises the date that Series Seven, School Access Safety Act rule was filed in the state Register to reflect the correct date of June 26, 2018, and:
 - Amends the rule to:
 - Align School Access Safety Fund appropriations in accordance with all requirements set forth in §18-9F-3 of the West Virginia Code.
 - Deletes all outdated SBA Handbook Appendix references previously incorporated by reference.

CODE REFERENCE: West Virginia Code §18-9D-21 – amended

DATE OF PASSAGE: March 7, 2019

EFFECTIVE DATE: March 7, 2019

ACTION BY GOVERNOR: Signed March 26, 2019

Senate Bill 673

Relating to public higher education accountability and planning

The Act eases the burden on high education institutions to respond to data requests by requiring the Higher Education Policy Commission (HEPC) and Community and Technical College Council (CTCC) to use data generated from more readily available sources.

The Act allows the HEPC and CTCC to reduce cost and improve access to higher education data to students, parents and citizens by maximizing online accessibility of higher education information, minimizing the requirement for published reports, and by requiring the HEPC and CTCC to enhance and expand the level of information available on their websites.

It eliminates the requirement for multiple, redundant planning documents by repealing the statewide master plan, the system and institutional compacts, and the human resources report card.

The bill refines and focuses the data elements into the statewide data reporting system, including information previously reported in the higher education report card and the financial aid comprehensive report. Requirements to collect and report the information online and to the LOCEA are retained.

CODE REFERENCE: §18B-1D-2, §18B-1D-3, §18B-1D-4, and §18B-1D-5 and §18B-7-8 – repealed; §18B-1D-1, §18B-1D-8, and §18C-1-1 – amended

DATE OF PASSAGE: March 9, 2019

EFFECTIVE DATE: June 7, 2019

ACTION BY GOVERNOR: Signed March 25, 2019

House Bill 2004

Providing for a program of instruction in workforce preparedness

This bill requires the State Board to promulgate a rule that adopts a program of instruction in general workforce and career preparedness for all students. The program of instruction is required to include guidelines for schools working through their local school improvement councils and business partners to communicate to students the common skills and attributes sought by employers in prospective employees.

The bill requires the State Board, the CTCC, and the Department of Commerce to coordinate efforts for the collection and dissemination of information on the career and technical cluster and major programs of study established for the public schools including, but not limited to, the following:

- Programs of study and the curriculum of courses at the secondary and post-secondary level established pursuant to §18B-3C-4 that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree that satisfy a workforce need.
- Programs of study and the curriculum of courses at the secondary level recognized pursuant to §21-1E-1 et seq., §29-3-9, and §30-1E-1 et seq. as satisfying a portion of the requirements for an apprenticeship and other employer sponsored training programs, as well as any associated programs of study and the curriculum of courses at the post-secondary level that enable the student to also satisfy the requirements for an associate degree.

The EDGE program, which provides the opportunity for the student to obtain articulated credits that count toward high school graduation requirements, as well as count toward the student's achievement of a certificate or associate degree.

The bill requires that the above information on programs of study be easily accessible to all students and their parents beginning in the middle school grades; and requires that all post-secondary credits earned by a public school student through the EDGE program and any other articulated credit and dual credit program be transcribed and provided to the student by the post-secondary institution at which the credit was earned. The bill also requires that any career technical education student who fulfills the high school graduation requirements required of other students in the district in which he or she is enrolled be eligible to participate in the graduation ceremony in the same manner as all other students in the district.

Relating to the duties of the community and technical college/career and technical education consortia, the bill strikes through provisions relating to the duty to increase the integration of secondary and post-secondary curriculum and programs that are targeted to meet regional labor market needs, but adds those provisions back in disbursing them throughout the subsection setting forth the duties of the community and technical college/career and technical education consortia. Part of this rewriting adds the requirement that the Department of Commerce, at least annually, provide written notification to the State Board and the CTCC a determination of workforce need and that integrated secondary and post-secondary programs of study be developed to satisfy this workforce need. The requirement that the consortium compact identify the programs of study that are to be implemented in the district service area is also removed.

The bill also requires that the consortium compact identify the programs of study that are to be implemented in the district service area; and requires the State Board and the CTCC jointly promulgate guidelines for the administration of the requirements for the community and technical college/career and technical education consortia. The guidelines are required to provide for the following:

- Participating institutions are not subordinate to the facilitating institution, but must sign the statement of commitment to participate.
- Integrated secondary and post-secondary programs of study that lead to an industry-recognized credential, a certificate of applied science degree or an associate degree must be reduced to written partnership agreements.
- The programs of study must meet the requirements of the accrediting entity for the community and technical college awarding the associate degrees.
- That partnership agreements must be approved by the State Superintendent and the Chancellor for the CTCC.
- Any other provisions necessary to effectuate the purposes of the code section requiring the community and technical college/career and technical education consortia.

The bill also replaces the requirement that the facilitating institution of the consortium facilitate the development of a consortium compact with the requirement that the facilitating institution submit the Carl D. Perkins local planning guide to the CTCC and State Board.

Additionally, in place of the CTCC being responsible for carrying out certain activities relating to a consortium compact, the bill makes the Chancellor for the CTCC and the State Superintendent responsible for annually evaluating the progress made in meeting the goals for each consortium. Also, the State Superintendent and the CTCC Chancellor are required to annually report to the Governor and LOCEA on the implementation of the community and technical college/career and technical education consortia section.

The bill also requires that applicants for certification or licensure issued by the Commissioner of Labor be permitted to apply training hours earned via career technical education provided by WV public schools or an apprenticeship program or employer-sponsored training programs towards the requirements for certification and/or licensure in the same occupation in accordance with the standards and procedures in rules required to be proposed by the Commissioner of Labor. The bill also includes the same requirements for certification and/or licensure by the State Fire Commission, State Fire Marshall, and the regulatory boards and commissions set forth in Chapter 30 of the WV Code.

CODE REFERENCE: West Virginia Code §18B-3C-4 and §29-3-9 – amended; §18-2-7d, §18-2-40, §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4, §30-1E-1, §30-1E-2, §30-1E-3, and §30-1E-4 – new

DATE OF PASSAGE: March 9, 2019

EFFECTIVE DATE: June 7, 2019

ACTION BY GOVERNOR: Signed March 26, 2019

House Bill 2009

Creating a new category of Innovation in Education grant program

This bill creates a new section and states that its purpose is to create a separate category under the Innovation in Education Act for schools interested in undertaking the transition to mastery-based education. The separate category is entitled “Innovation in Education/Mastery-Based”. The intent is to establish a multistep process that assists participating schools to develop a broader awareness and understanding of mastery-based education prior to application, assesses the capacity and readiness of schools to proceed, allows several options for implementation or for opting-out of the application process, and creates a network incubator process for continuing the support of schools designated as Innovation in Education/Mastery-Based schools following full application and grant award.

The bill provides that other provisions of the Innovation in Education Act also apply to Innovation in Education/Mastery-Based schools unless otherwise specifically provided in this newly created section. These provisions include, but are not limited to, the following:

- Innovation in Education/Mastery-Based schools are not limited to the implementation of key innovational priorities in the five areas of STEM, community school partnership, entrepreneurship, career pathways, and the arts.
- The application, application review, and State Board rule applicable to Innovation in Education schools are required to be modified to accommodate the multistep process for Innovation in Education/Mastery-Based schools.
- Legislative appropriations made for Innovation in Education/Mastery-Based schools are required to be deposited in the existing Innovation in Education Fund, and can only be used for the purposes of Innovation in Education/Mastery-Based schools.

The bill also requires the State Board perform the following activities for implementing the Innovation in Education/Mastery-Based program:

- Establish an advisory committee, including, but not limited to, public school professional educators, representatives of community and technical colleges, colleges and universities, employers and organizations advocating for education on behalf of employers, parents, and Department of Education staff and others who may possess knowledge of mastery-based education. The advisory committee is required to advise and assist the State Board in carrying out the activities required under this new section.
- Promote a broader awareness and understanding in mastery-based education among teachers, administrators, parents, students, business leaders, and policymakers.
- Develop and publish an application designed specifically for schools interested in initial consideration for becoming an Innovation in Education/Mastery-Based school. The initial application cannot require an Innovation in Education plan. The application process is required to include the evaluative criteria that will be used to assess the readiness of schools to undertake the transition to mastery-based education; and be open to all schools including those currently designated as Innovation in Education schools.
- Establish a process, which can include an on-site visit to schools which apply for initial consideration for becoming an Innovation in Education/Mastery-Based school to assess the readiness of applicants to undertake the transition to mastery-based education. This process is to

be used to assist in identifying and recommending to the state board an initial network of not more than 20 schools who are ready to undertake the transition to mastery-based education.

- Establish a process to deepen the understanding of mastery-based education of the schools selected for the initial network of schools.
- For schools selected for the initial network who elect to proceed with the implementation of a mastery-based model of education, provide technical assistance to prepare an Innovation in Education/Mastery-Based plan and operational agreement with their county board. The bill provides that schools in the initial network can:
 - Opt-out of further participation prior to submission of an Innovation in Education/Mastery-Based plan and agreement.
 - Apply for an Innovation in Education/Mastery-Based grant for the transition to a mastery-based education model within a limited subject area or areas across multiple grade levels, such as, but not limited to, mathematics or STEM related academic and technical programs of study.
 - Apply for an Innovation in Education/Mastery-Based grant for the transition to a school-wide mastery-based education model or other configurations as may be determined practicable by the State Board.
- Require, in addition to any applicable measures of success required for an Innovation in Education plan, that an Innovation in Education/Mastery-Based plan include a subset of uniform measures of success in improving education outcomes by advancing student mastery of the content knowledge and skills.
- Implement an incubator process to support the network of schools that are awarded Innovation in Education/Mastery-Based education grants.

The bill also includes provisions relating to requiring participation in the incubator process; prohibiting a student transferring from a mastery-based school from having to repeat a course; and requiring institutions of higher education to accept credentials and diplomas on equal footing as it would accept credentials and diplomas based on a traditional high school transcript and diploma.

CODE REFERENCE: West Virginia Code §18-5E-8 – new

DATE OF PASSAGE: March 7, 2019

EFFECTIVE DATE: June 5, 2019

ACTION BY GOVERNOR: Signed March 27, 2019

House Bill 2363

Relating to the Upper Kanawha Valley Resiliency and Revitalization Program

This bill:

- Broadens the definition of “Upper Kanawha Valley” from including areas from Gauley Bridge to Pratt to include municipalities and surrounding areas from the Charleston City limits to Gauley Bridge.
- Adds a definition of “prioritizing” resources reflecting that members of the revitalization council agree to waive strict adherence to program guidelines to allow funding requests that address the Upper Kanawha Valley communities’ revitalization goals, but makes clear that properly filed requests for funding receive priority.
- Removes language making the establishment of the Upper Kanawha Valley Resiliency and Revitalization Program be subject to the availability of funding.
- Extends the duration of the Program from June 6, 2021, to June 30, 2024, with a final report to the Joint Committee on Government and Finance being required no later than October 1, 2024.
- Adds a provision that the duties of the revitalization council include prioritizing requests for funding such that economic development efforts of UKV communities are supported.
- Requires that the revitalization council’s report to the Legislature be made to the Joint Committee on Government and Finance no later than October 1 of each year, and that copies of the report be provided to the county commission and county school boards of Kanawha and Fayette counties and the mayors of the Upper Kanawha Valley.
- Requires that as part of the Upper Kanawha Valley Resiliency and Revitalization Program the council assess the option of using the authority granted in §18-5-11, relating to the joint establishment of schools, to allow Kanawha County and Fayette County to jointly create or maintain schools that serve the Upper Kanawha Valley; requires the State Superintendent and any local community and technical college to participate in the assessment; prohibits any option arising out of the assessment from impacting the plans adopted in Fayette County regarding other schools in the county; provides that the goal of the assessment is to determine whether students in the Upper Kanawha Valley can receive their constitutionally protected education in the Upper Kanawha Valley; requires the assessment take into consideration options for high school students to take a combination of high school courses and college courses to meet the requirements to graduate from high school and earn college credits that can be applied toward meeting the requirements of a degree or credential; and requires the results of the assessment be included in the annual report due to the Legislature no later than October 1 of each year.

CODE REFERENCE: West Virginia Code §5B-2-15 – amended

DATE OF PASSAGE: March 7, 2019

EFFECTIVE DATE: June 5, 2019

ACTION BY GOVERNOR: Vetoed March 27, 2019

House Bill 2378

Relating generally to grounds for revocation of a teaching certificate

This bill:

- Strikes out language prohibiting a teaching certificate from being revoked for any matter for which the teacher was disciplined, less than dismissal, by the county board, nor for which the teacher is meeting or has met an improvement plan determined by the county board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the listed offenses and his or her actions render him or her unfit to teach.
- Relating to the automatic revocation of a teaching certificate or license:
 - References statutory definition of teacher.
 - Adds to the justifications for automatic revocation:
 - Convictions under §61-8D-3 (relating to child abuse resulting in injury or creating a risk of injury).
 - Convictions under statutes in other states comparable to §61-8D-3 or §61-8D-5 (relating to sexual abuse by a parent, guardian, custodian or person in position of trust and other sexual abuse related offenses).
 - Any criminal offense that requires the teacher to register as a sex offender.
 - Any criminal offense which has as an element delivery or distribution of a controlled substance.
- Requires a teaching certificate to be reinstated unless otherwise prohibited by law if the conviction is overturned by any Court.

CODE REFERENCE: West Virginia Code §18A-3-6 – amended

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed March 26, 2019

House Bill 2422

Relating to the time for the observation of “Celebrate Freedom Week”

This bill requires that the week to recognize as “Celebrate Freedom Week” be selected by the county board instead of designating it as the week within which September 11 falls; and adds the Emancipation Proclamation as one of the documents to be studied in each social studies class during “Celebrate Freedom Week”.

CODE REFERENCE: West Virginia Code §18-2-9 – amended

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed March 22, 2019

House Bill 2541

Requiring certain safety measures be taken at public schools

This bill requires each county board to implement a school safety program that at a minimum requires:

- Room numbers to be placed on exterior walls or windows of school buildings so rooms can be identified by law enforcement and first responders from the outside.
- Providing updated floor plans of the school to first responders and local law enforcement by September 1 of each year.
- First aid training for all school personnel and students each school year.
- Active shooter training for all school personnel and students at the beginning of each school year.

CODE REFERENCE: West Virginia Code §18-9F-10 – new

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed March 25, 2019

House Bill 2662

Relating to certificates or employment of school personnel

This bill:

- Provides that service person's employment contract is automatically terminated if the employee is convicted under §61-8D-3 (relating to child abuse resulting in injury or creating a risk of injury) or §61-8D-5 (relating to child abuse by a parent, guardian, custodian or person in position of trust and other sexual abuse related offenses) or comparable statute in any other state, of any criminal offense that requires the employee to register as a sex offender, or of any criminal offense which has as an element delivery or distribution of a controlled substance; and requires reinstatement of the contract if the conviction is overturned unless otherwise prohibited by law.
- Provides that a school bus operator's certificate is automatically revoked if the bus operator is convicted under §61-8D-3 or §61-8D-5 or comparable statute in any other state, of any criminal offense that requires the bus operator to register as a sex offender, or of any criminal offense which has as an element the distribution of a controlled substance; and requires reinstatement of the certificate if the conviction is overturned unless otherwise prohibited by law.

CODE REFERENCE: West Virginia Code §18A-2-5 and §18A-4-8e – amended

DATE OF PASSAGE: March 8, 2019

EFFECTIVE DATE: June 6, 2019

ACTION BY GOVERNOR: Signed March 26, 2019

House Bill 2674

Creating a student loan repayment program for a mental health provider

This bill creates a loan repayment program. The loan repayment program shall repay student loans for a mental health provider who resides and works in WV in an underserved area of WV for five years beginning January 1, 2020. The bill creates a special revenue fund account for the Higher Education Policy Commission known as the "Mental Health Provider Student Loan Repayment Fund". The bill gives the Higher Education Policy Commission rulemaking authority to implement the provisions of this section. The bill also adds a HRSA grant to the funds available to the Higher Education Policy Commission.

The program is administered by the Higher Education Policy Commissioner and that the loan is available for up to three years beginning on January 1, 2020 for mental health providers who provide counseling services in underserved areas. They are entitled to receive up to \$30,000 to be dispensed in a program award of up to \$10,000 each year in exchange for completing one year of counseling in an underserved area. A participant may not receive more than three years of practice. A participant must direct each award toward repayment of their educational loans. The amendment provides rulemaking.

There would be a second program for primary care physicians practicing in WV. This program creates a non-resident medical student partial tuition waiver as a means of recruiting practicing physicians to underservice areas and to primary care and practitioner shortage areas in WV. It will be known as the non-resident medical student tuition regularization program to be administered by the vice chancellor for Health Sciences in cooperation with the three medical schools in the state. Two non-resident medical students from each medical school in the state are selected annually to participate in the program subject to exceptions noted in the amendment. Each student is charged the state resident tuition for each academic year and has the cost differential between the resident and non-resident rates waived by the institution at which he or she is enrolled. For each academic year he or she participates in the program, he or she shall commit to render services for one calendar year as a medical doctor or a doctor of osteopathy in this state in a medically under-served area or in a primary care or specialty practice field in which there is a shortage of physicians.

Finally, the bill sets forth eligibility for the program, penalties for failure to satisfy service commitment, and provides for rulemaking.

CODE REFERENCE: West Virginia Code §18C-3-3 – amended

DATE OF PASSAGE: March 9, 2019

EFFECTIVE DATE: June 7, 2019

ACTION BY GOVERNOR: Vetoed March 27, 2019

House Bill 2853

Establishing the West Virginia Program for Open Education Resources

This bill requires the State Library Commission to establish the West Virginia Program for Open Education Resources to encourage and facilitate the use of open education resource materials in both higher education and grades K-12. It defines “open education resource materials” as teaching, learning, and resource materials in any medium, digital or otherwise, that reside in the public domain or have been released under an open license that permits low cost access, use, adaptation and redistribution by others with no or limited restrictions.

The bill requires the Library Commission, in consultation with the HEPC, CTCC, and the State Superintendent, or his or her designee, to:

- Ascertain what institutions or faculty are currently using OER material.
- Identify material currently associated with core general education courses and readily available for use by faculty and institutions.
- Identify any statutory or other impediments which interfere with selection and use of OER material by administrators or teachers at all levels of instruction.
- Identify sources of potential grants for funding for teachers and institutions to use open education resources for classes and courses, and propose a competitive application system to award grant funding for those faculty and institutions seeking to use the materials.
- Establish a digital clearing house that will function as a publicly-accessible database for material.
- Develop strategies to leverage further open resource material to benefit higher education institutions and school systems, as well as private and foundation support for the project.
- Report no later than July 1 of each year the program’s findings, progress, and recommendations to the Legislative Manager, the Governor, and the chairs of the Legislature’s House and Senate Committees on Education.

CODE REFERENCE: West Virginia Code §10-1-14a – new

DATE OF PASSAGE: March 7, 2019

EFFECTIVE DATE: June 5, 2019

ACTION BY GOVERNOR: Signed March 26, 2019

House Bill 3020

Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions

This bill allows an institutional governing board, the Higher Education Policy Commission, or the Community and Technical College Council to enter into a contract for materials, goods, equipment, services, printing, facilities, or financial services with an affiliated nonprofit corporation. In so doing, the affiliated nonprofit corporation shall be deemed a sole source in respect to any applicable law or regulation relating to expenditures of public funds.

For the purpose of this section, “affiliated nonprofit corporation” means a West Virginia nonprofit, nonstock corporation which:

- Is organized as for charitable, educational, and scientific purposes, or for similar purposes;
- Is recognized by the Internal Revenue Service as a Section 501(c)3, or successor provision of federal law, tax-exempt organization;
- Is organized solely to support and contribute to the respective institution of higher education, or to the commission, or to the council, as applicable; and
- Has annually independently audited financial statements, which have been included and presented, for at least the preceding five fiscal years, in the audited financial statements of the respective governing board, or of the respective institution of higher education under the authority of a governing board, or of the commission or council.

The bill also provides that any contract, agreement, or memorandum of understanding for goods or services between the West Virginia Development Office established pursuant to the provisions of §5B-2-1 et. seq. of this code and any of the state’s higher education institutions is exempt from the provisions of §5A-3-1. et. seq. of this code.

CODE REFERENCE: West Virginia Code §18B-5-3 – amended

DATE OF PASSAGE: March 9, 2019

EFFECTIVE DATE: June 7, 2019

ACTION BY GOVERNOR: Signed March 27, 2019

House Bill 3139

Relating to funding of the Public Employees Health Insurance Program

This bill creates the Public Employees Insurance Agency (PEIA) Rainy Day Fund. It begins by requiring the PEIA Finance Board to maintain in the reserve fund an actuarially recommended amount of no less than 10% of projected plan costs. It also removes the requirement to transfer moneys resulting from plan savings into the reserve fund as well as the cap in reserve fund of 15% before a transfer to the Retiree Health Benefit Trust Fund.

The bill also creates a special revenue account administered by the Secretary of Revenue. He or she is granted authority to transfers funds in the account to PEIA for specified purposes. These purposes are set out in the bill. These include:

- Reduce or prevent benefit cuts;
- Reduce premium increases; or
- Any combination thereof.

The Secretary is given the authority to seek assistance from the Investment Management Board and the Board of Treasury Investments.

CODE REFERENCE: West Virginia Code §5-16-25 – amended; §5-16-27 and §11B-2- 15a – new

DATE OF PASSAGE: March 9, 2019

EFFECTIVE DATE: March 9, 2019

ACTION BY GOVERNOR: Signed March 14, 2019

2019 First Extraordinary Session

House Bill 206

Relating to public education

This bill amends and adds several sections of code related to public education in West Virginia. Specifically, the bill does the following:

- Allows public charter schools to participate in PEIA. (§5-16-2 & 22).
- Exempts certain items from sales tax during the first Sunday in August, the previous Friday and Saturday, and the following Monday; and provides that the exempt items include certain items of clothing, school supplies, school instructional materials, laptop and tablet computers, and sports equipment all under various prices. (§11-15-9s).
- Requires the Governor, subject to the agreement entered into between the U.S. Secretary of Defense and the Governor pursuant to federal law, to: Expand the capacity of the Mountaineer Challenge Academy location in Preston County to accept cadets up to its maximum capacity; expand the Mountaineer Challenge Academy to a 2nd location in Fayette County; and to the extent necessary to accomplish the expansion and maximize use of federal funds, pursue an amendment to the agreement between the U.S. Secretary of Defense and the Governor. (§15-1B-24).
- Requires the State Board to implement a pilot project, designated the Mountain State Digital Literacy Project, in which participating schools are provided with instructional resources that feature an extensive curriculum related to digital literacy, online assessment preparation, and internet safety and administrators and teachers are provided access to online digital literacy related professional development and support; requires the State Board to select the schools to participate; requires the selected schools to possess varying geographic and demographic characteristics and serve students in grades K-8; requires the project to be designed and implemented to compliment and build upon certain existing digital literacy standards and assessments established pursuant to statute; allows the State Board to contract with a third-party to facilitate the project; requires the State Board to report to the Governor and LOCEA information on the development, structure, and fiscal estimate of the project on or before January 1, 2020; and requires State Board also to submit a pilot project evaluation report before January 1, 2025 recommending continuation, expansion or termination. (§18-2E-12).
- Eliminates requirements for county boards to file policies to promote school board effectiveness with State Board as well as amendments and reports; limits required annual meetings between county boards and LSIC's to only those LSIC's of low performing schools; removes requirement that the meeting include a quorum of the LSIC members; requires the principal and chair of the LSIC, or chair's designee, to address the dialogue of its community meeting on how to address issues that affect the school's academic performance and also any reports by the county superintendent with respect to the school's performance; and removes requirement that each county board report details to the State Board concerning the meeting or meetings held with LSICs and that the information become an indicator in the performance accreditation process for each county. (§18-5-14).
- Allows each county board to establish attendance zones; removes existing provisions relating to transfers between counties and transfers between high schools; requires a county board to establish and implement an open enrollment policy without charging tuition and without obtaining

approval from the board of the county in which a student resides and transfers; requires the policy to articulate any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints; and includes other provisions relating to allowing certain enrollment preferences, requiring compliance with requirements for children in foster care or meet the definition of unaccompanied youth prescribed in the McKinney-Bento Homeless Assistance Act, allowing the provision of transportation, allowing the appeal of a county board's refusal to accept the transfer of a student, counting the student in the net enrollment of the county he or she was transferred to, and providing that nothing in this section supersedes the eligibility requirements for participation in extra-curricular activities established by the SSAC. (§18-5-16 & 16a).

- Requires the Department of Education to survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing class overcrowding in such areas; and requires the study to at least include examination of certain specified issues. (§18-5-18a).
- Increases the percentage of work time school counselors must spend in a direct counseling relationship with students from 75% to 80%. (§18-5-18b).
- Requires that a teacher's recommendation relating to whether a student should be promoted to the next grade level to be a primary consideration. (§18-5-46).
- Allows each county board to establish by policy an exceptional needs fund from surpluses for students who are likely to perform better outside of the public school setting; and sets forth the provisions that the policy may include. (§18-5-48).
- Modifies section requiring an LSIC to be established at every school by increasing the number of at-large members appointed by the principal from two to three; changing membership in the cases of vocational-technical school, comprehensive middle schools, and comprehensive high schools; removing prohibition against more than one parent member of the council being employed at the school; allowing notification of organizational meeting to be done by electronic means; increasing the advanced notice required prior to an organizational meeting from two to five employment days; striking prohibition against chair serving for more than two consecutive terms; changing purpose of required meeting to engage in a dialogue regarding effective discipline policies to a meeting to engage in a dialogue regarding the school's academic performance and standing as determined by measures adopted by the State Board; adding encouraging students to adopt safe and healthy lifestyles and communicating to students the skills and attributes sought by employers to the policies and programs which may be adopted by an LSIC; and removing requirement for LSIC student discipline report to the countywide council on productive and safe schools. (§18-5A-2).
- Clarifies the process for Local School Improvement Councils to propose alternatives to the operation of the school and to request waivers, if needed, to county and State Board rules and policies, state superintendent interpretations, and state statutes; allows a county board to designate the school as an innovation school; and requires the county board to establish a process to evaluate an approved alternative. (§18-5A-3).
- Increases the amount allotted to each classroom teacher and librarian for academic materials, supplies, or equipment from \$100 to \$300. (§18-5A-5).
- Establishes the purpose and intent of the article for the establishment of public charter schools, prohibits any interpretation that would allow the conversion of a private school to a public charter

school and prohibits elected official from profiting or receiving monetary compensation from a public charter school; limits the number of public charter schools authorized and in operation under an approved contract to three pilot public charter schools until July 1, 2023 and then an additional three every three years thereafter; and requires the State Board to report to LOCEA by November 1, 2022, and every three years thereafter, on the status of the state's public charter schools. (§18-5G-1).

- Defines terms relating to charter schools. One important definition is that “applicant” means any one or more in combination of parents, community members, teachers, school administrators, or institutions of higher education in this state that have obtained 501(c)(3) tax-exempt status or have submitted an application for 501(c)(3) tax-exempt status and that have developed and submitted an application to an authorizer to establish a public charter school. Another important definition is “authorizer” which can include a county board; multiple county boards; or only in cases where a county board approves the application but requests the State Board to be an authorizer or is under state takeover, the State Board. (§18-5G-2).
- Lists the required criteria, governance structure, statutory compliance requirements for public charter schools. Among the criteria are: Subject to general supervision of the State Board for meeting student performance standards and of its authorizer for contract performance; not home school based; not affiliated with any religious organization; do not charge tuition; and no requirements that would exclude a child who would not be excluded from a public school. Among the governance requirements are: Governed by a board that has autonomy decisions including finance, personnel, scheduling, curriculum and instruction; may not levy taxes; provides programs and services to students with an IEP in accordance with federal and state laws; and is responsible for a staffing plan that includes requisite qualifications and any associated certification and/or licensure for teachers and other instructional staff. Among the statutes and rules that a public charter school must comply with are: All federal laws and authorities applicable to noncharter public schools including nutrition standards, civil rights, disability rights and health, life and safety requirements; freedom of information and open meetings; immunization; compulsory attendance; instructional days or equivalent time; student assessments; student data accountability; reporting information on student and school performance using the electronic format established by the WVDE; reporting information on student and school performance in the same manner as noncharter public schools; accounting and financial reporting including an independent audit; criminal history checks; zoning and building codes and inspections; and transportation safety. (§18-5G-3).
- Establishes State Board powers and duties for implementation, general supervision and support of public charter schools including establishing and maintaining a catalogue of best practices; providing forms to promote quality applications and contracts; and providing training for applicants, administrators, and governing board members. The forms must be available by February 2020 and include an application deadline of August 2020 for any charter school proposing to begin operation for the 2021-22 school year. No charter school may begin operation before the 2021-22 school year. The State Board may receive and expend gifts, grants and donation, apply for federal funds for implementation, establish reporting requirement that enable it to monitor performance and legal compliance and must submit an annual status report to the Governor and Legislature. (§18-5G-4).

- Provides for the State Board to promulgate rules that: Set forth requirements for public charter school funding one of which provisions requires that the rule include a requirement that 90% of the per pupil total basic foundation allowance follow the student to the public charter school; provide for a fee to be paid by the charter school to the authorizer to offset costs; clarify, if necessary, the requirements of the public charter school article and address any unforeseen issues that might arise relating to the implementation of the requirements of the public charter school article; and ensure the accountability of public charter schools for meeting certain standards of student performance required of other public school students and the accountability of authorizers for ensuring that those standards are met in the schools authorized by it. All State Board rules required to be promulgated by the charter school article must be promulgated on or before January 1, 2020. (§18-5G-5).
- Sets forth the powers and duties for the authorizer some of which include: Approving charter applications that meet the application requirements, demonstrate the ability to operate the school in an educationally and fiscally sound manner, and are likely to improve student achievement through the program detailed in the charter application; declining applications that fail to meet the application requirements; negotiating and executing a charter contract with each school it authorizes; monitoring the performance and compliance of the schools according to the terms of the charter contract; determining whether each charter contract it authorizes merits renewal or revocation; providing an opportunity in a public forum for local residents to provide input and learn about the charter application; approving or denying an application within 90 days following filing; and requiring a charter application approval to be submitted to the Department of Education. (§18-5G-6).
- Requires that a public charter school be administered by a governing board consisting of no fewer than five members which must include two parents and two members who reside in the community served by the school. Board members must file a full disclosure report with the authorizer identifying potential conflicts of interest, relationships with any management organizations and family members who are employed by or have business dealings with the school. The section includes the numerous provisions relating to the authority of the governing board and requirements pertaining to the governing board including that it must comply with the open governmental proceedings and freedom of information Acts. (§18-5G-7).
- Requires submission of a charter application to an authorizer in order to establish a new public charter school or convert an existing noncharter public school or program to a public charter school. The section sets forth the minimum elements to be included in an application. Some of the minimum elements include: A mission statement and vision statement for the public charter school, including the specialized academic focus, if any, to be promoted and advanced; the student achievement goals for the public charter school's program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for these goals; an explanation of how the school's proposed program is likely to improve the achievement of traditionally underperforming students in the local school district; a proposed five-year budget; acknowledgement that the school will participate in the state's accountability system; process and procedures to be followed in the case of the closure of the school, including provisions for the transfer of students and student records to the appropriate local school district and an assurance and agreement to payment of net assets or equity, after payment of debts; and the school's plan for parental involvement. Provides additional required elements for the application in cases where the applicant intends to contract with an

education service provider for program implementation or comprehensive management. A couple of these additional items include: Student performance data and financial audit reports for all current and past public charter schools; and documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns. (§18-5G-8).

- Requires a signed charter contract between the applicant and the authorizer prior to operation. Among the things that must be addressed in the charter contract are: The term of the contract which can be no more than five years; provisions to address each item required to be included in the charter application and, if applicable, the agreement with an education service provider that the governing board intends to contract with; the process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found; provisions relating to the performance of the school that set forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate the public charter school; and sets forth the minimum indicators, measures, and metrics that will be used by the authorizer to evaluate the school; the process for amending the contract; the process for dispute resolution; and provisions for revoking a contract. (§18-5G-9)
- Requires a performance report by the authorizer prior to contract renewal and a renewal application; requires, if the public charter school's contract is expiring, the authorizer to offer contract renewal application guidance to the school; requires that no later than September 30 of a public charter school's final authorized year of operation the governing board seeking renewal submit a renewal application to the authorizer; requires the authorizer to either renew a charter contract for a term of five years or decline to renew the contract; requires the governing board to be granted 30 days to respond in writing before the decision to decline the contract becomes final; provides that failure to act on a renewal application within the designated timeframes is deemed an approval of the application; provides that a contract can be revoked at any time or not renewed if the authorizer determines that the health and safety of the students is threatened or the school has failed to comply with the provisions of the article, violated the contract, failed to meet performance expectations, failed to meet generally accepted standards of fiscal management, or violated any law from which it was not exempted; and includes provisions pertaining to closure of a public charter school or allowing the county board to return the school to noncharter public school status. (§18-5G-10).
- Requires a charter school to publicize to parents and the general public information about the school as an option in which they may choose to enroll their children and, if included in the schools mission, the school focus on students with special needs or disciplinary problems. A county board is also required to publicize information about public charter schools within the county as an enrollment option to the same extent and through the same means as it publicizes information about noncharter public schools. A school must designate its primary recruitment area in the charter application and contract and must base the primary recruitment area on the schools estimated facility and program capacity. The school may establish one or more listed preferences for enrollment but may not discriminate against any person on any basis that would be unlawful in a public school and may not establish admissions policies to limit admissions. The listed preferences include: Children who reside in the primary recruitment area; students enrolled the previous year and their siblings; children with special need or severe disciplinary problems; and children of

governing board members and employees, but no more than 5% of enrollment. The school must enroll all student who apply and were granted a preference and may enroll other applicants to fill any excess capacity subject to a random lottery if capacity is exceeded. Conversion schools must guarantee enrollment to all students residing in the school's previous attendance area and fill excess capacity as stated above. Provisions are also included relating to transfers back to noncharter schools and data reporting to the WVDE. (§18-5G-11).

- Includes provisions relating to access to public facilities for charter schools. (§18-5G-12).
- Allows public charter schools to participate in the applicable state teachers' retirement system. (§18-7A-3 & §18-7B-2).
- Replaces the existing requirements applicable after a student has a total of three and a total of five unexcused absences with the requirement that meaningful contact be made with the parent, guardian, or custodian to ascertain the reasons for the unexcused absences and what measures the school can employ to assist the student in attending and not incurring any additional unexcused absences; and provides the option for the school principal to make the meaningful contact instead of the attendance director or assistant. (§18-8-4).
- Includes professional personnel providing direct social and emotional support services to students, as well as professional personnel addressing chronic absenteeism, in the definition of "professional student support personnel". (§18-9A-2).
- Relating to adults included in net enrollment, removes language that prevents adults enrolled in evening programs from being included; causes the number of adults counted in net enrollment to run two years behind; and excludes any adult charged tuition or special fees beyond that required of the regular secondary vocational student. (§18-9A-2).
- Revises method of assisting counties with an actual net enrollment below 1,400 by increasing the adjusted net enrollment used to calculate those counties' basic foundation program under existing code by 10%; and capping the adjusted net enrollment at 1,400. (§18-9A-2).
- Reduces the percentage of the levy rate for county boards of education used to calculate local share from 90% to 85%. (§18-9A-2).
- Modifies the calculation of the allowance for professional student support personnel by providing that each county is to receive an allowance for 5 state aid eligible professional student support personnel positions to each 1,000 students in net enrollment; and provides that for the 2019-2020 fiscal year only, the number of positions funded for each county cannot be less than what would have been funded under the previous calculation. If a county so chooses, these services may be provided through public-private partnership or contract (§18-9A-8).
- Increases the percentage used to calculate the allowance for current expense from 70.25% to 71.25%. (§18-9A-9).
- Increases Step 6d allowance for faculty senates from \$200 per professional instructional personnel and professional student support personnel to \$400 per professional instructional personnel and professional student support personnel. (§18-9A-9).
- Requires that each county board receive its allocated state aid share of the county's basic foundation program in the form of block grants. (§18-9A-19).
- Requires the State Superintendent to provide the State Auditor with the required data for use by the searchable budget data website, subject to FERPA; and sets forth the specific required data that must be included. (§18-9B-22).
- Makes public charter schools eligible for high acuity needs funding. (§18-20-5).

- Increases teacher salaries across-the-board by \$2,120 or by an average of 5%. (§18A-4-2).
- Provides that each classroom teacher providing math instruction in the teacher's certified area of study for at least 60% of the time the teacher is providing instruction to students shall be considered to have three additional years of experience for the purposes of the salary schedule. (§18A-4-2).
- Provides that each classroom teacher certified in special education and employed as a full-time special education teacher shall be considered to have three additional years of experience for the purposes of the salary schedule. (§18A-4-2).
- Modifies provisions relating to salary equity by removing the definition of salary equity; providing legislative findings relating to county boards having flexibility to use local funds, including, but not limited to, providing salary supplements to teachers; and removing the requirement that the Department of Education include in its budget request a request for funding sufficient to meet the objective of salary equity. (§18A-4-5).
- Creates exceptions to the requirement that county salary schedules be uniform in the following cases: For teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage; for teachers who teach in schools that are remote or experienced high rates of turnover in experienced teachers; and for teachers, who in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth. (§18A-4-5a).
- Provides that if two or more employees with the same certification establish an identical seniority date, the priority is to be determined by a random selection system established by the employees and approved by the county board and conducted within 30 days of the time the employees establish the identical seniority date; requires all decisions on reductions in force to be based on qualifications as set forth in county board policy; requires that in defining the "word" qualifications in its policy, county boards consider including the teacher hiring criteria and prohibits county boards from including salary as one of the criteria in the definition; requires that the criteria included in the county board policy be considered only after considering personnel whose last performance evaluation was less than satisfactory; requires that reductions in force be based on seniority, certification, licensure, and performance evaluations; allows, in the event of a reduction in force, a county board to release any classroom teacher with unsatisfactory evaluations for the previous two consecutive years regardless of years of service instead of releasing less senior classroom teachers; and makes other changes relating to notification of professional personnel on the preferred recall list and the posting of position openings. (§18A-4-7a).
- Increases salaries of service personnel across-the-board by \$115 per month or an average of 5%. (§18A-4-8a).
- Increases the number of days that employees are permitted to use annually without regard to the cause of the absence from 3 to 4; and includes provisions relating to providing that a classroom teacher who has not used more than four days personal leave during the 200-day employment term is to receive a bonus of \$500 at the end of the school year. (§18A-4-10).
- Changes the name of the Underwood-Smith Teacher Scholarship Program to the Underwood-Smith Teaching Scholars Program; adds establishing and updating as necessary a list of critical teacher shortage fields for which scholarships are available to the provisions required to be in the HEPC

rules; adds requiring scholarship recipients to teach in a public school in this state in a critical teacher shortage field to the provisions required to be in the HEPC rules; requires the HEPC and the State Board of Education jointly to ensure that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field beginning with the freshman year and continuing through degree completion and the teaching obligation; continues the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; requires that each recipient be distinguished as an "Underwood-Smith Teaching Scholar"; includes language preserving the scholarship and loan assistance for those benefiting under the existing provisions; requires the Vice Chancellor for Administration to appoint a selection panel; modifies the eligibility criteria for the scholarship awards; modifies the requirements for the scholarship agreement which includes requiring that the recipient teach full-time in critical teacher shortage field, under contract with a county board for a period of not fewer than five consecutive years for the four academic years; provides that the scholarship terms, conditions, requirements and agreements applicable to a recipient prior to the effective date of this section are to continue in effect; modifies scholarship renewal requirements; increases the amount of the award from up to \$5,000 per year to \$10,000. (§18C-4-1 et seq.)

- Changes the name of the Underwood-Smith Teacher Loan Assistance Program to the Teacher Education Loan Repayment Program; requires as a condition of eligibility that for the loan repayment program the applicant must be currently employed in a public school in this state as a teacher in a critical teacher shortage field or as a school counselor in a school or geographic area of the state identified as an area of critical need for such field; requires as a condition of eligibility that the applicant agree to be employed full time under contract with a county board for a period of two school years as a teacher in a critical teacher shortage field or as a school counselor in a school or geographic area of critical need for such field for each year for which a loan repayment assistance award is received. (§18C-4A-1 et seq.).
- Increases minimum BRIM coverage from \$1 million to \$1.25 for each occurrence beginning FY2021; and includes provisions relating to requiring that at least annually the county board provide written notice of insurance coverage to each of its insureds. (§29-12-5a).
- Allows public charter schools to elect to obtain insurance coverage from BRIM. (§29-12-5a).

CODE REFERENCE: West Virginia Code §5-16-2, §5-16-22, §15-1B-24, §18-5-14, §18-5-16, §18-5-16a, §18-5-18a, §18-5-18b, §18-5-46, §18-5A-2, §18-5A-3, §18-5A-5, §18-7A-3, §18-7B-2, §18-8-4, §18-9A-2, §19-9A-8, §18-9A-9, §18-20-5, §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a, §18A-4-10, §18C-4-1 through 5, §18C-4A-1 through 3, §29-12-5a – amended; §11-15-9s, §18-2E-12, §18-5-48, §18-5G-1 through 12, §18-9A-19, §18-9B-22 – new

DATE OF PASSAGE: June 24, 2019

EFFECTIVE DATE: June 24, 2019

ACTION BY GOVERNOR: Signed June 28, 2019

Senate Bill 1001

Relating to the Upper Kanawha Valley Resiliency and Revitalization Program

In 2016, the Legislature created the Upper Kanawha Valley Resiliency Revitalization Program to address the impact of moving the West Virginia University Institute of Technology from Montgomery to Beckley. In order to further the purposes of the codified program, a revitalization council, consisting of local officials, was created. By statute, the program would end in 5 years (2021).

This bill extends the Upper Kanawha Valley Resiliency and Revitalization Program from 2021 to June 30, 2024 and to require a final report to the Joint Committee on Government and Finance by October 1, 2024. The bill modifies the definition of Upper Kanawha Valley, provides a definition for “prioritize”, clarifies the annual reporting requirements to the Legislature and requires the report be provided by October 1 of each year and that the county school boards of Kanawha and Fayette Counties be copied.

Note: A different version of this bill was vetoed by the Governor. Not included in this bill is a section requiring collaboration with and between the Kanawha County and Fayette County school boards and a provision directing how applications for resources should be made.

CODE REFERENCE: West Virginia Code §5B-2-15 – amended

DATE OF PASSAGE: May 20, 2019

EFFECTIVE DATE: August 18, 2019

ACTION BY GOVERNOR: Signed May 29, 2019

Senate Bill 1004

Antihazing law

The purpose of the bill is to provide that any organization whose members are primarily students or alumni of an institution of higher education is subject to the criminal prohibition against hazing. Currently, only organizations operating under the sanction of, or recognized as an organization by, an institution of higher education are subject to the anti-hazing law.

The bill amends the definition of hazing to clarify that “requiring” certain actions as a condition of initiation, admission, or membership in a group constitutes hazing and requires institutions of higher education promulgate rules to enforce the provisions of the anti-hazing law. The bill also amends the short title of the article and makes technical corrections throughout the article of code.

Note: This is a modified version of Senate Bill 440, which was passed by the Legislature during the Regular Session but subsequently vetoed by the Governor. The Governor’s veto message raised concerns about the bill’s definition of organizations subject to the Anti-Hazing law being overly broad. This bill makes the definition of organization more specific, as described above.

CODE REFERENCE: West Virginia Code §18-16-1, §18-16-2, §18-16-3, and §18-16-4 – amended

DATE OF PASSAGE: May 20, 2019

EFFECTIVE DATE: August 18, 2019

ACTION BY GOVERNOR: Signed May 29, 2019

2018 Regular Session



Senate Bill 62

Adjusting requirements for hiring school attendance directors

This bill changes the requirements for hiring an attendance director by removing the requirement that no fully certified attendance director apply before a person holding a professional administrative certificate can be employed as an attendance director.

CODE REFERENCE: West Virginia Code §18-8-3 – amended

DATE OF PASSAGE: February 14, 2018

EFFECTIVE DATE: May 15, 2018

ACTION BY GOVERNOR: Signed February 21, 2018

Senate Bill 244

Specifying conditions for unlawful possession of firearm at school-sponsored activities

This bill rewrites the subsection setting forth the instances in which it is unlawful to possess a firearm or other deadly weapon on a school bus, on school grounds, and at school sponsored functions, and limits the prohibition at school sponsored functions to when the function is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring.

The bill also amends the exception which allows certain retired law-enforcement officers to possess a firearm on a school bus, in or on a public primary or secondary education building, structure, facility or grounds, or at a school sponsored function. Currently, the exception would allow a retired law-enforcement officer who is employed by a state, county or municipal law enforcement agency; is covered for liability purposes by his or her employer; is authorized by a county board and the school principal to serve as security for a school; meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004; and meets all of the requirements for handling and using a firearm established by his or her employer and has qualified with his or her firearm to those requirements. The amended language would grant an exception for a retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, carries that firearm in a concealed manner and has on their person official identification in accordance with that act.

The bill also clarifies the exception applicable to a person with a valid concealed handgun permit legally possessing a concealed handgun in a motor vehicle in areas of vehicular ingress or egress to a public school. The amendment clarifies that the glove box or other interior compartment does not have to be locked. The bill also limits the exception applicable to persons specifically authorized by the county board or principal to conduct programs with valid educational purposes by excluding students from qualifying for that exception.

CODE REFERENCE: West Virginia Code §61-7-11a – amended

DATE OF PASSAGE: March 10, 2018

EFFECTIVE DATE: June 8, 2018

ACTION BY GOVERNOR: Signed March 27, 2018

Senate Bill 319

Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma

This bill allows individuals who complete homeschool to be eligible for the PROMISE scholarship without having to acquire a GED while retaining the ability of others to use the GED or its equivalent for PROMISE eligibility.

CODE REFERENCE: West Virginia Code §18C-7-6 – amended

DATE OF PASSAGE: March 7, 2018

EFFECTIVE DATE: July 1, 2018

ACTION BY GOVERNOR: Signed March 20, 2018

Senate Bill 364

Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle

This bill allows a parent or legal guardian of a homeschooled child to provide a signed statement in lieu of a driver eligibility certificate signed by the attendance director or chief administrator affirming that the child is being educated in accordance with law and is making satisfactory academic progress and meets the conditions to be eligible to obtain a driver's permit or license.

CODE REFERENCE: West Virginia Code §18-8-11 – amended

DATE OF PASSAGE: March 2, 2018

EFFECTIVE DATE: May 31, 2018

ACTION BY GOVERNOR: Signed March 20, 2018

Senate Bill 465

Relating to mandated reporting of child abuse and neglect

This bill was one of the recommendations of the Task Force on Prevention of Sexual Abuse of Children which was established by §49-2-814 of this code to make recommendations for decreasing incidence of sexual abuse of children. The overall purpose of the bill is to simplify mandatory reporting requirements in cases of suspected child abuse or neglect, including child sexual abuse. Specifically, the bill:

- Clarifies that sexual abuse and sexual assault constitute abuse of a child for reporting purposes.
- Reduces the time period in which a mandated reporter must report suspected abuse or neglect from 48 to 24 hours.
- Requires mandated reporters to directly report known or suspected cases of abuse or neglect.
- Removes language relating to broadly imposing reporting requirements on any person over 18 including certain exceptions to the reporting time limit.
- Removes language relating to reporting requirements applicable only to education employees.
- Removes language applicable to conduct between students or students and school personnel.
- Provides that the reporting requirements are not applicable to persons under the age of 18.

CODE REFERENCE: West Virginia Code §49-2-803 – amended

DATE OF PASSAGE: March 7, 2018

EFFECTIVE DATE: June 5, 2018

ACTION BY GOVERNOR: Signed March 27, 2018

Senate Bill 561

Increasing minimum contract price requiring execution of bond with respect to building or repairing school property

This bill increases the minimum contract price from \$100 to \$25,000 for which a person contracting for the building or repairing of school property is required to execute a bond.

CODE REFERENCE: West Virginia Code §18-5-12 – amended

DATE OF PASSAGE: March 5, 2018

EFFECTIVE DATE: June 3, 2018

ACTION BY GOVERNOR: Signed March 27, 2018

House Bill 2799

Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit

This bill:

- Prohibits the county superintendent from requiring a physical examination to be included in the application for a work permit; and
- Provides that the county superintendent is not required to certify that the minor personally appeared before him or her prior to the issuance, modification, or rejection of a work permit.

CODE REFERENCE: West Virginia Code §21-6-3 – amended

DATE OF PASSAGE: March 10, 2018

EFFECTIVE DATE: June 8, 2018

ACTION BY GOVERNOR: Signed March 22, 2018



House Bill 3089

Relating to the adoption of instructional resources for use in the public schools

This bill begins a transition to a county level process for the selection and adoption of textbooks and other instructional resources beginning July 1, 2019, and thereafter. After this date the other sections 1 to 8 of the Article are null and void to the extent that they conflict with this section. However, county boards, if they choose to do so, may continue to adopt resources from the multiple lists established under the current state selection process until they expire. The State Board will continue to set the adoption cycle by rule.

The new process requires a vendor/publisher desiring to offer instructional resources for sale in WV to file statement and verification with the State Superintendent on or before January 1 of each year which includes the following:

- Resources meet non-negotiable evaluation criteria established by the State Board (new);
- Cover at least 80% of state required content and skills for the subject (new);
- List wholesale price to WV districts will be no more than the lowest list wholesale price available to school districts in any other state; and
- List wholesale price for any electronic files does not exceed price for the print version.

The State Board will annually provide the list of the vendors to all county boards. Instructional resources may not be purchased from a vendor who has not complied. A vendor found to have failed or refused to provide the resources to a county board at the terms provided in the above statement will be disqualified. The article does not apply to supplementary instructional resources that are not required and adopted by the county board.

County boards are required to furnish the necessary instructional resources to students free of charge and, if electronic, provide reasonable access to the resources and other necessary computer equipment to students and teachers. Instructional resources furnished under the section are property of the county board and loaned to students in accordance with county board policy. County boards are required to adopt policies for the review and recommending to the county board instructional resources that meet the non-negotiable evaluation criteria and cover no less than 80% of the required content and skills. A majority vote of members elected to the county board is required for the adoption of instructional resources. The county board shall annually report the resources it adopts to the State Board.

Board members and employees are prohibited from acting directly or indirectly as sales agents for vendors that file an instructional resources statement with the state superintendent.

CODE REFERENCE: West Virginia Code §18-2A-10 – new

DATE OF PASSAGE: March 9, 2018

EFFECTIVE DATE: June 6, 2018

ACTION BY GOVERNOR: Signed March 27, 2018

House Bill 4006

Revising the processes through which professional development is delivered for those who provide public education

The bill restructures the approach to providing professional development for those who provide public education in this state. By way of preface, under current law, professional development is delivered by the state to those who provide public education in significant part through a state master plan and through various state-level agency and prescriptive programs, some of which are provided through the Office of the Secretary of Education and the Arts. The bill would consolidate the processes through which the state's professional development is delivered, providing a primary role for the State Board of Education at the state level and a reorientation toward more county-level considerations with focus on the leadership of school principals.

As part of this change in the delivery of professional development away from the state master plan and the Office of the Secretary of Education and the Arts to the State Board of Education and the Department of Education, the bill would improve the focus on school-level continuous improvement processes led by the principal. The bill includes instructional leadership among the duties and responsibilities of principals and assistants and requires course work in public school instructional leadership and management techniques in their certification requirements. The instruction must include the standards for high quality schools, the school accreditation process and strategic planning for continuous improvement. School systems are given the flexibility to establish their own systems of support and supervision of beginning principals and the current state mandated programs and processes for those purposes are eliminated.

Because of those changes, the revisions to accomplish this goal include the elimination of the state master plan for professional development and certain prescriptive and state level agency programs. It would also eliminate certain state agencies that are no longer needed to provide certain components of professional development, including the Department of Education and Arts, the office of its Cabinet Secretary ("the Secretary"), and several of the offices and programs for which they have been responsible, including the Center for Professional Development and the Principals Academy, among others.

Under current law, the Secretary of the Department of Education and Arts serves on many boards. Both the Secretary and the Department have many responsibilities for various state-directed programs, not all of which are related to the improvement of professional development. These provisions are set forth in numerous code sections throughout the Code. Much of the length of the bill is due to consequential amendments made to these sections to substitute others to assume those responsibilities. For example, the bill would move the Division of Culture and History from the Department of Education and Arts to the Department of Commerce. The bill would replace the Secretary on the West Virginia Sesquicentennial of the American Civil War Commission with the State Superintendent of Schools. Numerous amendments are made by the bill to conform other code sections to the primary changes made by the bill as well as those incident to those changes.

More specifically, the bill's provisions include:

- §4-13-2 is amended to replace the Secretary on the West Virginia Sesquicentennial of the American Civil War Commission with the State Superintendent of Schools. The section is further amended to add a representative from the Herbert Henderson Minority Affairs Office as an additional member to the West Virginia Sesquicentennial of the American Civil War Commission.

- §5-26A-3 is amended to replace the Secretary on the West Virginia Commission for National and Community Service with “a representative of an arts or crafts organization.”
- §5B-2C-6 is amended to remove the Department of Education and the Arts as one of the options that the West Virginia Academy of Science and Technology may use for technical support resources in preparing an annual report.
- §5F-1-2 is amended to remove the Department of Education and the Arts as one of the 9 departments within the executive branch headed by a Secretary appointed by the Governor.
- §5F-1-6 is a new section that provides that “[e]xcept for instances where specifically provided otherwise, all amendments to this Code made by the passage of House Bill 4006 during the 2018 regular session of the Legislature shall become effective July 1, 2018.”
- §5F-2-1 is amended to move the Division of Culture and History and the Division of Rehabilitation Services from within the administration of the Department of Education and the Arts to within the administration of Department of Commerce; and removing both the Educational Broadcasting Authority and the Library Commission from being agencies within the administration of the Department of Education and the Arts and reestablishing each of them as an independent agency within the executive branch.
- §6-7-2a is amended to eliminate the statutory salary of the Secretary of Education and the Arts.
- §10-5-2a. The bill repeals the statute creating the West Virginia Distance Learning Coordinating Council.
- §18-2I-1, -2 and -4 are amended to revise the framework for requiring the State Board of Education to deliver professional development. §18-2I-4 is further amended to add language relating to the new framework for requiring the State Board of Education to deliver professional development by adding principals to those who are to be included in legislative rules governing processes for collaboration among the Department of Education, county boards and classroom teachers. The section is also amended by transferring to the State Board of Education the “Center for Professional Development,” which had been operated under a board chaired by the Secretary of the Department of Education and the Arts, and providing its mission and duties under the direction of the State Board of Education, including “statewide coordination for the continued growth and development of advanced placement programs in West Virginia high schools, including, but not limited to, serving as a liaison for The College Board, Inc., and providing for the training of advanced placement teachers.”
- §18-2I-3 – The bill repeals the statute requiring the State Board of Education to establish a master plan for professional development.
- §18-10A-1, -2, -3, -6a and -12 are amended to conform the statutes by substituting the Department and Secretary of Commerce for the Department and Secretary of Education and the Arts regarding responsibilities for the Division of Rehabilitation Services and related topics.
- §18-30-4 is amended to conform the statute by changing the membership of the West Virginia Prepaid Tuition and Savings Plan Board by removing the Secretary of Education and the Arts. The section is also amended to reduce the membership of the Board by one of the two representatives of the Higher Education Policy Commission and add to the membership of the Board one representative of the Council for Community and Technical College Education. The section is also amended to add to the requirements for the five other members, appointed by the Governor, that they may have knowledge, skill and experience in an arts field, not just an academic, business or financial field.

- §18A-2-9 is amended to designate the principal as the instructional leader of the school and making further adjustments to their qualifications, responsibilities, professional development and assignments.
- §18A-2-12 is amended to remove language relating to certain responsibilities of the current Center for Professional Development.
- §18A-3-2d – The bill repeals the statute requiring internships for beginning principals.
- §18A-3-1, -1d, -2c and -8 are amended to solely vest the State Board of Education with the general direction and control of the education of professional educators. The amendments would also remove references to the Secretary, the current Center for Professional Development and the Chancellor for Higher Education, and in certain places include regional education services agencies, within the language governing teacher certification, teacher and principal training, and the delivery of staff development programs by county staff development councils. In addition, §18A-3-1(b) is amended to add a new requirement that the standards for education of professional educators in the state and for awarding certificates to them include “a provision for the study of the history and philosophical foundations of Western Civilization and the writings of the founders of the United States of America.”
- §18A-3A-1, -2, -3, -2b and -5 – The bill repeals the statutes to eliminate the current Center for Professional Development and the Principals Academy, as well as the West Virginia Advanced Placement Center, and certain requirements for training in evaluation skills and mentoring.
- §18A-3C-1, -2 and -3 are amended to revise language that would govern performance evaluations of teachers, principals and assistant principals as part of professional development.
- §18B-1B-2 is amended to remove the Secretary from the Higher Education Policy Commission. The section is also amended to establish new qualifications for the 7 at-large members of the Commission and revise the processes for their selection and appointment.
- §18B-3D-2 is amended to conform the statute by changing the membership of the Chancellor’s advisory committee for the Workforce Development Initiative by substituting a representative from the Herbert Henderson Minority Affairs Office for the Secretary of Education and the Arts.
- §18B-11-4 and -6 – The bill repeals the statutes to eliminate the requirement that the Higher Education Policy Commission and the Council for Community and Technical College Education establish two assistive device depositories for assistive devices for individuals with disabilities upon receipt of line item appropriations, and to eliminate the National Institute for Teaching Excellence.
- §18B-16-5 and -8 are amended to update references, including references to the Higher Education Policy Commission and the Council for Community and Technical College Education, in relation to, among others, the responsibilities of the Higher Education Vice Chancellor for Administration relating to health care education, and removing language referencing appropriations to the Secretary of Education and the Arts for the rural health initiative.
- §18B-18B-1 is amended to conform the statute by changing the membership of the Science and Research Council by substituting an additional member appointed by the Governor who has demonstrated interest, knowledge, skill and experience in academic research and scientific innovation, and who possesses recognized credentials and expertise in one or more of certain areas of science-related fields, for the Secretary of Education and the Arts.
- §29-24-3 and -5 are amended to conform the statutes by substituting the Secretary of Commerce for the Secretary of Education and the Arts in regard to responsibilities for the Technology-Related

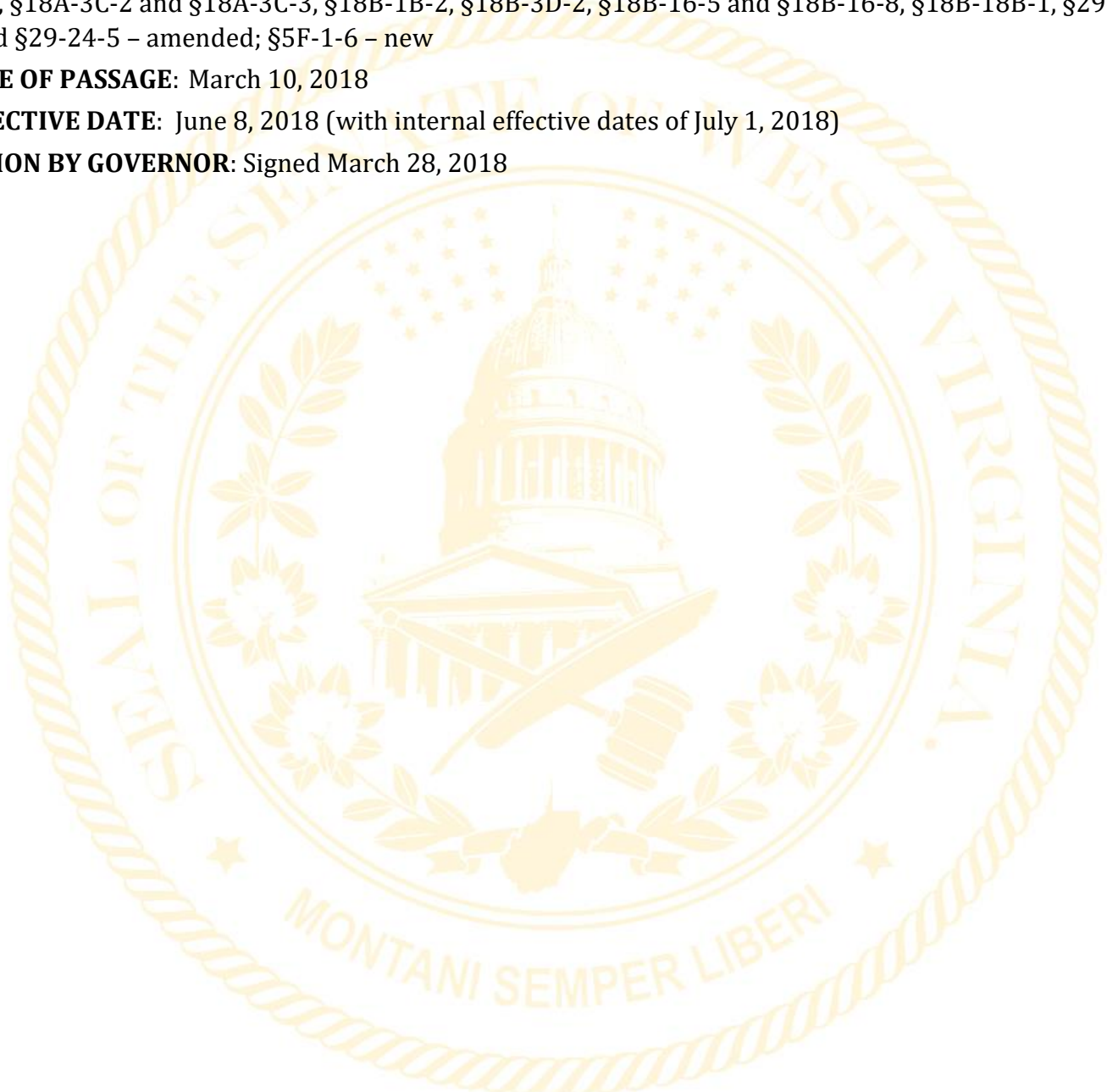
Assistance Revolving Loan Fund For Individuals With Disabilities Board, of which the Director of the Division of Rehabilitation Services is a member.

CODE REFERENCE: West Virginia Code §10-5-2a, §18-2I-3, §18A-3-2d, §18A-3A-1, §18A-3A -2, §18A-3A -2b, §18A-3A-3 and §18A-3A-5, §18B-11-4 and §18B-11-6 – repealed; §4-13-2, §5-26A-3, §5B-2C-6, §5F-1-2, §5F-2-1, §6-7-2a, §18-2I-1, §18-2I-2 and §18-2I 4, §18-10A-1, §18-10A-2, §18-10A-3, §18-10A 6a and §18-10A-12, §18-30-4, §18A-2-9 and §18A-2-12, §18A-3-1, §18A-3-1d, §18A-3-2c and §18A-3-8, §18A-3C-1, §18A-3C-2 and §18A-3C-3, §18B-1B-2, §18B-3D-2, §18B-16-5 and §18B-16-8, §18B-18B-1, §29-24-3 and §29-24-5 – amended; §5F-1-6 – new

DATE OF PASSAGE: March 10, 2018

EFFECTIVE DATE: June 8, 2018 (with internal effective dates of July 1, 2018)

ACTION BY GOVERNOR: Signed March 28, 2018



House Bill 4145

Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel

The bill increases the annual salaries of members of the West Virginia State Police, public school teachers and public school service personnel beginning July 1, 2018, as follows:

- For members of the State Police – \$2,160 increase in annual pay
- For public school teachers – \$2,020 increase in annual pay (200 days per year contract)
- For public school service personnel – \$110/\$55 (increase in monthly pay)

The above reflects that uniformed members of the State Police, public school teachers and public school service personnel will effectively be given an across-the-board pay raise equal to approximately 5% of the average of their respective group's aggregate salaries. Each of these employees are paid through statutory compensation schedules establishing their base annual salaries, and these raises will be included in their base salaries going forward. The amounts set forth for members of the State Police are the minimum amounts for their 12-month year. The amounts set forth for teachers are the minimum annual salaries paid for their 200-day contracts. The amounts set forth for service personnel are the minimum monthly salaries paid each year for 10 months [Note: The \$110/\$55 difference is because some service personnel contract to work more than 3½ hours a day and others for 3 ½ hours a day or less.]

Note: On February 21, 2018, the Governor approved Com. Sub. For SB 267, which also provided pay raises for the State Police, teachers and service personnel. This bill (Com. Sub. For HB 4145) amended the same statutes to provide different pay raises, superseding the raises provided in Com. Sub. For SB 267. However, Com. Sub. For SB 267 also amended and reenacted §18-9A-8 to provide that the state's portion of funding for the pay raises for school nurses and counselors will be included in the computation of the state's school aid formula.

CODE REFERENCE: West Virginia Code §15-2-5, §18A-4-2, and §18A-4-8a – amended

DATE OF PASSAGE: March 6, 2018

EFFECTIVE DATE: July 1, 2018

ACTION BY GOVERNOR: Signed March 6, 2018

House Bill 4183

Relating generally to standardized testing requirements for nonpublic schools

This bill makes the following changes to testing requirements required for nonpublic schools operating under §18-28-1 et seq.:

- Removes requirement that every child enrolled between the ages of 7 and 16 be administered one of several named tests in certain named subjects, and instead simply requires a nationally normed standardized achievement test be administered at the same grade levels and in the same subject areas as required in the public schools.
- Requires that the test be published or normed within the last ten years.
- Requires that the student participation rate on the standardized achievement test be the same as that required in the public schools.
- For any nonpublic school that exclusively teaches special education students or children with learning disabilities:
 - Removes language exempting school from subsection setting forth what happens when the school's composite test results fall below the 40th percentile.
 - Removes requirement to assess every child between the ages of 7 and 16, and instead requires students be assessed at the same grade levels and in the same subject areas as required in the public schools of the state.
- Provides that nothing in the section prohibits a nonpublic school from administering standardized achievement tests in additional subject areas or at additional grade levels.
- Conforms accountability provisions for schools falling below the 40th percentile to the above changes.

CODE REFERENCE: West Virginia Code §18-28-3 – amended

DATE OF PASSAGE: March 8, 2018

EFFECTIVE DATE: June 6, 2018

ACTION BY GOVERNOR: Signed March 22, 2018

House Bill 4251

Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors

This bill allows a person who is an officer, employee, or member of an out-of-state board of governors or an employee of an out-of-state institution of higher education to serve on a state institution of higher education governing board; and requires that a nonclassified employee serve on a board of governors in instances where an institution doesn't employ any classified employees.

CODE REFERENCE: West Virginia Code §18A-2A-1 – amended

DATE OF PASSAGE: March 10, 2018

EFFECTIVE DATE: March 10, 2018

ACTION BY GOVERNOR: Signed March 22, 2018

House Bill 4402

Relating to the prevention of sexual abuse of children

The bill requires that, beginning July 1, 2019, children in grades K-12 receive body age-appropriate safety information at least once per academic school year, with a preference for four times per academic year. To facilitate this process and resources, the bill requires the state board to promulgate legislative rules by December 31, 2018, and that those rules address, at least, the following:

- Developmentally appropriate education and resources;
- Social media content; and, best practices;
- Differing county and school sizes, demographics, etc.;
- Strategies for dealing with disclosures;
- Family involvement in the process;
- Offender dynamics;
- Child-on-child scenarios;
- Development of supplementary materials, including posting of the child abuse hotline, to embed into the school climate; and local crisis response.

The bill requires the state board to promulgate legislative rules before December 18, 2018, that will include comprehensive instruction and information to better equip schools and their employees. If necessary, the bill permits the board to promulgate an emergency rule. The rule will include how to:

- Recognize sexually offending behaviors in adults, questionable behaviors such as boundary violations, and signs in adults that might indicate they pose a sexual risk to children;
- Recognize, appropriately respond to, and prevent sexually inappropriate, coercive, or abusive behaviors among children and youth served by schools;
- Recognize behaviors and verbal cues that might indicate a child or youth has been a victim of abuse or neglect;
- Support the healthy development of children and youth and the building of protective factors to mitigate against their sexual victimization by adults or peers;
- Recognize and appropriately respond to student infatuations and flirtations with adults in schools;
- Recognize appropriate and inappropriate social media usage by adults and children;
- Provide consistent and standard protocols for responding to disclosures of sexual abuse or reports of boundary-violating behaviors by adults or children in a supportive and appropriate manner which meet mandated reporting requirements;
- Provide adequate understanding of the age-appropriate, comprehensive, evidence-informed child sexual abuse prevention education which will be offered to their students; and
- Reflect the research on Adverse Childhood Experiences (ACEs) and trauma-informed case.

The bill further provides that the training shall be given two years and sets forth parameters for duration and delivery of the training and documentation of the training.

CODE REFERENCE: West Virginia Code §18-2-41 – new

DATE OF PASSAGE: March 5, 2018

EFFECTIVE DATE: June 3, 2018

ACTION BY GOVERNOR: Signed March 27, 2018

House Bill 4478

Authorizing public schools to distribute excess food to students

This bill:

- Establishes findings relating to “The Shared Table” initiative some of which include that the initiative:
 - Encourages schools to collect unused food appropriate for redistribution, and make that food available throughout the day to students who may be hungry, to provide a method for discrete distribution of that food to be taken home by kids with food insecurity, and to donate any unused food to local food pantries and other entities that distribute food to those in need;
 - Can be as simple as designating a table or location in the school for food to be taken by students through the school day, and can also provide a system of discretely placing food in containers in student’s lockers each day to take home, and other creative initiatives to promote consumption of unused food already provided by schools to students and others who have food insecurity at home; and
 - Does not require school cafeterias to produce extra food and is only intended to promote the more effective consumption of existing food particularly to students who may otherwise go without.
- Provides that the purpose of the bill is to establish a statewide initiative to facilitate the program.
- Requires the State Board of Education to promulgate a rule that provides policy guidance to county boards on the management and distribution of excess school food consistent with state and county health department and United States Food and Drug Administration requirements and guidelines for the distribution of excess foods; and provides the minimum provisions that are required to be included in the rule.
- Requires that the preparation, safety, and donation of food made available to students during a regular school meal time and donated to a food bank or any other nonprofit charitable organization for distribution, shall comply with and thereby be covered by the Good Samaritan Food Donation Act.
- Provides that the methods of distributing excess food to students within a school can include a sharing table where food service staff, students and faculty can return appropriate food items consistent with state board guidelines to make those food items available to students during the school day.
- Requires each county board of education to establish a program to assist and encourage schools to participate in the Shared Table initiative.

CODE REFERENCE: West Virginia Code §18-5D-5 – new

DATE OF PASSAGE: March 7, 2018

EFFECTIVE DATE: June 5, 2018

ACTION BY GOVERNOR: Signed March 27, 2018

House Bill 4619

Supporting implementation of comprehensive systems for teacher and leader induction and professional growth

The bill creates a new statutory funding allowance within the school aid funding formula computations for “the purpose of supporting county-level implementation of the comprehensive systems for teacher and leader induction and professional growth,” which is a system of support required at the county level for improving the professional growth of education leaders and teachers. For each year, the allocation for this purpose is 20% of the increase in the local share amount for the next school year added to the amount of the appropriation for this purpose for the immediately preceding school year.

These funds will be allocated to the county boards of education in the manner established by the State Board of Education, which is required to take into consideration certain factors delineated in the bill. The amount allocated to each county may not be less than that county’s allocation FY2016-2017 allocation from the Teacher Mentor and Principals Mentorship appropriation to the Department of Education.

CODE REFERENCE: West Virginia Code §18-9A-10 – amended

DATE OF PASSAGE: March 2, 2018

EFFECTIVE DATE: July 1, 2018

ACTION BY GOVERNOR: Signed March 22, 2018

House Bill 4622

Relating to authorizing legislative rules regarding higher education

This bill authorizes 3 Higher Education Policy Commission rules and 2 Community and Technical College Council rules. The 2 Council rules are identical to 2 of the 3 Policy Commission Rules. All of the rules are for the purpose of conforming to HB 2815 and HB 2542, both passed during the 2017 regular session. Additionally, all of these rules have been recommended for approval by LOCEA.

- The first rule the bill authorizes is a tuition and fee policy rule of the Policy Commission. Significant changes to this rule:
 - Increase the annual minimum percentage increase subject to Commission approval from 5% to 10% (with a 7% three year rolling average).
 - Allow institutions to establish rates applicable to tuition and fees for online course delivery without approval.
 - Allow exempted schools to authorize a mandatory auxiliary fee without seeking approval.
 - Requiring a governing board to permit fee payments in installments over the course of an academic term.
- The second rule the bill authorizes is a human resources administration rule of both the Policy Commission and Council. Significant changes to this rule:
 - Combine three rules into one.
 - Delete definitions, language, requirements, and practices that were outdated or changed as a result of HB 2542.
 - Modify definitions, language, requirements, and policies to conform to HB 2542.
 - Add flexibility provisions of HB 2542 for institutional rule writing.
 - Incorporate implementation of the WV Higher Education Employee Compensation Management Program.
 - Update training and development section to reflect statutory requirements.
- The 3rd rule the bill authorizes is a capitol project management rule of both the Policy Commission and the Council. Significant changes to this rule:
 - Exempting exempt schools from the rules.
 - Changing wording to reflect deference to Commission school's boards of governors.
 - Inserting the word "confirmation" instead of "approval" for commission schools.
 - Adding language from HB 2815 relating to capital projects.
 - Incorporates other amendments recommended by LOCEA to comply with HB 2815.

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: March 6, 2018

EFFECTIVE DATE: June 4, 2018

ACTION BY GOVERNOR: Signed March 20, 2018

2017 Regular Session



Senate Bill 36

Permitting school nurses to possess and administer opioid antagonists

This bill would allow a school nurse to possess and administer an opioid antagonist on or near a school if he or she believes in good faith that a student or other individual is suffering from an adverse opioid event.

CODE REFERENCE: West Virginia Code §18-5-22d – new

DATE OF PASSAGE: April 1, 2017

EFFECTIVE DATE: June 30, 2017

ACTION BY GOVERNOR: Signed April 11, 2017

Senate Bill 40

Requiring inclusion of protocols for response to after-school emergencies in school crisis response plans

This bill provides that no later than August 1, 2017, the West Virginia Secondary Schools Athletics Commission (WVSSAC) shall promulgate rules to establish guidelines for emergency action plans for athletics, designed to respond to athletic injuries that occur on school property during school-sponsored athletic events. The rules shall address, at a minimum:

- Protocols for practices and for games.
- Directives for personnel or equipment which should be available on sports fields or in school buildings for both girls' and boys' teams.
- Training needed for school or volunteer personnel on an as-needed basis.

The legislation provides that all member schools shall submit an emergency action plan to the WVSSAC and their county boards of education by December 31, 2017. The county boards are directed to keep the emergency plan of each school in the county on file and, unless otherwise provided for, provide a copy of each school's plan to each local emergency response agency that has a role in the plan. The legislation also provides for a limitation of liability under certain circumstances up to the applicable limits of the professional liability insurance provided by the State Board of Risk and Insurance Management.

CODE REFERENCE: West Virginia Code §18-2-25b – new

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: August 1, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

Senate Bill 186

Adjusting date when children become eligible for certain school programs and school attendance requirements

Under current law, a child must be 4 years old prior to September 1 to enter an early childhood education program and must be 5 years old by September 1 to enter kindergarten. Compulsory attendance requirements begin for students who attain age 6 by September 1. This bill would change the threshold date from September 1 to July 1 in all these instances.

Beginning with the 2018-2019 school year, a child must reach the age of 4 prior to July 1 for entrance into the early childhood education program.

- This date ensures that students who have already enrolled, or intend to enroll in an early childhood program, will not be denied admittance into that program for the 2017-2018 school year if that student has not reached the age of 4 prior to July 1.
- The bill further provides that, except as required by federal law or regulation, no county board may enroll students who will be less than 4 years of age prior to July 1 for the year they enter school.

Beginning with the 2019-2020 school year, a child must reach the age of 5 prior to July 1 for entrance into kindergarten.

- This date ensures that students who have already completed an early childhood education program in the 2016-2017 school year will not be delayed or denied admittance into kindergarten for the succeeding 2017-2018 school year if he or she has yet to reach the age of 5 prior to July 1.
- It also ensures that students who enroll in an early childhood education program in the upcoming 2017-2018 school year will remain eligible for kindergarten for the succeeding 2018-2019 school year if he or she has yet to reach the age of 5 prior to July 1.

Beginning with the 2019-2020 school year, compulsory school attendance begins with the school year in which the student reaches age 6 by July 1.

CODE REFERENCE: West Virginia Code §18-5-18, §18-5-44 and §18-8-1a – amended

DATE OF PASSAGE: April 5, 2017

EFFECTIVE DATE: July 4, 2017

ACTION BY GOVERNOR: Signed April 18, 2017

Senate Bill 221

Relating to composition of PEIA Finance Board

This bill changes the experience requirements and reduce the number of members of the Public Employees Insurance Agency Finance Board.

The board consisted of the Secretary of the Department of Administration or their designee and ten members appointed by the Governor. The bill reduces the number of members appointed by the Governor from ten to eight.

One member shall represent the interests of education employees. The member must hold a bachelor's degree, have obtained teacher certification, must be employed as a teacher for a period of at least 3 years prior to appointment, and must remain a teacher for the duration to remain eligible to serve on the board.

One member shall represent the interests of public employees. The member must be employed to perform full or part time service for wages, salary, or remuneration for a public body for a period of at least 3 years prior to appointment, and must remain an employee for the duration.

One member shall represent the interests of retired employees, meeting the definition of a retired employee defined in article 16, section 2 of this chapter.

One member shall represent the interests of a participating political subdivision. The member must be employed by a political subdivision for at least 3 years prior to appointment, and must remain an employee for the duration.

Four members are selected from the public at large meeting the following: One member must have knowledge and expertise relating to the financing, development, or management of employee benefit programs; one member must have at least 3 years of experience in the insurance benefits business; one member must be a certified public accountant with at least 3 years' experience with financial management and employee benefits program experience; and one member must be a health care actuary or certified public accountant with at least 3 years of financial experience with the healthcare marketplace. No member of the board may be a registered lobbyist. The bill also provides that five, rather than six, members constitute a quorum.

The bill provides that effective July 1, 2017, members of the board shall satisfy the qualification requirements and the Governor shall make appointments necessary to satisfy the requirements. However, any member of the board in office on July 1, 2017, may continue to serve until his or her successor has been appointed and qualified.

CODE REFERENCE: West Virginia Code §5-16-4 – amended

DATE OF PASSAGE: April 7, 2017

EFFECTIVE DATE: July 6, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

Senate Bill 231

Relating to State Board of Education and Medicaid-eligible children

This bill provides that a county board is not required to seek Medicaid reimbursement if it determines there is not a net benefit after consideration of costs and time involved with seeking the reimbursement for eligible services and that the billing process detracts from the educational program.

CODE REFERENCE: West Virginia Code §18-2-5b – amended

DATE OF PASSAGE: March 15, 2017

EFFECTIVE DATE: July 1, 2017

ACTION BY GOVERNOR: March 24, 2017

Senate Bill 233

Excluding from protection oral communications uttered in child care center under Wiretapping and Electronic Surveillance Act

This bill creates an exception to the prohibition against intercepting communications if at least one participant in the communication agrees thereto. The exception is applicable to child care facilities if written notice is posted of the recordation. The bill also amends the definition of “child care center” by requiring that a facility must be licensed by the Department of Health and Human Resources in order to fall within the definition.

CODE REFERENCE: West Virginia Code §62-1D-2 – amended

DATE OF PASSAGE: April 1, 2017

EFFECTIVE DATE: June 30, 2017

ACTION BY GOVERNOR: Signed April 11, 2017

Senate Bill 256

Relating to prohibiting aiding and abetting of sexual abuse by school personnel

This bill creates a new section of code to bring West Virginia law and policy related to sexual abuse by school personnel into compliance with federal law. Subsection (a) prohibits school personnel, contractors, agents, or employees of any local educational agency, including employees in both public and private schools, from assisting someone to obtain a new job if that person or entity knows, or has probable cause to believe, that the person engaged in sexual misconduct regarding a minor or student. The law clarifies that routine transmission of administrative or personnel files does not constitute assistance in obtaining a new job. Subsection (b) permits assistance of such persons if certain conditions are met. First, the information about the misconduct must have been properly reported to the appropriate law-enforcement agency. Second, there must be some sort of resolution: the matter must be closed, the person must have been acquitted or exonerated, or four years lapse from the date the charges were filed. Subsection (c) clarifies that any statutes, regulations or policies that provide greater protections are not overridden by this section.

CODE REFERENCE: West Virginia Code §18A-4-22 – new

DATE OF PASSAGE: April 6, 2017

EFFECTIVE DATE: July 5, 2017

ACTION BY GOVERNOR: Signed April 24, 2017

Senate Bill 497

Relating to liability for health care providers who provide services at school athletic events.

This bill revises current code, which addresses the liability for physicians who render services at school athletic events, and extends the liability protections to all licensed, certified or registered health care providers whether licensed or certified in West Virginia or another state. The bill removes the reference to physicians “acting in the capacity of a volunteer team physician” and further removes the requirement that a health care provider agree to provide emergency care or treatment prior to the athletic event such that any health care provider in attendance is afforded the immunity provided under this section. The bill also strikes the limitation on liability tied to the limits of an applicable professional liability insurance policy and the requirement that the care or treatment was rendered in accordance with the applicable standard of care under W. Va. Code §55-7B-3. The bill adds willful misconduct to gross negligence as exceptions to the limitation on liability afforded health care providers under this existing code section.

CODE REFERENCE: West Virginia Code §55-7-19 – amended

DATE OF PASSAGE: March 31, 2017

EFFECTIVE DATE: June 29, 2017

ACTION BY GOVERNOR: Signed April 11, 2017

Senate Bill 630

Establishing Accessibility and Equity in Public Education Enhancement Act

This bill creates the Accessibility and Equity in Public Education Enhancement Act. It allows a county board or a multicounty consortium to create a virtual instruction program for one or more schools serving any composition of grades K-12 by adopting a policy creating the program and after adopting the policy allows the county board or multicounty consortium to contract with virtual school providers. In instances of a multicounty consortium, each county board in the consortium must adopt a policy. The virtual instruction program may begin July 1, 2017 or at any point thereafter. The program is prohibited from serving students in grades k-5 until after the program has been in operation for one full school year.

The policy may offer eligible students an online pathway for earning a high school diploma, and at a minimum, is required to include the following:

- The scope, instructional model and capacity for the virtual education program.
- Assessment protocol and specific requirements for monitoring performance that are consistent with §18-2E-5 (includes provisions pertaining to the comprehensive statewide student assessment program).
- A plan for monitoring students receiving virtual instruction in accordance with pacing and completion of the required virtual coursework. If virtual instruction occurs in a public school classroom then a teacher, professional person, professional educator, or paraprofessional employed by that county must be present to monitor.
- Qualifications of faculty, which at a minimum must include a teaching certificate.
- A requirement that any virtual school provider contracted with comply with state and federal privacy laws.

The bill also includes a section pertaining to compliance with state law. It requires that an eligible student enrolled in a virtual instruction program:

- Be counted in the net enrollment of the school district in which the student resides for the purposes of calculating and receiving state aid.
- Be subject to the same state assessment requirements as other students in the school district.
- Receive a diploma from the school district, upon completing the same coursework required of regular public school students in the district.

The bill also provides that:

- An eligible student participating in a virtual instruction program is not required to comply with compulsory school attendance requirements to the extent the program as delineated in the county board policy allows or requires instruction to occur outside of a school building.
- Neither the school district, the eligible student nor the parents of the student may incur any penalty or be held accountable for the absence of the student from the school building to the extent the program as delineated in the county board policy allows or requires instruction to occur outside of a school building.
- Neither the school district nor its students are required to comply with the instructional term requirements or any other law or state board rule requiring a student to be in a school building receiving instruction for any set time to the extent the program as delineated in the county board policy is a learn at your own pace program.

- An eligible student participating in a virtual instruction program is considered to be attending the school in the attendance district he or she resides in unless otherwise transferred to another school; and the student can participate in any cocurricular and extracurricular activities of that school, but is subject to the same participation requirements imposed on a traditional student attending the school.
- A county board is exempt from any provision of law or state board rule that applies to the traditional delivery of instruction such as requirements relating to the physical presence of a student, student monitoring and security, the maximum teacher-pupil ratio, instructional time requirements and physical education requirements to the extent any of the foregoing conflict with the delivery of the virtual instruction program.
- The virtual instruction program is not subject to online course restrictions imposed by the state board, state superintendent or the West Virginia Department of Education.
- Coursework offered through a virtual instruction program is required to be aligned to the appropriate academic standards as required by state law and state board rule.
- The assessment results of an eligible student must be included in the assessment results of the school and the school district in which the student is considered enrolled for purposes of accountability.
- The Department of Education, after consulting with the county board or boards implementing the program, is required to report to LOCEA on all aspects of the program.

CODE REFERENCE: West Virginia Code §18-5F-1 through §18-5F-6 – new

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: April 8, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

Senate Bill 656

Relating to Student Data Accessibility, Transparency and Accountability Act

This bill replaces references to ACT, SAT and the College Board with generic language. It also provides that certain vendors that provide the 11th grade assessment can only receive payment or other consideration for assessment results and necessary directory or other permissible information if they obtain affirmative written consent from the student if the student is 15 years old or older or from the parent if the student is under 15, in response to clear and conspicuous notice, solely for providing the student access to employment, educational scholarships or financial aid, or post-secondary educational opportunities.

CODE REFERENCE: West Virginia Code §18-2-5h – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 7, 2017

ACTION BY GOVERNOR: Vetoed April 26, 2017

Senate Bill 671

Relating to WV Anatomical Board

This bill reestablishes the West Virginia Anatomical Board under the authority of the Higher Education Policy Commission. The West Virginia anatomical board currently exists in code. In this bill, Section §18B-4-8 is stricken in its entirety and replaced. It is reestablished under the authority of the Higher Education Policy Commission with the following four members: Dean of the Marshall University School of Medicine, Dean of the West Virginia University School of Medicine, Dean of the West Virginia University School of Dentistry, and Dean of the West Virginia School of Osteopathic School. The section describes definitions and the responsibilities of the board. The board is given authority to promulgate legislative rules. The members shall not be compensated.

CODE REFERENCE: West Virginia Code §18B-4-8 – amended

DATE OF PASSAGE: April 4, 2017

EFFECTIVE DATE: July 3, 2017

ACTION BY GOVERNOR: Signed April 18, 2017

House Bill 2188

Extending the length of time for the special Community-Based Pilot Demonstration Project to Improve Outcomes for At-Risk Youth

This bill extends the original duration of community-based pilot demonstration project to improve outcome for at-risk youth may be operated by a community based organization selected by the Secretary at the Department of Health and Human Resources. The project is subject to available funding. The original duration of the projects was set in code at four years. This bill would change the period of duration to seven years.

CODE REFERENCE: West Virginia Code §18-21-2 – amended

DATE OF PASSAGE: April 4, 2017

EFFECTIVE DATE: July 3, 2017

ACTION BY GOVERNOR: Signed April 24, 2017

House Bill 2195

Relating to requiring comprehensive drug awareness and prevention program in all public schools

This bill requires county boards to implement comprehensive drug awareness and prevention programs for K-12 students to receive instruction regarding the dangers of substance abuse. The bill also sets forth the purposes of the program, and requires county boards to coordinate the delivery of instruction to meet the purposes with educators, drug rehabilitation specialists and law-enforcement agencies to periodically provide age appropriate student education on their experiences with the impacts of illegal alcohol and drug use.

The bill also requires that instruction in health education in any of grades 6-12 as considered appropriate by the county board include at least 60 minutes of instruction for each student on the dangers of opioid use, the addictive characteristics of opioids, and safer alternatives to treat pain.

CODE REFERENCE: West Virginia Code §18-2-7b – amended

DATE OF PASSAGE: April 6, 2017

EFFECTIVE DATE: July 5, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

House Bill 2196

Relating to the secondary schools athletic commission

This bill requires the commission to consider eligible for participation in interscholastic activities of secondary schools a student who is receiving home instruction along with students who are enrolled in a registered private or parochial school that does not have interscholastic programs and who:

- Has demonstrated satisfactory evidence of academic progress for two years and:
 - The home school student's average test results are within or above the fourth stanine in all subject areas; and
 - The private or parochial school students meet the same academic and attendance requirements of public school students.
- Has not reached the age of nineteen by August 1 of the current school year.
- Is an amateur who receives no compensation, but participates solely for the educational, physical, mental and social benefits of the activity.
- Agrees to comply with all disciplinary rules and regulations of the West Virginia Secondary Schools Activities Commission and the county board in which the home-schooled, private or parochial student lives, applicable to all other athletes and activity participants; and
- Agrees to obey all rules of the West Virginia Secondary Schools Activities Commission governing awards, all-star games, parental consents, physical examinations and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic programs at the public secondary, private or parochial school serving the attendance zone in which the student lives. Home school, private or parochial students who leave a member school during the school year shall be subject to the same transfer protocols that apply to member-to-member transfers. Homeschool, private and parochial school students participating in interscholastic programs are required to pay the same amount that public school students pay when participating in these programs. One year following the effective date of this bill, the state board is required to determine additional costs, on a per student basis, of non-enrolled students participating in interscholastic programs, and must make recommendations to the Legislature regarding how the costs of these non-enrolled students have affected the school aid formula.

CODE REFERENCE: West Virginia Code §18-2-25 – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 6, 2017

ACTION BY GOVERNOR: Vetoed

House Bill 2494

Providing that statewide school report cards are only to be made available to custodial parents and guardians of students upon request

This bill removes the state board's duty to prescribe information to be included in school report cards. It adds enrollment as one of the items to be included in the school report cards, but removes much of the information to be included in the school and/or school district report cards including:

- Percent of enrollments in courses in high school mathematics, science, English and social science.
- Amount of time per day devoted to mathematics, science, English and social science at middle, junior high and high school grade levels.
- Percentage distribution of students by career cluster as indicated on the individualized student transition plan.
- Number of exceptions to pupil-teacher ratio requested by the county board and the number of exceptions granted; the number of split grade classrooms.
- The amount of salary supplements that would be available per state authorized employee if all expenditure for personnel over the number allowed by the public school support plan were converted for state authorized personnel within the county.
- Whether board members have attended an orientation program for new members.
- The number of hours of training that meets state board standards that county board members have received during the school term reported.
- Training programs attended by the county superintendent, and assistant and associate superintendents.

The bill also removes the requirement that school report cards be mailed directly to the parents of each child enrolled in the school. Instead, it requires that the school and school district report cards be made easily available on, or through a report card icon or link on, the county board website and provided in paper form upon request of the parent, guardian or custodian.

CODE REFERENCE: West Virginia Code §18-2E-4 – amended

DATE OF PASSAGE: April 6, 2017

EFFECTIVE DATE: July 5, 2017

ACTION BY GOVERNOR: Signed April 25, 2017

House Bill 2542

Relating to public higher education personnel

This bill repeals the following sections of Code:

- §18B-7-9 – Requires the commission and council to jointly conduct an initial human resources review of each organization, and then a systematic human resources review of each organization at least once within each five-year period.
- §18B-7-11 – Limits the percentage of the total number of classified and nonclassified employees placed in the category of nonclassified at a higher education organization to no more than 25%; and limits the percentage of the total number of classified and nonclassified employees in positions considered to be critical to the institution to no more than 10%.
- §18B-7-12 – Allows the president of an organization, or a representative, and a classified employee to mutually agree on duties to be performed in addition to those duties listed in the job description.
- §18B-9-1, 2, 3, and 4 – Requires the commission and council jointly to implement a complete and uniform system of personnel classification and compensation for classified employees which includes the temporary classified employee salary schedule.
- §18B-9A-3 – Provides that an organization is subject to article nine and cannot exercise certain human resource flexibility provisions until the commission or council has certified that an organization has achieved full funding of the temporary classified employee annual salary schedule or is making appropriate progress toward attaining full funding.
- §18B-9A-8 – Sets forth incremental steps to implement the recommendations of the Select Committee on Higher Education Personnel and the provisions of the articles of code relating to personnel generally, faculty, and the classification and compensation system with the temporary classified employee salary schedule.

This bill also:

- Removes the requirement that the commission employ a Vice Chancellor for Human Resources, a Generalist/Manager, a Director of Classification and Compensation and a Training and Development Specialist; removes a portion of the duties of the Vice Chancellor and reassigns the remaining duties to the chancellor or a qualified designee.
- Adds consulting with institutions on human relations policies and rules to the duties of the Chancellor for Higher Education.
- Modifies the legislative intent and purpose section for the article relating to personnel to be consistent with other changes in the bill.
- Defines “more senior employee” as an employee who has greater longevity with the institution than another employee who is also subject to layoff as part of a reduction in force.
- Removes language providing that the section on reducing the workforce is applicable to an employee who is transferred involuntarily to a position in nonclassified status for which he or she did not apply; and providing that any classified employee involuntarily transferred to a position in nonclassified status may exercise the rights in the section only for positions equivalent to or lower than the last job class the employee held.
- Requires governing boards to adopt a rule on reductions in workforce of full-time classified employees after consultation with and providing 30 days written notice to the applicable staff council of an organization.

- For certain layoffs, allows an institution to layoff the incumbent in the position being eliminated. In the case of elimination of some but not all of the position of the same job title, requires consideration of an employee's documented quality of work performance as demonstrated in performance evaluations of record (including, but not limited to, disciplinary records), skills, seniority as measured by years of service, or other factors, as determined by the board.
- Provides that if the organization desires to lay off a more senior employee, it may offer him or her a severance package, the value of which cannot exceed the employee's salary for a year.
- Removes language requiring that if the organization desires to lay off a more senior employee, it must demonstrate that the senior employee cannot perform any other job duties held by less senior employees of that organization in the same job class or any other equivalent or lower job class for which the senior employee is qualified.
- Removes language requiring a random selection system be used in cases of identical seniority.
- Removes language relating to requiring that during a furlough or reduction in workforce employees be placed on a preferred recall list.
- Removes language relating to requiring that a nonexempt classified employee, who applies and meets the minimum qualifications for a nonexempt job opening at the organization where currently employed, whether the job is a lateral transfer or a promotion, be promoted or transferred before a new person is hired.
- Removes requirement that applications for employment include each applicant's social security number.
- Removes language applicable in cases of a reduction in force relating to an employee of an organization under the council not being able to displace an employee of an organization under the commission; relating to an employee of an organization under the commission not being able to displace an employee of an organization under the council; and addressing instances where an employee is performing a dual service for a formerly administratively linked community and technical college and a former sponsoring institution.
- Makes modifications to provisions relating to continuing education and professional development such as requiring the continuing education and professional development be operated under rules adopted by the governing boards instead of the commission and council; and expanding application of provisions to include all employees instead of only faculty and classified employees.
- Modifies required personnel report to LOCEA by requiring it to be every five years instead of annually; and requiring the report to include progress toward achieving fair compensation of all employees rather than full funding of the temporary classified employees' salary schedule.
- Modifies requirements for human resources report card by requiring it to be submitted to LOCEA every five years instead of annually; and removing requirements for several specific items of data.
- Allows a governing board to adopt a rule relating to faculty after consulting with and providing 30 days written notice to the faculty senate; and providing that the rule preempts any conflicting rule adopted by the commission or council.
- Modifies the definition of classified employee to mean a regular employee who: (1) Does not meet the duties test for exempt status under the provisions of the Fair Labor Standards Act; and (2) does not otherwise meet the definition of nonclassified employee except that any employee who was a classified employee as of January 1, 2017, retains that status unless otherwise meeting the definition of nonclassified employee.

- Modifies the definition of nonclassified employee to mean any employee who meets any one or more of the following criteria: (1) Holds a direct policy-making position at the department or organization level; (2) reports directly to the president or CEO of the organization; (3) is in a position considered by the president or designee to be critical to the institution pursuant to policies or decisions adopted by the governing board; (4) is in an information technology-related position; (5) is hired after July 1, 2017 and meets the duties test for exempt status under the Fair Labor Standards Act at the time of hire or anytime thereafter; or (6) was in nonclassified position as of January 1, 2017.
- Provides that unless otherwise established by action of the institution where employed, a nonclassified employee serves at the will and pleasure of the organization, which authority can be delegated by act of the board.
- Removes the Compensation Planning and Review Committee's duty to oversee the five-year market salary study.
- Replaces requirement that the commission and council jointly contract with an external vendor to conduct a classified employee market salary study with the requirement that the commission and council use workforce compensation data provided by Workforce West Virginia and other compensation data as is readily available from nationally recognized sources, including compensation data of CUPA-HR, to establish the appropriate external market conditions of classified positions.
- Makes minimum compensation level approved by the commission and council subject to available funds.
- Modifies the definition of major deficiency for the purposes of applying sanctions when not corrected within the allotted time by excluding failure to comply with federal or state law.
- Allowing rather than requiring the commission or council to apply sanctions for failure to notify the commission or council that a major deficiency has been corrected within an agreed upon period.
- Removes suspension of new hiring as a suggested sanction.
- Removes authority of each chancellor to reject or disapprove any rule if he or she determines that it's not in compliance with law or rule or if it's inconsistent with legislative, commission and council intent.
- Allows West Virginia University, Marshall University, the West Virginia School of Osteopathic Medicine, or any other organization that provides notice to the commission or council, after consultation with staff council, to file rules to implement the article related to personnel generally and the article related to faculty; and provides that upon adoption, any rules promulgated by the commission or council under those two articles are inapplicable to the organization.
- Allows West Virginia University, Marshall University, the West Virginia School of Osteopathic Medicine; or any other organization that provides notice to the commission or council to establish a classification and compensation rule, after consultation with and providing 30 days written notice to the staff council of the applicable organization, that incorporates best human resources practices and addresses the areas of organization accountability, employee classification and compensation, performance evaluation, reductions in force, and development of organizational policies, and upon the adoption, the provisions of the article establishing the classification and compensation system and any rule promulgated by the commission or the council thereto, is inapplicable to the extent it conflicts with the rule promulgated by the organization; and requires any rule adopted to use the statutory definitions of classified and nonclassified employees.

- Requires that any classification and compensation rule provide for the following:
 - The establishment of a classification and compensation system to address certain specified objectives;
 - provisions for an objective performance evaluation model;
 - a quarterly meeting between management and representatives of staff council to discuss implementation and effectiveness of any adopted rule and authority for management to make recommendations to the president or board of Governors of an organization; and,
 - external review of human resource practices at the organization at least once every five years relating to compliance with certain statutory provisions.
- The rule also may provide for differential pay for certain employees who work different shifts, weekends or holidays and for differential treatment for employees.

CODE REFERENCE: West Virginia Code §18B-7-9, §18B-7-11 and §18B-7-12, §18B-9-1, §18B-9-2, §18B-9-3 and §18B-9-4, §18B-9A-3 and §18B-9A-8 – repealed; §18B-1B-5; §18B-4-1, §18B-4-2a, §18B-7-1, §18B-7-2, §18B-7-3, §18B-7-6, §18B-7-8, §18B-9A-2, §18B-9A-5, §18B-9A-6, and §18B-9A-7 – amended; §18B-8-7 and §18B-9B-1 – new

DATE OF PASSAGE: March 14, 2017

EFFECTIVE DATE: June 12, 2017

ACTION BY GOVERNOR: Signed March 23, 2017

House Bill 2561

Relating to public school support

The bill would amend several steps of the funding formula by which public school support is calculated. Specifically, the bill:

- Modifies the allowance for professional educators by basing the allowance on set ratios rather than making the ratios a limit on the number of professional educators actually employed that a county could get credit for; and provides that for any professional educator positions the county gets credit for that exceed the number employed, the county's allowance for these positions be determined using the average state funded salary of professional educators for the county.
- Modifies the minimum ratio of professional instructional personnel to be based on percentages of state aid funded professional educators, or the number employed, whichever is less, rather than on the number of professional instructional personnel per 1,000 students; provides that where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional instructional personnel for the school or program can be prorated among the participating counties on the basis of each one's enrollment and the personnel are to be considered within the ratios; and provides that for the 2017-2018 school year only, a county may not be penalized for not meeting the professional instructional personnel ratios.
- Removes requirements that were applicable to new positions created as a result of increases in the professional educator ratios during the fiscal years 2009 through 2013.
- Removes requirement for LOCEA to periodically review the four density categories, the ratios for professional educators, and the ratios for service personnel.
- Modifies the allowance for service personnel by basing the allowance on set ratios rather than making the ratios a limit on the number of service persons actually employed that a county could get credit for; and provides that for any service personnel positions the county gets credit for that exceed the number employed, the county's allowance for these positions be determined using the average state funded minimum salary of service personnel for the county.
- Requires the number of and the allowance for personnel paid in part by state and county funds to be prorated.
- Adds professional student support personnel allowance to the calculation of the teachers retirement fund allowance.
- Bases the Teachers Retirement Fund allowance on the average retirement contribution rate of each county; and provides that the average contribution rate for each county board is based on the required employer contributions for state aide eligible employees participating in the Teachers' Retirement System and the Defined Contribution Plan.
- Allows up to \$200,000 of the allowance for transportation costs to be used for school facility and equipment repair, maintenance and improvement or replacement or other current expense priorities if a request by the county superintendent is approved by the state superintendent; and requires that before approving the request the state superintendent verify the serviceability of the county's bus fleet based on the state school bus inspection defect rate of the county over the prior two years.
- Bases the allowance for current expense on the county's state average costs per square footage per student for operations and maintenance rather than on the allowances for professional educators, professional student support personnel and service personnel.

- Removes language that allows the allowance for instructional improvement to be used in the implementation and maintenance of the uniform integrated regional computer information system.
- Increases the percentage of the allowance to improve instructional programs that can be used to employ school personnel from 25% to 50%
- Removes requirement that the allowances for professional educators and service personnel be fully utilized before up to 50% of the allowance for instructional improvement can be used to employ school personnel.
- Removes language limiting the use of a certain amount of the allowance for instructional improvement to employing technology systems specialist until the state superintendent determines that the county has sufficient technology systems specialists.
- Allows the allocation for the improvement of instructional technology programs to be used for the employment of technology system specialists; and requires that the amount used for the employment of technology system specialists be included and justified in the county board's strategic technology learning plan.
- Requires that an amount to be paid into the School Building Capital Improvements Fund be paid by the Department of Education in accordance with the expenditure schedule approved by the state budget office.
- Allows a county board to use up to 25% of the allocation for the improvement of instructional programs and up to 50% of the allocation for improving instructional technology for school facility and equipment repair, maintenance and improvement or replacement and other current expense priorities and for emergency purposes. The amount used for these purposes must be justified in the county and school strategic improvement plans or the county board's strategic technology learning plan, as applicable.
- Requires the School Building Authority from the funds available to it to maintain a reserve fund of at least \$600,000 for the purpose of making emergency grants to financially distressed county boards to assist them in making repairs or performing urgent maintenance to facilities or facility related equipment or facility related equipment replacement necessary to maintain the serviceability or structural integrity of school facilities currently in use or necessary for educating the students of the county; requires the grants to be made in accordance with guidelines established by the Authority; and defines "financially distressed county" as a county either in deficit or on the most recently established watch list established by the Department of Education of those counties at-risk of becoming in deficit.

CODE REFERENCE: West Virginia Code §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9, and §18-9A-10 – amended; §18-9D-4d – new

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 1, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

House Bill 2589

Permitting students who are homeschooled or attend private schools to enroll and take classes at the county's vocational school

This bill:

- Requires county boards to permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools, if the county offers vocational classes either itself or through a joint vocational program or service with another county or counties; requires that the students be treated equally for admission purposes with applicants enrolled in public school; and provides that the students cannot be charged more than public school students of compulsory school age.
- Adds a new article that creates the Middle School Technical Education Program Act (Middle School STEP Act).
- Requires participating middle schools use existing resources to implement the pilot program.
- Includes provisions relating to qualifications of instructors.
- Requires the pilot program to be a one semester elective course, but allows middle schools with alternative scheduling systems to adapt the program to meet their scheduling needs.
- Requires certain entities within 50 miles that receive state funding to provide speakers upon request.
- Requires guest speakers be scheduled weekly to introduce students to a particular career and to prepare students to pursue the featured career by providing relevant information on certain topics.
- Requires the course to include instruction on certain minimum skill sets required to discover and take advantage of employment opportunities.
- Requires the course to include instruction on certain minimum skill sets required to discover and take advantage of educational opportunities.
- Requires, as a condition for successful completion of the course, the student to create a plan to become employable following high school or post-secondary school.
- Requires the state board to establish guidelines for middle schools to submit a request for the school's admission into the pilot program; and requires admission to be on a first come, first serve basis.
- Provides that the goal is for a minimum of 10 middle schools participate each year and allows the state board to solicit additional middle schools to participate to meet the goal, but prohibits the state board from requiring any middle school to participate.
- Requires students who successfully complete the course to receive a West Virginia STEP Certificate.
- Requires an annual report to LOCEA on certain aggregate information on the progress of students who have received the West Virginia STEP Certificate.

CODE REFERENCE: West Virginia Code §18-5-15g and §18-21A-1 through §18-21A-7 – new

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 7, 2017

ACTION BY GOVERNOR: Vetoed April 26, 2017

House Bill 2637

Relating to employment of retired teachers and prospective employable professional personnel in areas of critical need and shortage

Expanded use of retired teachers as substitute teachers in areas of critical need and shortage

- Includes speech pathologists and school nurses in the provisions allowing expanded use of retired teachers as substitute teachers in areas of critical need and shortage beyond the 140-day post-retirement limit.
- Sets the expiration date of the subsection back from June 30, 2017 to June 30, 2020.
- Includes technical changes primarily with regard to changing deadlines for retirement to coincide with fiscal years, rather than employment terms.

Prospective employable professional personnel in areas of critical need and shortage

- Removes language requiring that the areas of critical need and shortage be identified by the State Board.
- Requires county board to post the critical need and shortage positions prior to making offers of employment, rather than just post general areas; and gives county boards the option of posting on the county's website.
- Restricts employment of prospective employable professional personnel to candidates who will commence employment at the next employment term; and removes option to employ as prospective employable professional personnel candidates whose employment contract with a county board has or will be terminated due to a reduction in force in the current fiscal year.
- Changes limit on number of prospective employable professional personnel who can be employed from three full-time prospective employable professional personnel per 100 professional personnel or 25 overall, whichever is less, to the number of critical need and shortage area positions posted.
- Provides that regular employee status for prospective employable professional personnel can be obtained in accordance with §18A-4-7a without the need for additional postings and faculty senate involvement.
- Clarifies that nothing in the prospective employable professional personnel subsection prevents a county board from filling a vacancy at any time in accordance with the other provisions of this chapter.
- Provides that for the purpose of recruiting professional personnel in a critical need or shortage area, county boards can pay prospective employable professional personnel a one-time financial incentive from local funds.

CODE REFERENCE: West Virginia Code §18A-2-3 – amended

EFFECTIVE DATE: July 7, 2017

DATE OF PASSAGE: April 8, 2017

ACTION BY GOVERNOR: Signed April 25, 2017

House Bill 2702

Relating to excused absences for personal illness from school

This bill clarifies the definition of “excused absence” by including personal illness or injury of the student’s parent, guardian, custodian, or family member, and requiring that the excuse provide a reasonable explanation for why the student’s absence was necessary and caused by the illness or injury in the family. It also requires that all documentation relating to absences be provided to the school no later than three instructional days after the first day the student returns to school. Additionally, the bill allows rather than requires, in the case of three total unexcused absences, the attendance director or assistant to serve notice that the attendance of the student is required and that if the student has five unexcused absences, a conference with the principal, administrative head or other chief administrator will be required. Lastly, in the case of ten total unexcused absences, it allows rather than requires the attendance director or assistant to make a complaint against the parent, guardian or custodian before a magistrate of the county.

CODE REFERENCE: West Virginia Code §18-8-4 – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 1, 2017

ACTION BY GOVERNOR: Signed April 25, 2017

House Bill 2704

Prohibiting persons convicted of sexual offenses against children with whom they hold positions of trust from holding certification or license valid in public schools

This bill provides that a teacher convicted under §61-8D-5 shall have his or her certificate or license automatically revoked. §61-8D-5 provides penalties for sexual abuse, allowing sexual abuse or inducing sexual abuse by a parent, guardian, custodian or other person in a position of trust in relation to a child under his or her care, custody or control.

The bill also allows, after an initial license has been issued, the West Virginia Department of Education to require any licensee to be fingerprinted by the West Virginia State Police if: the licensee lived outside of the state for a period of one year or more since his or her licensure; or the West Virginia Department of Education or the school administrator has a reasonable belief that the licensee has not notified the school administrator of any felony conviction, conviction of any offense under §61-8B-1 through 18 (Sexual Offenses) or offenses of similar nature to those in §61-8B-1 through 18 (Sexual Offenses) that have been established under any other state or the United States. The fingerprints may be analyzed by the West Virginia State Police for a state criminal history record check through the central abuse registry and then forwarded to the federal bureau of investigation for a national criminal history record check.

CODE REFERENCE: West Virginia Code §18A-3-6 and §18A-3-10 – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 7, 2017

ACTION BY GOVERNOR: Signed April 24, 2017

House Bill 2706

Authorizing legislative rules regarding higher education

This bill authorizes four legislative rules of the Higher Education Policy Commission and two legislative rules of the Council for Community and Technical College Education, all of which were previously approved by LOCEA.

Higher Education Policy Commission Rules

- **Series 42 - Higher Education Grant Program**
 - Adds language to clarify proof of residency.
 - Replaces references to the GED with generic terminology for high school equivalency.
 - Provides flexibility relating to the number of credit hours needed to renew the grant so that if funding is available, a bonus can be given to students who complete a higher number of credit hours.
 - Provides that if FAFSA pulled for verification, it must be verified before state grant money can be disbursed.
 - Makes appeal process consistent with PROMISE.
- **Series 7 - PROMISE**
 - Changes residency status terms to be consistent with federal financial aid guidelines.
 - Allows use of grades from one semester earlier so that students can be notified of eligibility earlier.
 - Replaces references to the GED with general terminology of high school equivalency.
 - To allow off-track students to get back on track, only requires 15 hours instead of 30 to renew the award if a student receives PROMISE for only one semester during an academic year.
 - Includes dual-credit course grades to calculate eligibility for PROMISE renewal.
 - Includes provisions on the return of the unused portion of PROMISE if the recipient terminates enrollment during the academic year.
 - Allows schools to grant a leave of absence to students in a study abroad program, internship or co-op program.
 - Adds provisions requiring each institution's financial aid office to reconcile its PROMISE records and providing that institutions may be subject to financial aid audits.
- **Series 48 - Research Trust Fund Program**
 - Makes the policy consistent with current statute, which added West Virginia State University as a participating institution.
 - Changes the percentage of the funds to be distributed to each institution as follows: 65% to WVU; 30% to Marshall; and 5% to West Virginia State University.
- **Series 52 - Annual Reauthorization of Degree-Granting Institutions**
 - Closes a loophole that allowed business or trade schools that obtained lessor Series 35 (relates to correspondence, business, occupational and trade schools) authorization to offer associate's or bachelor's degrees without seeking further authorization.
 - Schools that offer associate's and bachelor's degrees are already subject to the more stringent Series 20 (Initial Authorization of Degree Granting Institutions) initial authorization; and the changes will make any institution offering associate's degree or higher subject to the annual reauthorization.

- The change deletes sections 2.9 and 4.1 which exempts non-series 20 institutions from this rule.
- Adds to the items a reauthorization application is to include: “Any additional information or data as deemed necessary.”

Council for Community and Technical College Education Rules

- **Series 52 - Annual Reauthorization of Degree-Granting Institutions**

- Makes similar changes as the HEPC rule by deleting language that exempts institutions that are exempt from Series 20 from this rule.

- **Series 35 - Correspondence, Business, Occupational, and Trade Schools**

- Closes loophole that allows Series 35 schools to receive authorization as a trade school and then begin offering the associate degree with no additional oversight.
- Adds requirement that all schools planning to offer a degree at the associate’s degree level or higher must receive approval from the Council and/or HEPC.
- Deletes the term “Correspondence”, as the term is archaic.

CODE REFERENCE: West Virginia Code §18B-7-2 and §18B-7-3 – amended

DATE OF PASSAGE: April 4, 2017

EFFECTIVE DATE: July 3, 2017

ACTION BY GOVERNOR: Signed April 24, 2017

House Bill 2711

Abolishing regional educational service agencies and providing for the transfer of property and records

This bill abolishes regional educational service agencies, and contains several provisions of code related to the transfer of the agencies' property and records.

§18-2-26

- Strikes out all of the existing language relating to RESAs, but adds language keeping RESAs in place until July 1, 2018 unless and until modified by a cooperative agreement entered into by county boards within the agency boundaries or dissolved by the county boards.

§18-2E-1a

- Requires the state board to constructively engage with LOCEA prior to adoption or revision of academic standards in certain subjects and prior to adoption of a new statewide summative assessment.
- Requires, prior to the implementation of a new accountability system, the state board to develop and recommend to LOCEA an accountability program.
- Prohibits the state board from implementing Common Core standards.
- Requires the state board to allow West Virginia educators the opportunity to participate in the development of academic standards.
- Prohibits the state board from adopting the Smarter Balanced Assessment system or the PARCC assessment system.
- Prohibits the state board from adopting any national or regional testing program tied to federal funding, or national or regional academic standards tied to federal funding without oversight by LOCEA.

§18-2E-5

- Modifies findings.
- Modifies the areas for which the state board must adopt high-quality education standards in by adding digital literacy and replacing curriculum with academic standards.
- Requires, prior to the testing window of the 2017-1018 school year an assessment in grades 3 through 8 and once during the grade span of 9-12 to assess ELA and math.
- Requires one science assessment in each grade of the grade spans of 3-5, 6-8 and 9-12.
- Removes authorization for state board to require the ACT EXPLORE and PLAN.
- Requires the adoption of a college and career readiness assessment to be administered in grade eleven; requires the assessment to count toward the statewide student assessment; and requires that the assessment be one that is used by a significant number of regionally accredited higher education institutions for determining college admissions.
- Removes authority of state board to require writing assessment.
- Requires that for any online assessment, the state board provide online assessment preparation.
- Allows the state board to adopt a career readiness assessment that measures foundational workplace skills and leads to a nationally recognized work readiness certificate.
- Requires assessment to be used for at least a total of four consecutive years.
- Prohibits the summative assessment from taking more than two percent of the student's instructional time.

- Provides that no student may be required to complete a greater number of summative assessment than is required by ESSA except as otherwise required by this subsection.
- Prohibits collection of personal data as part of the assessment process except for what is necessary for the student's instruction, academic and college and career search needs.
- Requires school accreditation system be based on multiple measures and meet the requirements of federal law; and requires state accreditation to be reviewed and approved in a balanced manner that gives fair credit to all measures.
- Strikes out all language relating to the Office of Education Performance Audits; and allows the state board to employ experienced education professionals to coordinate on site and school system improvement efforts with staff at the State Department of Education.
- Modifies school accreditation provisions including striking out all provisions relating to allowing the state board to intervene in the operation of a school.
- Modifies school system approval provisions including requiring the state board to issue an approval status in compliance with federal law and established by state board rule; and strikes out all of the current statutory approval statuses: full approval, temporary approval, conditional approval and nonapproval status.
- Strikes out all language relating to requiring a county board with more than a casual deficit to submit a plan to the state board specifying the county board's strategy for eliminating a casual deficit.
- Modifies authority of the state board to intervene in the operation of a school system:
 - Allows the state board to only limit the authority of the county board in areas that compromise the delivery of a thorough and efficient education.
 - Allows the state superintendent to fill vacancies in a county superintendent's position or other positions the state superintendent has declared vacant.
 - Removes authority of state superintendent to conduct hearings on personnel matters and school closure or consolidation matters.
 - Removes authority of state superintendent to function in lieu of the county board in a transaction relating to real property.
 - Removes authority of state superintendent to replace administrators in low performing schools.
 - Removing authority of state superintendent to fill positions of administrators and principals
- Allows the state board to intervene immediately if a county board fails to act on a statutory obligation which would interrupt the day-to-day operations of the school system.

§18-5-13

- Allows county boards to enter into cooperative agreements with other county boards to facilitate coordination in areas of service to reduce administrative and/or operational costs.

§18-5-13b

- Establishes the County Superintendents' Advisory Council for the purpose of promoting collaboration among county districts and to provide input to the state board and state superintendent on issues facing school systems.
- Requires after this bill's effective date but not later than June 1, 2017, all 55 county superintendents to convene to divide the state into four geographic quadrants.

- Requires county superintendents belonging to the same quadrant to select a county superintendent to represent the quadrant.
- Requires county superintendents of each quadrant to meet as necessary to identify coordination and cooperation in areas of service to reduce administrative and/or operational costs.
- Requires the representative from each of the quadrants to identify issues facing their quadrant and present them at the state level: Meet semiannually with the state superintendent; meet annually with the state board; and provide an annual report to LOCEA and the governor.
- Requires at least one meeting in each quadrant annually to include a discussion of any recommendations of the county boards in the quadrant for changes in laws or policies needed to better empower them to meet the state's education goals.

§18-5-13c

- Allows county board to enter into a cooperative agreement with one or more other county boards to establish educational services cooperatives.
- Provides that all references in code to RESA's mean an educational services cooperative.
- Provides that if a RESA is reconfigured pursuant to a cooperative agreement or is dissolved, all property, equipment and records held by the RESA are to be transferred in accordance with the following priority order:
 - To any successor educational services cooperative substantially covering the same geographical area.
 - To the county boards who were members of the RESA as agreed on by those counties.
 - To the state board or to other appropriate entities as provided by law.
- Provides that an educational services cooperative is under the direction and control of a governing council consisting of the following members:
 - The county superintendent of each county participating in the cooperative agreement.
 - A member of the board of education from each county participating in the cooperative agreement selected by the county board.
 - The following representatives, if any, to be selected by the educational services cooperative administrator with the consent of the governing council:
 - Representatives of institutions of higher education and community and technical colleges serving the geographical area covered by the educational services cooperative.
 - One non-superintendent chief instructional leader employed by a member county.
 - One school principal employed by a member county.
 - One teacher employed by a member county.
 - Additional members representing business and industry, or other appropriate entities, as the governing council determines fit to meet its responsibilities.
- Provides that the governing council:
 - Must adopt bylaws concerning the appointment and terms of its members, including the authorization of designees by its members, the selection of officers and their terms, the filling of vacancies, the appointment of task forces and study groups, the evaluation of the executive director and staff and any other provisions necessary for the operation of the educational services cooperative.
 - Must appoint an educational services cooperative administrator who serves at the council's will and pleasure and implements the policies of the governing council.

- Can employ regular full-time and part-time staff, as necessary, after a majority of the members of a governing council, by vote, verify that the employment is necessary for effective provision of services and to perform services or other projects that may require staff and support services for effective implementation.
 - Provides that the governing council is the sole employer of the personnel it employs.
 - Provides that educational services cooperative employees are state employees for the purposes of participation in the state's public employees' insurance and retirement programs.
- Can purchase, hold, encumber and dispose of real property, in the name of the educational services cooperative, for use as its office or for any educational service provided by the cooperative if a resolution to do so is adopted by a two-thirds vote of the members of the governing council and then approved by three-fourths of the county boards in the educational services cooperative.
- Operates as local education agencies for financial purposes, including grants and cooperative purchasing, and collectively as essential agencies, responsible for performing service functions to the total community.
- Can receive, expend and disburse funds from the state and federal governments, from member counties, or from gifts and grants and may contract with county boards, the Department of Education, institutions of higher education, persons, companies, or other agencies to implement programs and services at the direction of the council.
- Can assume responsibility for one or more functions otherwise performed by one or more county boards if requested by the county boards or the state board.
- Can offer technical assistance to any member school or school system.
- Can serve as repositories of research-based teaching and learning practices and use technology to ensure maximum access to the practices in the region and state.
- Must develop and/or implement any other programs or services as directed by law or the governing council, or requested by individual member counties or groups of member counties, subject to available funds.
- Requires the administrator of each educational services cooperative to submit annually a plan to the governing council that identifies the programs and services which are suggested for implementation by the educational services cooperative during the following year.
- Allows the educational services cooperative administrator, with the advice and assistance of the governing council, to select one of the county boards comprising the educational services cooperative as its fiscal agent.
- Includes provisions relating to employee reimbursement for travel; county board member compensation and travel reimbursement for serving on a governing council; and prohibiting a county board member from being an employee of an educational services cooperative.

§18-5-45

- Removes the requirement that the 180 days be separate.
- Requires one day to be designated by the county board for preparation for opening school and one day to be designated by the county board for preparation for closing school, but allows those days to be used for certain other purposes at the teacher's discretion.

- Allows accrued minutes of instruction remaining after recovering time lost due to late arrivals and early dismissals to be used for instructional minutes or days lost due to inclement weather or emergencies.
- Increases the minimum number of faculty senate meetings from four to six with at least one occurring in the first month of the employment term, at least one occurring in the last month of the employment term, and at least one occurring in each of the months of October, December, February and April.
- Encourages the use of reimagining student instructional days to achieve the 180 instructional day requirement in order to minimize scheduling instructional days too early or late in the school year.

§18-5A-5

- Modified to be consistent with faculty senate changes to §18-5-45.

§18-9A-8a

- Reduces foundation allowance for RESAs to zero for the fiscal year beginning on July 1, 2017, and for each fiscal year thereafter.

§18A-4-14

- Provides that educators shall receive uninterrupted time for planning periods each week; and that administrators cannot require a teacher to use the planning period time to complete duties beyond instructional planning.

CODE REFERENCE: West Virginia Code §18-2-26a – repealed; §18-2-26, §18-2E-5, §18-5-13, § 18-5-45, §18-9A-8a and §18A-4-14 – amended; §18-5-13b and §18-5-13c – new

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: April 7, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

House Bill 2720

Allowing the School Building Authority to transfer funds allocated into the School Construction Fund

This bill:

- Removes language allowing, in order to meet operational costs, the School Building Authority to transfer to a special revenue account interest on any debt service reserve funds for expenditure in accordance with legislative appropriation. However, it continues the special revenue account known as the “School Building Authority Fund” in another code section, and requires it to be administered by the School Building Authority.
- Expenditures from the fund must be for the purposes of the School Building Authority article, and can only be made in accordance with appropriation by the Legislature and certain articles of code.
- The School Building Authority requested this bill because they currently take their operating expenses from interest earned on debt service reserve funds and as they are refinancing bonds, they are no longer required to have reserve funds. This language would allow the Legislature to appropriate money from the school construction fund into the special revenue account for their operating expenses.

CODE REFERENCE: West Virginia Code §18-9D-3 and §18-9D-8 – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 1, 2017

ACTION BY GOVERNOR: Signed April 24, 2017

House Bill 2771

Relating to temporary teaching certificates for Armed Forces spouses

This bill allows a temporary teaching certificate for an Armed Forces spouse to be issued to an individual who meets the following criteria:

- He or she is married to a member of the Armed Forces of the United States who is on active duty;
- He or she holds a current unencumbered teaching certificate or license issued by an equivalent credentialing department, board or authority, as determined by the State Superintendent, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States or a foreign country; and
- He or she provides proof acceptable to the State Superintendent that his or her spouse is assigned to a duty station in this state or at a military installation within 50 air miles of the West Virginia border and that he or she is also assigned to a duty station in this state or at a military installation within 50 aid miles of the Est Virginia border under his or her spouse's official active duty military orders.

The bill also requires the State Superintendent to deny the temporary teaching certificate to an individual for fraud, material misrepresentation or concealment in the person's application for a temporary teaching certificate or for a conviction for which an individual's teaching certificate can be revoked under §18A-3-6 (Grounds for revocation of certificates; recalling certificates for correction). The temporary teaching certificate is valid for one year and can be renewed for additional one year terms if the State Superintendent determines the individual holding the temporary teaching certificate continues to meet the above requirements. Also, the State Superintendent can revoke the temporary teaching certificate for a conviction for which an individual's teaching certificate can be revoked under §18A-3-6 (Grounds for revocation of certificates; recalling certificates for correction).

CODE REFERENCE: West Virginia Code §18A-3-2a – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 7, 2017

ACTION BY GOVERNOR: Signed April 24, 2017

House Bill 2815

Relating to higher education governance

This Governor's bill proposes streamlining higher education governance by:

- Allowing the governing boards of the Osteopathic School, WVU and Marshall ("Exempted Schools") to make governance decisions relating to finances, hiring, rulemaking, capital projects, and related governance issues without the second approval of the HEPC
- The Exempted Schools would still be required to provide data to the HEPC for analysis and be subject to certain coordinating functions of the HEPC (such as transfer credit and remedial education policies)
- The local Governing Boards of the Exempted Schools would be required to comply with all provisions of West Virginia Code and provide oversight to their respective institutions
- The second layer of decision-making by the HEPC in many instances would be eliminated for the Exempted Schools

The bill:

- Makes several changes designed for the benefit of the other four-year public higher education institutions ("Non-Exempted Schools")
- Governance matters are streamlined for the Non-Exempted Schools
- In many instances, the Non-Exempted Schools will still be required to present items to the HEPC before proceeding on an action, but the HEPC would only be required to confirm that the proposed action is consistent with law and policy, while providing deference to the appropriate governing board
- The Non-Exempt Schools would also be provided with many of the flexibilities previously provided to WVU and Marshall, particularly related to procurement
- The academic program approval process is also streamlined and provides that the HEPC must rule upon a request within 30 days

The bill also:

- Preserves the HEPC to serve its core function as a coordinating body and to provide, when requested by the institutions, the efficient provision of centralized services (legal, human resource, and academic, for example)
- Requires the HEPC to examine the question of general revenue appropriations to individual higher education institutions and to make a recommendation on a formula for the allocation of general revenue to be appropriated to the institutions and as to the amounts that each institution should have appropriated to it in the general revenue budget for fiscal year 2019
- Further empowers decision-making at the local level by governing boards, all of whom are either employees of the institution or are gubernatorial appointments (confirmed by the Senate), and all of whom are charged with managing the institution.

The legislation repeals 9 outdated code sections:

- **§18B-1-5a.** This section called for a pilot program for delivering educational services by way of distance learning. The actions contemplated by the section are complete and authority for distance learning is located in other provisions of the West Virginia Code.
- **§18B-1-8b.** This section called for the West Virginia graduate college to be transferred to Marshall University. The transfer is complete.

- **§18B-1-10.** This section called for Potomac State College to be merged with WVU. The merger is complete.
- **§18B-1A-3.** This section called for the HEPC to develop a list of peer institutions for each institution of higher education. The lists do not serve a useful purpose and the HEPC has indicated it could be repealed.
- **§18B-1B-10.** This section called for the HEPC to deliver reports relating to efficiency and effectiveness in 2003. The code section is outdated.
- **§18B-1B-13.** This section called for the HEPC to conduct a study of issues affecting higher education, to be completed in 2008. The section is outdated.
- **§18B-2-5.** This section called for the establishment of the Osteopathic School. The school has been created, and the section is no longer necessary.
- **§18B-2-7.** This section allowed Potomac State College to sell property. The section is outdated.
- **§18B-5-2a.** This section related to the transfer of money among general and special revenue accounts and is outdated.

§18B-1-2. Definitions.

- “Exempted Schools” are defined as the Osteopathic School, WVU, and Marshall. The term is used throughout the legislation to provide these institutions more autonomy and flexibility in governance.
- The legislation provides 2 levels of review for the non-Exempt Schools by the HEPC, by clarifying the definition of “approve” or “approval” and creating a new level of review for “confirm” or “confirmation.”
 - In some instances, the HEPC will review the governing board decision for approval – “whether the action is consistent with law, policy, and is an appropriate advancement of the public interest.”
 - “In other instances, the HEPC will review the governing board decision for confirmation – “whether the proposed action is consistent with law and policy” (more deferential to the governing board and local control).
- “Institutional compact” is redefined to make clear that it is a document developed by a local governing board of an institution.
- The following definitions are removed from Code to conform with statutory changes and/or because they are obsolete:
 - “Peer institutions”
 - Vice Chancellor for Human Resources, and
 - WV CURE

§18B-1-6. Rulemaking.

- WVU and Marshall currently are authorized to promulgate their own rules without consent from the HEPC and all other four-year institutions must have their rules approved by the HEPC before those rules may go into effect.
- This bill allows the Exempted Schools the ability to promulgate their own rules and the method for rulemaking, and the HEPC’s grant of rulemaking authority under the West Virginia Code may not limit, overrule, restrict, supplant, or supersede the rulemaking authority of the Exempted Schools.
- The bill permits the non-Exempt Schools to promulgate their own rules without the approval of the HEPC; but they must promulgate rules pursuant to the HEPC procedures.

§18B-1B-1 (and throughout bill). HEPC Framework.

The bill confirms and retains HEPC's oversight of the state's other public higher education institutions (Non-Exempted Schools), as well as the following powers for HEPC:

- Upon request, providing shared services in a cost-effective manner to the non-Exempt Schools, the CTC Council, and the community and technical colleges;
- Undertaking certain statewide and regional initiatives as specifically designated in the West Virginia Code, including those related to the administration of grants and scholarships in conjunction with the CTC Council;
- Providing review of, confirming, or approving certain actions undertaken by governing boards, as specifically set forth in the Code; and
- Collaborating with the CTC Council and the governing boards on gaining consensus around the public policy agenda for higher education.

§18B-1B-2. HEPC Composition.

- Currently, there are 10 members on the HEPC, with seven appointments made by the Governor and confirmed by the Senate.
- This bill provides that, for 3 of the 7 appointments for the HEPC, the Governor will make appointments from recommendations made by higher education institutions but the Governor may request additional recommendations if he or she is dissatisfied with the recommendations provided.
- The bill also strikes language which required that the Governor interview potential HEPC appointees with members of the Legislature.

§18B-1B-4. HEPC Powers.

- The HEPC retains the following key jurisdictional items under this bill:
 - Building consensus around the public policy agenda for higher education and other statewide issues;
 - Developing, overseeing, and advancing a financing rule for all institutions except the Exempted Schools;
 - Reviewing and confirming compacts for all schools except the Exempted Schools, including bi-annual updates;
 - Establishing and implementing benchmarks and performance indicators for all institutions except the Exempted Schools;
 - Establishing rules relating to capital investments, financing, and priorities except for the Exempted Schools;
 - Implementing a uniform policy for remedial or developmental courses and application of skills and knowledge for credit, in collaboration with the Governing Boards;
 - Developing an oversight plan for system-wide technology except for the Exempted Schools;
 - Providing rules relating to the transfer of credits between institutions;
 - Submitting appropriation requests on behalf of the institutions;
 - Providing rules relating to tuition except for the Exempted Schools;
 - Developing and approving institutional missions except for the Exempted Schools;
 - Engaging in policy analysis and research;

- Providing for a streamlined new program approval process for all schools, as consistent with current law (with WVU being subject to program approval for its Beckley Campus) with evaluation of the following factors:
 - consistency with institutional mission;
 - expense and the ability generate revenues; and
 - duplication.
- Developing rules for the licensure and oversight of private and public degree granting institutions; and
- The bill adds the following duties for the HEPC:
 - Providing information, research, and recommendations to state colleges and universities relating to programs and vocations with employment rates greater than ninety percent within six months post-graduation; and
 - Providing information, research and recommendations to state colleges and universities on coordinating with the West Virginia State Board of Education about complimentary programs.
- In addition, it requires the HEPC:
 - To examine the question of general revenue appropriations to individual higher education institutions per student and per credit hour at all non-exempt higher education institutions;
 - To deliver a report to the Joint Committee on Government and Finance and LOCEA on or before January 1, 2018, which includes:
 - A recommendation to the Legislature on a formula for the allocation of general revenue to be appropriated to all four-year institutions and community and technical colleges that provides for ratable funding across all institutions on a ratable basis, by enrolled student or by credit hour; and
 - A recommendation as to the amounts that each institution should have appropriated to it in the general revenue budget for fiscal year 2019, based on the total general revenue appropriations that the institutions receive in aggregate in the enacted budget for fiscal year 2018.
- This section provides the following limitations on the powers of the HEPC:
 - The HEPC will not be required to approve the budget of the Osteopathic School, similar to the current rules for WVU and Marshall;
 - The ability of the HEPC to charge institutions fees ends as of July 1, 2018;
 - Language is added to confirm that the HEPC's oversight authority is not designed to shift management authority from the governing boards to the HEPC; and
 - The HEPC's authority to withdraw powers of an institution for failure to provide or develop an institutional compact for 2 consecutive years is eliminated.

§18B-1B-6. Presidential Hiring and Compensation.

- This bill authorizes the Exempted Schools to hire and compensate a president without the approval of the HEPC and pursuant to their own rules.
- Non-Exempted Schools must get a presidential hire and compensation confirmed by the HEPC (currently the hires and compensation must be approved).
- This section provides further that the HEPC is not required to approve compensation increases for presidents if the increase in compensation is in the same ratio of increased compensation provided to all institutional employees and approved by a governing board.

§18B-1D-2. Compact Definitions.

- “Institutions under the jurisdiction of the commission” is redefined to exclude the Exempted Schools.
- “Institutional compact” is deleted because it is defined elsewhere in Code.

§18B-1D-4. Compact Development and Data Requests.

This revised section clarifies that, although the Exempted Schools are exempt from providing institutional compacts, they are required to provide information needed by the HEPC to report on progress by the institutions.

§18B-1D-7. Compact Development.

- Under current law, all schools are required to develop an institutional compact, which is a statement of how the institution intends to fulfill legislatively mandated policies and intent relating to higher education.
- This bill provides that Exempted Schools are not required to complete the compact provisions required by article 1D. Instead, the Exempted Schools are charged with developing master plans to accomplish policy established in Code for higher education, and may do so without approval or confirmation by the HEPC. Further, the HEPC has no authority relating to the Exempted Schools relating to benchmarks and objectives of the institutions.
- Non-Exempted Schools will be required to update the compact every other year (as opposed to a current requirement to update the compact every year).

§18B-1F-10. Research, development and technology parks; transfer of property; funding requirement; department of commerce to student and report relating to research and technology parks.

- This new section requires the WV Development Office to research, investigate, and make recommendations relating to advancing research activities, economic development, and job creation relating to foundations and private entities, including the I-79 Technology Park, who focus on research and job development and that receive or have received since July 1, 2012, appropriation support from the State; and requires the Development Office to submit a report of its investigation and findings to the Governor and the Legislature on or before December 31, 2017.

§18B-2A-3. Oversight of Governing Boards.

This section clarifies that the HEPC is to provide oversight to (as opposed to supervision of) the governing boards; except that its authority of the Exempted Schools is limited to the specific authorities granted in Chapter 18B.

§18B-2A-4. Powers of Governing Boards.

- This section provides that the Exempted Schools are authorized to develop master plans without the approval of the HEPC, although the HEPC may review and comment upon the master plans of the Exempted Schools. The Exempted Schools are required to update their master plans every other year.
- In addition, this section authorizes governing boards to grant employees a supplemental employee benefit, but may not do so if it increases costs to the institution without the governing board's affirmative vote of approval.

§18B-3-1. Powers of the Exempted Schools.

Current law provides that Marshall and WVU need additional autonomy from the HEPC to move quickly and compete in a competitive national environment. This section is updated to include the Osteopathic School (as an Exempted School).

§18B-4-7. Accreditation.

- Currently the HEPC makes accreditation rules for the four-year institutions except WVU and Marshall; WVU and Marshall make their own rules. This section adds, the Osteopathic School to the list of schools that are exempt from HEPC accreditation
- This section also eliminates the provision that authorizes the HEPC to stop an institution from granting degrees if it is found to have willfully failed to provide information to the HEPC or the CTC Council.

§18B-5-4. Purchasing.

- Under current law, WVU and Marshall have the ability to promulgate their own policies for procurement, and may do the following:
 - Purchase or acquire all materials, supplies, equipment, services, and printing;
 - Purchase from cooperative groups, consortia, and the federal government;
 - Select and acquire by contract or lease all grounds, buildings, office space, capital improvements, and equipment; and
 - Use purchase cards.
- This section is revised to authorize the Non-Exempted Schools to have the same procurement flexibility that WVU and Marshall have.
 - NOTE: The Chancellor has by Memorandum granted these type of flexibilities to the four-year governing boards, as allowed by Code.
- Under this section, the Exempted Schools must comply with all requirements of Chapter 18B relating to purchasing and procurement, but the Exempted Schools may promulgate their own rules instead of relying on the HEPC rules.
- It authorizes institutions to enter into procurement arrangements with each other and with affiliated organizations.
- The Osteopathic School, like WVU and Marshall, is not required to encumber purchases in the State accounting system.
- This section further provides that the Joint Committee on Government and Finance may require an audit as opposed to conducting one itself.

§18B-5-6. Design Build and Related Procurement.

This section authorizes four year institutions meeting certain requirements to engage in design build projects without approval of the Design Build Board and related procurement management provisions.

§18B-5-7. Obsolete Property.

Consistent with previous intent, this section is amended to provide clarity regarding institutions' ability to donate surplus property to non-profit institutions to benefit the public.

§18B-5-9. Fiscal Responsibility.

This section contains technical clean up to updates the code to reflect current audit standards and processes by the Federal Office of Management and Budget.

§18B-10-1. Tuition.

- This section is amended to allow institutions charge a different rate for online tuition.
- Current law provides that any tuition increase in excess of 5% requires the HEPC or the CTC Council approval
 - This section revises current language, providing that the HEPC will continue to provide review of tuition increases above a certain level for all schools as follows:
 - Any tuition request exceeding 10% in a year; and
 - Any tuition request that exceeds 7%, averaged over a three year period.
- The section authorizes Exempted Schools to:
 - Develop their own rules for tuition;
 - Charge a mandatory auxiliary fee without the approval of the HEPC; and
 - Combine all special revenue accounts into a single special revenue account.
- The governing boards are authorized to develop rules for the collection of fees, which are due not later than the end of the academic term
- In addition, it provides for the elimination of outdated code language relating to Title IX and tuition increases;

§18B-10-1c. Tuition Definitions.

Under current law, the definition of tuition and fees includes language that characterizes expenses. This section eliminates the expenses portion of the definition, which does not relate to fees and is therefore unnecessary.

§18B-10-8. Revenue Bonds.

- This section is amended to authorize the Exempted Schools to issue Revenue Bonds:
 - Without the approval of the HEPC, but remain required to obtain approval of the Governor before doing so; and
 - For a term not to exceed 100 years
- Non-Exempt Schools are required to get HEPC confirmation, but not approval for the issuance of revenue bonds.

§18B-10-16. State Treasury Accounts.

Under this section, the Exempted Schools are authorized to place all fees into a single special revenue account, but must track the fees by category.

§18B-19-1. Capital Projects Legislative Intent.

This section updates legislative intent for capital projects to reflect changes in the remainder of Article 19 and provides additional flexibility for the governing boards.

§18B-19-3. System Capital Development Planning.

- This section is updated to provide for HEPC confirmation instead of approval for the Non-Exempt Schools' capital development planning.
- It provides clarification that the HEPC is required to develop a system capital development oversight policy (as opposed to a specific plan, which is to be developed by a local governing board).

§18B-19-4. Campus Development Plans.

- This section provides that the HEPC will have the authority to confirm, but not approve, campus development plans developed by the Non-Exempted Schools and streamlines authority relating to development of project lists.
- It provides that Non-Exempted Schools are required to provide a comprehensive list of major deferred maintenance projects (defined as exceeding \$75,000).
- In addition, the governing boards of the Non-Exempted Schools are required to undertake an analysis as to all facility renovations, telecommunications, utilities, and other infrastructure improvements that are needed.

§18B-19-5. Capital Appropriation Requests.

Amendments to this section are to conform the language regarding campus development plans Non-Exempted Schools.

§18B-19-6. Capital Project Financing.

- This section clarifies Code to make it clear that a governing board may seek funding for and initiate construction or renovation work for major projects only if in a campus development plan has been confirmed by the HEPC.
- The section is further amended to allow Non-Exempt Schools to undertake capital projects up to \$3 million without the approval or confirmation of the HEPC (currently the threshold is \$1 million).
- Exempted Schools are not required to get HEPC approval for capital projects.

§18B-19-7. Capital Project Management.

This section is amended to conform with the Design Build section previously referenced. Institutions that employ certain project management professionals are given greater flexibility relating to project management without the approval or confirmation of the HEPC.

§18B-19-9. Higher Education Facilities Information Systems.

- Current law provides for the HEPC and the CTC Council to develop a higher education facilities information system.
- This section amends the previous requirement that the HEPC and the CTC Council provide statewide standardization of space use and classification; to a system where the HEPC and the Council will undertake an analysis of space to assist local Governing Boards.
- HB 2815 streamlines provisions to provide greater flexibility and focus on key facilities information from the four-year institutions other than the Exempt Schools.

§18B-19-10. Selling Property.

For real property with a proposed sale price of \$50,000 or greater, the HEPC, CTCC or governing boards must place a Class II legal advertisement; and ten days prior to that advertisement, must provide written notice to the county commission and municipalities in the county in which the real estate property is located and all members of the legislature.

§18B-19-11. Lease Purchase.

- This section provides that the Exempted Schools are authorized to engage in lease purchase transactions (WVU and Marshall may do so now).
- Non-Exempt Schools are authorized to enter into a lease purchase agreement without the approval of the HEPC, if the amount does not exceed \$1.5 million.

§18B-19-13. Real Property Contracts.

- Schools except the Exempted Schools are required to obtain HEPC approval for purchases of property in excess of \$1 million. All schools, including the Exempted Schools, are required to notify the Joint Committee on Government and Finance
- Requires that any acquisition, bequest, donation or construction of new buildings, office space or grounds exceeding \$1 million in appraised value or requiring \$1 million in repairs and renovation or lease payments over the lifetime of the lease, made or accepted by an institution's research corporation or an affiliated foundation of an institution under the jurisdiction of the council, be approved by the council. (HB 2753 added to avoid code conflict)

§18B-19-14. Authorization for Sale Lease Back.

- This section authorizes the Exempted Schools to enter into sale and lease back transactions without the approval of the HEPC.
- Non-Exempted Schools must obtain the confirmation of the HEPC before engaging in a sale and lease back transaction.
- The following requirements are added for transactions under this section:
 - Providing notice to the public in the county in which the real property is located by a Class II legal advertisement;
 - Holding a public hearing on the issue in the county in which the real property is located;
 - For real property with a proposed sale price of \$50,000 or greater, ten days prior to the placement of the Class II legal advertisement, providing written notice to the county commission and municipalities in the county in which the real estate property is located and all members of the legislature.

§18B-19-19. Exempted School Flexibility on Capital Projects.

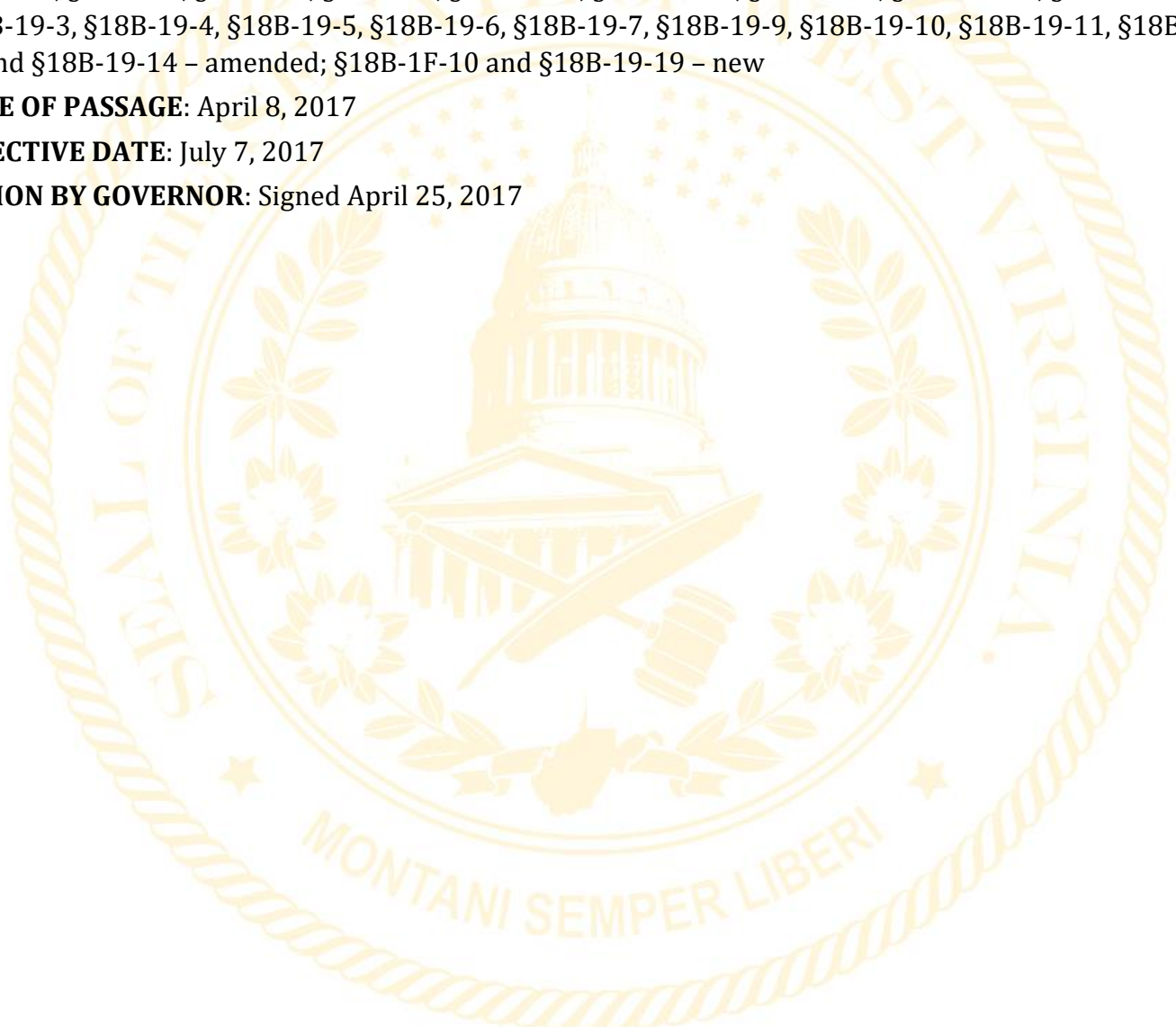
- Clarifies that the Exempted Schools are given greater authority for everything under Article 19 of Chapter 18B.
- For example, Exempted Schools may develop campus master plans, pursue, capital investments, and enter into real estate transactions without the approval of HEPC.
- Notice to the Joint Committee on Government and Finance is still required.

CODE REFERENCE: West Virginia Code §18B-1-5a, §18B-1-8b, §18B-1-10, §18B-1A-3, §18B-1B-10, §18B-1B-13, §18B-2-5, §18B-2-7 and §18B-5-2a – repealed; §18B-1-2, §18B-1-6, §18B-1B-1, §18B-1B-2, §18B-1B-4, §18B-1B-6, §18B-1D-2, §18B-1D-4, §18B-1D-7, §18B-2A-3, §18B-2A-4, §18B-3-1, §18B-4-7, §18B-5-4, §18B-5-6, §18B-5-7, §18B-5-9, §18B-10-1, §18B-10-1c, §18B-10-8, §18B-10-16, §18B-19-1, §18B-19-3, §18B-19-4, §18B-19-5, §18B-19-6, §18B-19-7, §18B-19-9, §18B-19-10, §18B-19-11, §18B-19-13 and §18B-19-14 – amended; §18B-1F-10 and §18B-19-19 – new

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 7, 2017

ACTION BY GOVERNOR: Signed April 25, 2017



House Bill 3080

Requiring instruction in the Declaration of Independence and the United States Constitution

This bill provides that the full week of classes during the week within which September 11 falls shall be recognized as “Celebrate Freedom Week”; and that the purpose of Celebrate Freedom Week is to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded.

Celebrate Freedom Week must include appropriate instruction in each social studies class which:

- Includes an in-depth study of the intent, meaning and importance of the Declaration of Independence and the Constitution of the United States with an emphasis on the Bill of Rights.
- Uses the historical, political and social environments surrounding each document at the time of its initial passage or ratification.
- Includes the study of historical documents to firmly establish the historical background leading to the establishment of the provisions of the Constitution and Bill of Rights by the founding fathers for the purposes of safeguarding our Constitutional republic.

The bill also provides that these new requirements are applicable to all public, private, parochial and denominational schools; and that the new provisions do not create a standard or requirement subject to the state accountability measures.

Beginning with the 2018-19 school year, students in public schools are to be administered a test the same as or substantially similar to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services between their ninth and twelfth grade years as an indicator of student achievement in the area of civics education. The test results can be reported in the aggregate to the county board for evaluation by the board’s curriculum director and reported to the board members. The bill further provides that nothing in these new provisions creates a standard or requirement subject to state accountability measures.

CODE REFERENCE: West Virginia Code §18-2-9 – amended

DATE OF PASSAGE: April 8, 2017

EFFECTIVE DATE: July 7, 2017

ACTION BY GOVERNOR: Signed April 26, 2017

2016 Regular Session



Senate Bill 13

Increasing penalties for overtaking and passing stopped school buses

This bill, for purposes of the current criminal provisions, creates a permissive inference that where a violation occurs and the vehicle operator's identity is not determined at the scene, but the vehicle license plate is known, that the owner or lessee was operating the vehicle for purposes of determining probable cause. Service of a complaint would be pursuant to West Virginia Rules of Criminal Procedure 4.

Penalties are also increased. Upon conviction for a first offense, a fine of not less than \$250 or more than \$500, or confinement in jail for not more than six months, or both fine and confinement is imposed. Upon conviction of a second offense, a fine of not less than \$500 nor more than \$1,000, or confinement in jail for not more than six months, or both fined and confined is imposed. Upon conviction of a third or subsequent violation, the driver shall be fined \$500 to \$1,000, and confined not less than twenty-four forty-eight hours in jail, but not more than six months. License suspension periods remain the same as current law.

CODE REFERENCE: West Virginia Code §17C-12-7 – amended

DATE OF PASSAGE: March 12, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Signed March 24, 2016

Senate Bill 104

Classifying Marshall University Forensic Science Center as a criminal justice agency

This bill clarifies the relationship with regard to grant seeking between the West Virginia State Police and the Marshall University Forensic Science Center.

The bill, with regard to grants and state funding sources:

- Designates the DNA Analysis Laboratory at the Forensic Center to be engaged in the administration of Criminal Justice. This opens some possible funding sources;
- Requires the entities to confer on grants and funding sources and gives the West Virginia State Police primacy over decisions to seek grants; and
- Requires the parties to enter an agreement to comply with the requirements of the bill.

CODE REFERENCE: West Virginia Code §15-2-24C – new

DATE OF PASSAGE: March 9, 2016

EFFECTIVE DATE: March 9, 2016

ACTION BY GOVERNOR: Signed March 23, 2016

Senate Bill 146

Establishing instruction standards for early childhood education

Prior to the effective date of this bill, statute required, beginning with the 2016-2017 school year, that early childhood education programs be provided five days per week, and State Board of Education Policy required, beginning with the 2016-2017 school year an instructional day of 300 minutes and 160 instructional days per year. This bill requires an early childhood education program to provide no less than 1,500 minutes of instruction per week in a full day program with at least 48,000 minutes of instruction annually.

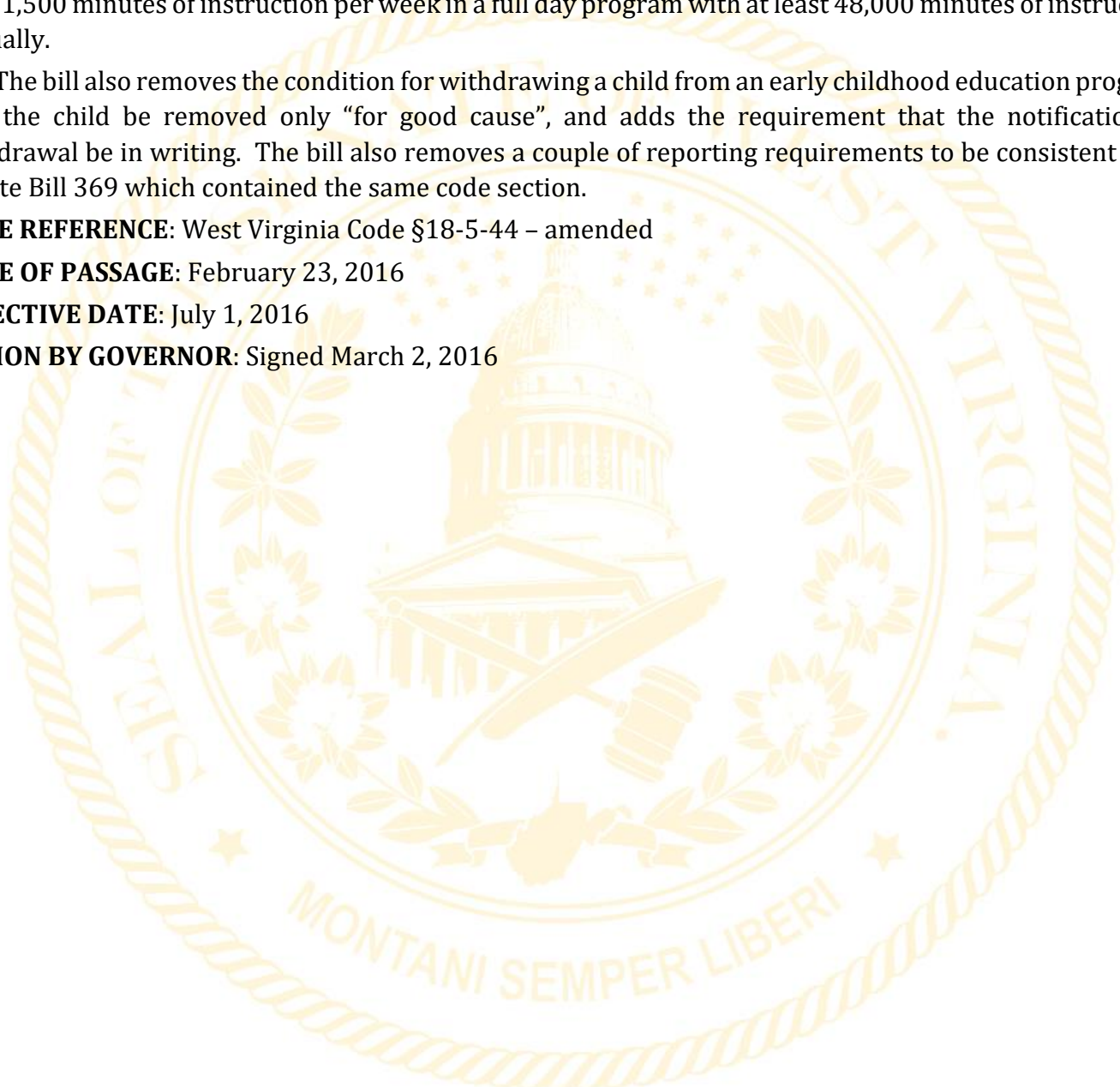
The bill also removes the condition for withdrawing a child from an early childhood education program that the child be removed only “for good cause”, and adds the requirement that the notification of withdrawal be in writing. The bill also removes a couple of reporting requirements to be consistent with Senate Bill 369 which contained the same code section.

CODE REFERENCE: West Virginia Code §18-5-44 – amended

DATE OF PASSAGE: February 23, 2016

EFFECTIVE DATE: July 1, 2016

ACTION BY GOVERNOR: Signed March 2, 2016



Senate Bill 369

Reducing legislative education reporting requirements

This bill reduces and modifies the current legislative education reporting requirements as set forth below:

Public Education

- Repeal the following code sections:
 - **§18-2E-3g** – This obsolete code section legislated a special five-year professional development school project which began in 2005 and ended in 2010.
 - **§18-2-5g** – This code section required the Board of Education (“BOE”) to identify and report annually on how to reduce or consolidate principal and teacher reports. No recommendations have been given.
- Remove the following reporting requirements:
 - **§18-2E-5(k)(6)** – This section required the BOE to annually report on any appeals of the Office of Education Performance Audits’ on-site review findings. There were no such appeals in 2015.
 - **§18-2I-5** – This section required the BOE to report on the effectiveness of the staff development resulting from expenditures in the Strategic Staff Development Fund. No expenditures were expended from this fund in 2015.
 - **§18-3-12** – This section required the state superintendent, the applicable county superintendent and lead community-based organizations to make status reports on the special community development school pilot program.
 - **§18-5-44** – This obsolete section mandated reporting on the implementation of the early childhood education program. The implementation deadline has now passed.
 - **§18-20-5** – This section required the state superintendent to report findings of review of rules, policies and standards of the state and federal law for serving the needs of exceptional children along with an accounting of the services provided and the costs thereof.
 - **§18-20-8** – This section required the interagency plan for exceptional children advisory council to report annually on the status and to recommend policies, procedures and legislation for effectively providing early intervention services.
 - **§18-2-3** – This section required the BOE to annually report on the status of employing prospective employable professional personnel.
 - **§18A-4-7a** – This section required the BOE to report on modifications to county board policies relating to which positions are considered lateral in any year in which modifications are made. No modifications have been made.
 - **§18A-5-1a** – This section required the BOE to report on the number of students determined to be dangerous students.

Higher Education

- Repeal the following code sections:
 - ***§18B-5-8** – This report on purchases from local and out-of-state businesses to the Senate and House Finance Committees was effectively removed by §18B-1D-8(j)(6). This would remove the report from Code. A report may be obtained from Auditor’s Office.
- Remove the following reporting requirements:

- ***§18B-1-10(e)** – This obsolete report required once Potomac State College to report on its cooperative relationship with Eastern West Virginia Community and Technical College. Potomac is now part of WVU.
- ***§18B-1B-4(a)(10)** – This annual Higher Education Policy Commission (“HEPC”) performance report is contained within the Higher Education Report Card report (mandated by §18B-1D-8).
- **§18B-2B-6(c)(10)** – This annual Community and Technical College Council (“CTC”) comprehensive performance report is contained within the Higher Education Report Card (mandated by §18B-1D-8) and the capital investments and requested statutory changes are contained in the annual budget request.
- **§18B-2C-3(e)** – This annual CTC performance report is contained within the Higher Education Report Card report.
- **§18B-3D-2(e)** – This annual report on the Workforce Development Initiative Program is contained within the Higher Education Report Card report.
- ***§18B-10-1(i)(3)(E)** – This annual report on auxiliary fees collected to replace state funds is unnecessary as auxiliary funds are never used in this context.
- ***§18B-13-5(c)** – This annual report on technical assistance provided to qualified businesses within approved research parks, research zones or technology centers (higher education and industry collaboration) is unnecessary as there has never been anything to report.
- ***§18B-18-6(e)** – This annual report on the Eminent Scholars Endowment Trust Fund (for attracting and retaining outstanding faculty) is unnecessary as the fund was never set up.
- **§18C-5-7(g)** – This annual report of the Higher Education Adult Part-time Student Grant Program (“HEAPS”) is contained in the Comprehensive Financial Aid Report.
- **§18C-3-4** – This annual report on the Nursing Scholarship Program by the Higher Education Policy Commission (“HEPC”) is contained in the Comprehensive Financial Aid Report.
- **§18C-7-5(b)(5)(B)** – This subsection required that the HEPC make annual recommendations to LOCEA on how to encourage PROMISE recipients to live and work in West Virginia after graduation. These recommendations are included within the Comprehensive Financial Aid Report.
- **§18B-1D-8(j)** – Subsection (j) is deleted. This subsection listed ten reports that were not required, unless specifically requested by the Legislature. Six of these reports are designated with an * before the Code section above. In addition, the following are reporting references that are affected by the deletion of this subsection:
 - **§5A-3-48(a)** – This vehicle fleet report is no longer required (or referenced in Code) as vehicle fleets are now administered by the Department of Administration and no reference to any education agency.
 - **§18B-2B-6(b)(11)(A)** – This CTC performance reporting requirement was moved to §18B-2B-6(c)(10) (included above).
- **§18B-5-7(b)** – This biannual surplus equipment report to the Legislative Auditor remains in Code. The 2015 amendment allows institutions to have more freedom to deal with surplus.
- **§18C-3-1(e)** – This subsection regarding the report on the Health Education Loan Program is accurate, as written, and need not be excluded from Code.
- Modifications to reporting requirements:

- **§18B-1D-8a** – This new section includes reports to be consolidated and deadlines to be altered, as needed, for more efficient reporting.
 - Subsection (a) sets forth reports that may be combined with other similar reports in lieu of their previous statutory mandate. The following reports may be submitted as one comprehensive report:
 - All personnel, classification, compensation and human resources reports set forth in §§18B-1B-4 (HEPC duties), §18B-2B-6 (CTC duties), and 18B-9A-1 et seq. (Classification and Compensation System).
 - All capital appropriation requests, priorities and campus and state capital development plans set forth in §§18B-1B-4 (HEPC duties), §18B-2B-6 (CTC duties), and 18B-19-1 et seq. (Capital Projects and Facilities Needs).
 - All academic related matters and reports including accreditation (§18B-4-7), institutional Board of Governors training (§18B-1D-9), and institutional compliance with tuition and fee increases (§18B-10-1).
 - All financial aid reports including PROMISE, HEAPS, the Nursing Scholarship Program, the higher education grant program, the Underwood-Smith Teacher Scholarship Program and others set out in Chapter 18C of the WV Code.
 - Subsection (b) states that reporting deadlines may be altered, as needed, provided that the report is always given within the calendar year.

CODE REFERENCE: West Virginia Code §18-2-5g, §18-2E-3g, §18B-5-8 – repealed; §18-2E-5, §18-2I-5, §18-3-12, §18-5-44, §18-20-5, §18-20-8, §18A-2-3, §18A-4-7a §18A-5-1a, §18B-1-10, §18B-1B-4, §18B-1D-8, §18B-1E-3, §18B-1E-4, §18B-2B-6, §18B-2C-3, §18B-3D-2, §18B-10-1, §18B-13-5, §18B-18-6, §18C-3-4, §18C-5-7, §18C-7-5 – amended; §18B-1D-8a – new

DATE OF PASSAGE: February 22, 2016

EFFECTIVE DATE: May 22, 2016

ACTION BY GOVERNOR: Signed March 2, 2016

Senate Bill 459

Requiring county board of education to pay tuition to Mountaineer Challenge Academy

This bill amends the statutory provision that requires that the State Board of Education (the “Board”) promulgate a rule to support operation of the National Guard Mountaineer Challenge Academy (the “Academy”). It creates the additional provision that the Board promulgate a rule to include a provision for payment of tuition by a county board to the Academy for each student, residing in that county’s school district, who graduates from the Academy with a high school diploma. Tuition is equivalent to seventy-five percent of the amount allotted per pupil under the school aid formula.

CODE REFERENCE: West Virginia Code §18-2-25b – amended

DATE OF PASSAGE: March 10, 2016

EFFECTIVE DATE: June 8, 2016

ACTION BY GOVERNOR: Signed March 23, 2016

Senate Bill 476

Relating to driving restrictions in school zones

This bill amends one section of code to permit a county board of education to request the expansion of a school zone to a road adjacent to the school property. Current law provides for a 15 mph speed limit in a school zone during school recess or while children are leaving school during opening or closing hours. A school zone is all school property, including school grounds and any street or highway abutting the school grounds and extending 125 feet along the street or highway from school grounds.

The bill requires the Division of Highways to erect signs indicating the place of entry and exit of each school zone in the State. The bill further allows for expansion of the school zone to a road that is adjacent to school property upon a formal vote and written request by a county board of education to the West Virginia Division of Highways. The requested expansion is automatic if it expands the school zone only one hundred twenty-five feet along an adjacent road. If the requested expansion is longer, then the Division of Highways would need to approve the request. Within ninety days of receiving the county board’s request, DOH would be required to expand the zone by erecting new signage indicating the expanded school zone’s location and speed limit.

CODE REFERENCE: West Virginia Code §17C-6-1 – amended

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 21, 2016

Senate Bill 483

Marshall County and Wyoming County LSIC waiver

This bill grants a statutory waiver for Marshall County Schools and Wyoming County Schools to the compulsory school attendance statute which would allow them to increase the compulsory school attendance age to 18. The waivers were requested under the LSIC waiver process.

CODE REFERENCE: West Virginia Code §18-5A-3a – amended

DATE OF PASSAGE: March 7, 2016

EFFECTIVE DATE: July 1, 2016

ACTION BY GOVERNOR: Signed March 15, 2016

Senate Bill 517

Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner

The bill supersedes current statutory to expressly state that all Public Employees Insurance Agency (PEIA) plans are exempt from certain other statutes governing insurance unless explicitly stated. The bill also adds new language expressly stating that PEIA “is not an insurer or engaged in the business of insurance as defined in chapter thirty-three of this code.”

CODE REFERENCE: West Virginia Code §5-16-22 – amended

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 23, 2016

Senate Bill 520

Allowing PEIA ability to recover benefits or claims obtained through fraud

This bill clarifies and enhances the Public Employees Insurance Agency's ability to recover monies paid as a result of fraud. The bill establishes that it shall be a violation of the article for any person to (1) knowingly secure or attempt to secure benefits payable under this article to which they are not entitled; (2) knowingly secure or attempt to secure greater benefits than those to which the person is entitled; (3) willfully misrepresent the presence or extent of benefits to which the person is entitled under a collateral insurance source; (4) willfully misrepresent any material fact relating to any other information requested by the director; (5) willfully overcharge for services provided; or (6) willfully misrepresent a diagnosis or nature of the service provided. If it is determined the person has committed any of these violations, after notice and an administrative proceeding, then that person is liable for any overpayment received. The PEIA Director shall withhold and set-off any payment of any benefits or other payment due until the overpayment is recovered. The bill makes it a felony for any person who knowingly secures or attempts to secure benefits or greater benefits to which the person is entitled under this article by willfully misrepresenting or aiding in the misrepresentation of any material fact related to employment, diagnosis or services. Upon conviction of that felony, the person shall be fined not more than \$1,000, imprisoned for no less than one nor more than five years. The bill makes clear that billing code errors shall not be considered a violation of this felony subsection absent other evidence of willful wrongdoing.

This bill makes it a misdemeanor for any person who violates any provision of this article which results in a loss to or overpayment from the plan or to the State of West Virginia of less than \$1,000 for which no other penalty is provided. Upon conviction, that person is subject to a fine of not less than \$100 but not more than \$500, imprisonment for not less than 24-hours or more than 15 days, or both. This bill makes the same conduct a felony if the loss is greater than \$1,000 to either the plan or the State of West Virginia. The penalties for such a felony would be a fine of not less than \$1,000 or more than \$5,000, imprisonment for a period of not less than one nor more than five years, or both.

The bill also requires employees to provide information to PEIA upon request related to employment or eligibility. The bill also provides certain authority to PEIA to conduct investigations via administrative proceedings and to recover funds due from an employer that knowingly allowed or provided benefits to be paid to an employee or dependents fraudulently. The PEIA Director or designee may administer oaths or affirmations, issue administrative subpoenas, take evidence and require production of documents. The bill also outlines service of such subpoenas including fees to be paid and procedure for failure to comply. The bill provides that only authorized employees or agents may have access to confidential data or systems and applications containing confidential data within PEIA.

CODE REFERENCE: West Virginia Code §5-16-12 & §5-16-12a – amended

DATE OF PASSAGE: March 10, 2016

EFFECTIVE DATE: June 8, 2016

ACTION BY GOVERNOR: Signed March 23, 2016

House Bill 4014

Preventing the State Board of Education from implementing common core academic standards and assessments

This bill adds digital literacy to the list of areas that the State Board is required to adopt high-quality education standards for; sets forth legislative findings relating to constitutional education requirements; and defines “academic standards”. Recognition is also made of the state board adopting what it represented were academic standards in ELA and Math that are no longer aligned with Common Core State Standards.

The bill establishes an Academic Standards Evaluation Panel, and requires the deans responsible for the math programs, the deans responsible for the English programs, and the deans responsible for the science programs at West Virginia University and Marshall University to each appoint one member. Any dean that is responsible for more than one of the three programs must appoint one member for each program he or she is responsible for. It also requires the HEPC Chancellor, or his or her designee, to serve as an ex officio member and be responsible for facilitating the work of the panel. The panel is required to:

- Evaluate and recommend revisions to the standards based on empirical research and data to ensure grade-level alignment to the standards of states with a proven track record of consistent high-performing student achievement in ELA on the NAEP, and in mathematics on both the NAEP and the TIMSS international assessment;
- Review the “Next Generation Content Standards and Objectives for Science in West Virginia Schools” and recommend revisions;
- Remove Common Core strategies that require instructional methods;
- Use facilities, staff and supplies provided by the HEPC; and,
- Submit its evaluation and recommended revisions to the state board and LOCEA by October 1, 2016.

The bill also requires that the state board:

- Withdraw from the Memorandum of Agreement entered into with the Council of Chief State School Officers and The National Governors Association for Best Practices which required the state board to agree that Common Core represents 85% of WV’s standards in ELA and Mathematics; and,
- Withdraw as a governing state in the SBAC.

The bill also requires that any academic standards adopted by the state board:

- Be age level and developmentally appropriate, particularly as it relates to sequencing of content standards and the measurement of student academic performance;
- Be free of instructional strategies;
- Meet national and international benchmarks empirically proven to increase and sustain student achievement; and,
- Be based solely on academic content.

The bill also includes provisions relating to requiring LOCEA to review the proposed rules relating to the academic standards.

Relating to assessments, the bill removes:

- The requirement that the state board promulgate a rule establishing the comprehensive statewide student assessment program.

- The requirement that the state board align the comprehensive statewide student assessment with the college readiness standards adopted pursuant to §18-2-39 or develop other aligned tests so that progress toward college readiness in ELA and math can be measured.
- Authorization for the state board to require that student proficiencies be measured through the ACT EXPLORE and the ACT PLAN.

The bill requires that, beginning in school year 2016-2017, the state board review and approve a summative assessment system for administration to all public school students in grades 3 through 8 that assesses students in English, reading, writing, science and mathematics. It further provides that science can only be administered once during the grade span of 3-5 and once during the grade span of 6-8. The assessment is to include those students as required by IDEA and Title I of the ESEA. The summative assessment system is required to meet the following requirements:

- Be a vertically-scaled, benchmarked, standards-based system of summative assessments.
- Document student progress toward state standards and national college and career readiness benchmarks derived from empirical research.
- Be capable of measuring individual student performance in English, reading, writing, science, and math.
- Be available in paper-and-pencil and computer-based formats.
- Be a predictive measure of student progress toward a national college readiness assessment used by higher education institutions for admissions purposes.
- Be aligned or augmented to align with the standards in effect at the time the test is administered.

The bill also requires that the state board review and approve a college readiness assessment to be administered to all students in the 11th grade for the first time in school year 2016-2017 and subsequent years. The 11th grade college readiness assessment must be administered at least once to each eleventh grade student and must meet the following requirements:

- Be a standardized, curriculum-based, achievement college entrance examination.
- Assess student readiness for first-year, credit-bearing coursework in postsecondary education.
- Test in the areas of English, reading, writing, science and mathematics.
- Have content area benchmarks for measuring student achievement.
- Be administered throughout the United States.
- Be relied on by institutions of higher education for admissions.
- Be aligned with or augmented to align with the standards in effect at the time the test is administered.

This bill also requires the state board to review and approve career readiness assessments and assessment based credentials that measure and document foundational workplace skills. The assessments are to be administered to public secondary school students in grades eleven or twelve for the first time in school year 2016-2017 and subsequent years. The test is voluntary and may only be administered to students who elect to take the assessment. The assessment-based credential is to be available to any student that achieves at the required level on the required assessments. The assessments are required to meet the following requirements:

- Be a standardized, criterion-reference, measure of broadly relevant foundational workplace skills.
- Assess and document student readiness for a wide range of jobs.
- Measure skills in all or any of the following areas: (1) Applied mathematics; (2) locating information; or (3) reading for information.

- Align with research-based skill requirement profiles for specific industries and occupations.
- Lead to a work readiness certificate for students that meet the minimum proficiency requirements on the component assessments.
- Be available in paper-and-pencil and computer based formats.

Other provisions in the bill include:

- Prohibiting the state board from acquiring or implementing any assessment instrument or instruments or test items developed to specifically align with Common Core State Standards including the SBAC or PARCC.
- Requiring, for any online assessment, the state board to provide online assessment preparation to ensure that students have the requisite digital literacy skill necessary to be successful on the assessment.
- Requiring the state board to develop a plan and make recommendations regarding end-of-course assessments and student accountability measures and submit its finding to LOCEA by December 31, 2016.
- Limiting any summative assessment approved by the state board to taking no more than 2% of a student's instructional time.

CODE REFERENCE: West Virginia Code §18-2E-5 – amended

DATE OF PASSAGE: March 12, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Vetoed April 1, 2016

House Bill 4171

Relating to the public school calendar

This bill removes the requirement for “one hundred eighty separate instructional days,” by deleting the word “separate” throughout the bill. It provides that the instructional term for students shall begin no earlier than August 10th and no later than June 10th of each calendar year, with the exception of schools operating on a balanced calendar.

The bill stipulates that the preparation day at the beginning of the school calendar is reserved for classroom preparation and collaborative meetings and may only be used for other purposes if agreed to by the teacher. It changes the number of faculty senate days from four to six to match state board policy. It further adds flexibility in scheduling faculty senate meetings from “once at least every 45 instructional days” to once in the first month of school, once in the last month of school, and once in the months of October, December, February, and April.

The bill provides that additional minutes of instruction be used to recover time lost due to early dismissals or late arrivals first. It adds the provision that the remaining accrued minutes may be used for instructional minutes or days lost due to inclement weather or emergencies, provided that any reimagining student instructional days awarded by the state board must be used prior to using accrued time for instructional days.

CODE REFERENCE: West Virginia Code §18-5-45 – amended

DATE OF PASSAGE: March 9, 2016

EFFECTIVE DATE: March 9, 2016

ACTION BY GOVERNOR: Vetoed April 1, 2016

House Bill 4175

Relating generally to home schooling

This bill:

- Provides that a home schooled student is not subject to prosecution nor is the student a status offender.
- Requires a showing of probable cause before a county superintendent can seek an order denying home instruction of the child.
- Changes requirement that notice to provide home instruction be provided annually to requiring that the notice be provided upon commencing home instruction.
- Removes requirement that notice of instruction include the grade level of the child.
- Requires that notice of intent include assurance that the child will receive instruction in reading, language, mathematics, science and social studies and that the child will be assessed annually.
- Requires that the person providing home instruction notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age.
- Requires that, upon establishing residence in a new county, the person providing home instruction notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence.
- Replaces the requirement that a child enrolled in a public school give notice of intent to provide home instruction at least two weeks prior to withdrawing the child from public school with the requirement that notice be given on or before the date home instruction is to begin.
- Modifies the requirement that the person providing home instruction submit satisfactory evidence of a high school diploma or equivalent by also allowing a person to provide home instruction if he or she possesses a postsecondary degree or certificate from a regionally accredited institution or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the Council for Community and Technical College Education or by the Higher Education Policy Commission.
- Removes requirement that the person providing home instruction outline a plan of instruction for the ensuing school year.
- Replaces the requirement that the results of the academic assessment be submitted to the county superintendent annually with the requirement that the results be submitted at grade levels three, five, eight and eleven, as applicable, by June 30 of the year in which the assessment was administered. The requirement that the academic assessment be obtained annually remains.
- Removes the requirement that the parent or legal guardian pay the cost when the academic assessment takes place outside of a public school.
- Relating to the nationally normed standardized achievement test academic assessment option, modifies the requirement that an achievement test be published not more than ten years from the date of administration by also allowing the test to have been normed not more than ten years from the date the test is administered; removes requirement that the test be administered under standardized conditions; requires that the test be administered by a person qualified in accordance with the test's published guidelines; removes prohibition against the child's parent or legal guardian from administering the test; changes the threshold for acceptable progress from meeting or exceeding the 50th percentile or showing improvement from the previous year to being within or above the fourth stanine or showing improvement.

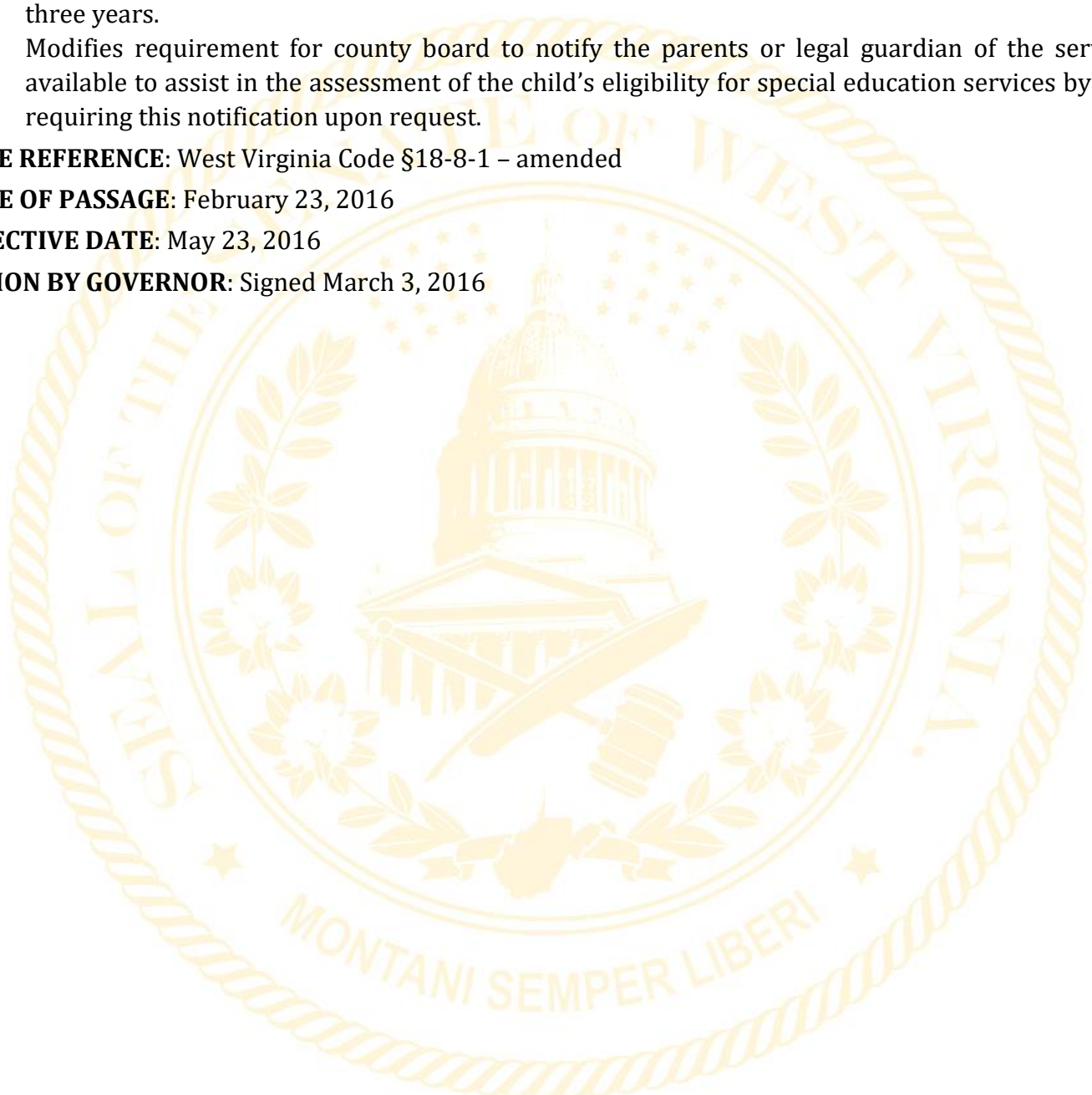
- Relating to the portfolio assessment option, removes requirement that the teacher's certification number be provided.
- Relating to the alternative academic assessment of proficiency option, removes the requirement that criteria for acceptable progress be mutually agreed upon by the parent and the county superintendent.
- Requires the parent or legal guardian to maintain copies of each student's academic assessment for three years.
- Modifies requirement for county board to notify the parents or legal guardian of the services available to assist in the assessment of the child's eligibility for special education services by only requiring this notification upon request.

CODE REFERENCE: West Virginia Code §18-8-1 – amended

DATE OF PASSAGE: February 23, 2016

EFFECTIVE DATE: May 23, 2016

ACTION BY GOVERNOR: Signed March 3, 2016



House Bill 4261

Prohibiting the sale or transfer of student data to vendors and other profit making entities

This bill:

- Broadens the prohibition against the Department transferring certain data and information by replacing “organization” with “person or entity” as places the Department is prohibited from transferring the information to.
- Expands on an exception to the prohibition against the Department transferring certain data and information to include entering into a contract that governs student or redacted data with a contractor for the purposes of state level reporting.
- Allows, in the event that the ACT or the SAT tests are adopted for use as the state summative assessment, the ACT or the College Board to use a student’s assessment results and necessary directory or other permissible information.
- If information classified as confidential is required, requires the ACT, SAT or college board to obtain affirmative written consent from the student (if 18 or older) or the student’s parent or guardian (if under 18); and requires that the consent contain a detailed list of the confidential information required and the purpose of its requirement.

CODE REFERENCE: West Virginia Code §18-2-5h – amended

DATE OF PASSAGE: March 12, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Signed March 25, 2016

House Bill 4295

Relating to the School Innovation Zones Act

This bill ends funding for the current innovation zone programs, and creates a new Innovation in Education Act. The purpose of the act is to encourage public schools to improve overall student outcomes through the implementation of key innovational priorities for improving education in the following areas:

- Science, technology, engineering and math (STEM);
- Community school partnership;
- Entrepreneurship;
- Career pathways; and,
- The arts.

The bill provides that nothing prohibits an Innovation in Education school from incorporating more than one of the above four attributes into its program design regardless of the primary designation under which it applies or is designated.

The bill provides that an Innovation in Education school:

- Is subject to all student assessment, accreditation and federal accountability requirements applicable to other WV public schools.
- Must operate according to an Innovation in Education plan developed by the school's principal and faculty with input from its LSIC, the county board, the county superintendent and, if the school is a high school, the students of the school.
- If designated by the State Board as an Innovation in Education Demonstration School, must host visits and tours of its facility and programs to provide information and an opportunity to observe any successful innovations which may be replicated in other schools. The school can require the payment of a fee to off-set the cost of hosting the visits and tours.

The bill also includes provisions relating to allowing an Innovation in Education school to solicit and accept gifts, donations or grants.

The bill provides that the State Board can designate a school as a STEM, community school partnership, entrepreneurship, career pathways or arts Innovation in Education school. It also requires the State Board to promulgate a rule, including an emergency rule if necessary, and requires that the rule include at least the following:

- A process for a school to apply for designation as an Innovation in Education school in STEM, community school partnership, entrepreneurship, career pathways or the arts.
- Clear and concise application evaluation factors in rubric form, including standards for the State Board to review and make a determination of whether to designate an applicant as an Innovation in Education school.
- The manner, time and process for application submission;
- The form and necessary contents of the application. The bill also sets forth the minimum contents of the application one of which is the school's Innovation in Education plan.
- Following the initial evaluation of the Innovation in Education schools, the process by which the State Board will periodically review the performance and student success of Innovation in Education schools, reaffirm or reconsider the designation of a school, and identify exemplary schools to serve as demonstration sites.

The bill also allows the State Board to provide for the Department of Education to independently assess applicants based on the evaluation factors rubric and provide the state board with its assessment. The State Board is to consider the evaluation factors in rubric form in making any Innovation in Education school designation determination. The bill also sets forth other requirements the State Board is to adhere to in making a designation determination.

The bill also sets forth specific items that the Innovation in Education plan is to include one of which is any rule, policy or statutory exemptions the school is seeking. The bill provides that a school may not request an exemption nor may an exemption be granted from any assessment program required by the State Board or any provision of federal law.

The bill also prohibits an Innovation in Education school from commencing or continuing operations without a signed operational agreement between the county board and the school principal. Several of the minimum items that must be included in the agreement include the following:

- Any material term of the school's Innovation in Education plan concerning curriculum, budget, school schedule, calendar, staffing, professional development and policies and procedures to be adhered to by both the county board and the school.
- The annual performance targets set by the county board and the school to assess and evaluate the school's progress in achieving its annual measurable goals as set forth in its Innovation in Education Plan.
- The process and criteria that the county board will use to annually monitor and evaluate the overall performance and student success of the school, including a process to conduct annual site visits.
- Any information needed by the county board from the school for the purposes of accountability and reporting by the school on the implementation of its mission as an Innovation in Education school.
- The process the county board will use to notify the school of any deficiencies and the process by which the school may submit an improvement plan.
- If an Innovation in Education school's performance appears unsatisfactory, specific provisions addressing the parameters under which the county board can promptly notify the school in writing of perceived problems and provide reasonable opportunity for the school to remedy the problems, or if not remedied, may intervene or recommend to the state board that it place the school's designation on probationary status, require a remedial action plan and potentially revoke the designation. At a minimum, these parameters include the circumstances of poor fiscal management and a lack of academic progress.

The bill also includes the following additional provisions relating to evaluation of Innovation in Education schools:

- Requires that during its 3rd full year of operation the county superintendent issue a performance report on the Innovation in Education school. The performance report must summarize the school's performance record to date based on the data collected under school's Innovation in Education Plan and operational agreement and is to provide notice of any weaknesses or concerns perceived by the superintendent concerning the school that could jeopardize its designation if not timely rectified. The school and the superintendent are to mutually agree to a reasonable time period for the school to respond to the performance report and submit any corrections to the report.
- After its 4th full year of operation, and periodically thereafter as may be provided by the State Board, requires that the Innovation in Education school be evaluated by the county superintendent. The county superintendent is required to submit the evaluation to the county board and the state board.

The evaluation is to determine whether the school has met the annual goals outlined in its Innovation in Education Plan and operational agreement and assess the implementation of the Innovation in Education plan at the school.

- Allows the county superintendent to recommend to the county board and State Board in the evaluation:
 - To amend or suspend one or more components of the Innovation in Education Plan and operational agreement if the county superintendent determines an amendment or suspension is necessary to improve the performance and student success of the school.
 - To amend or suspend one or more components of the Innovation in Education Plan and operational agreement if the county superintendent determines an amendment or suspension is necessary because of subsequent changes in the district that affect one or more components of the Innovation in Education plan.
 - To support continued operation of the Innovation in Education school in accordance with its Innovation in Education Plan and operational agreement.
 - To recommend to the State Board that the school be designated as an Innovation in Education demonstration school based on its exemplary performance and student success.
- Based on the county superintendent's evaluation and a data analysis conducted by the Department of Education, allows the State Board to:
 - Amend or recommend an amendment to one or more components of the school's Innovation in Education plan and operational agreement.
 - Suspend one or more components of the school's Innovation in Education plan and operational agreement.
 - Affirm continuation of the Innovation in Education school under its current Innovation in Education Plan and operational agreement.
 - If it is determined that the school has substantially failed to meet the goals outlined in its Innovation in Education plan and operational agreement, terminate the Innovation in Education designation of the school.

Lastly, the bill includes provisions relating to the creation of a special revenue fund entitled the "Innovation in Education Fund" which is to be administered by the State Board.

CODE REFERENCE: West Virginia Code §18-5B-14 and §18-5E-1 through §18-5E-7 – new

DATE OF PASSAGE: March 12, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Signed March 25, 2016

House Bill 4301

Relating to a framework for initiating comprehensive transformation of school leadership

The overall purpose of this bill is to provide a framework for development of the statutory and policy changes needed to support and sustain a comprehensive transformation of school leadership.

The bill requires the State Board to convene the relevant stakeholders, including, but not limited to, principals, teachers, superintendents, county board members, educator preparation program personnel, legislators or their designees and a Governor's designee to assist the state board in developing state board policies, practices and recommended statutory changes consistent with the findings of the section.

The findings are set forth in subsection (a) and refer to a number of studies, statutes and policies related to school leadership to provide a context for the stakeholders to consider in developing recommendations to the Legislature and the Governor.

Areas for consideration for recommendations to the Governor and Legislature include:

- The role and responsibilities of principals for instructional improvement with corresponding changes in preparation, support and tools needed to succeed;
- Authentic opportunities for teachers to lead instructional improvement and receive additional compensation as teacher leaders;
- The pipeline for leadership development; and
- The support systems and school-level flexibility required under the new leadership model.

The state board must report to the Joint Standing Committee on Education and the Governor by the 2018 session including, at a minimum:

- Recommendations on a general leadership structure and definitions of the roles and responsibilities for principals and teacher leaders;
- Identification of affected statutes and policies, including pending and completed policy revisions, and recommendations for statutory amendments, if any, needed to effectuate its recommendations;
- An outline of sequential implementation of the changes needed to transform school leadership, and recommendations for phased implementation, if any; and
- The estimated costs of implementation of the recommendations and statutory changes necessary to effectuate the recommendations.

CODE REFERENCE: West Virginia Code §18-2-36 – new

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 25, 2016

House Bill 4310

Relating to the West Virginia University Institute of Technology

This bill repeals article 1E of the WV Code relating to the WVU-Tech Revitalization Project.

The bill amends the Code by deleting a reference in the legislative findings section relating to disparity in faculty salaries between West Virginia University (WVU) and West Virginia University Institute of Technology (WVU-Tech), adding the location of the campus in the finding relating to disrepair of infrastructure, and adding legislative findings relating to the efforts to study, report and set goals to revitalize WVU-Tech as an institution of higher education in Montgomery. The new findings include statements about the substantial resources still needed to revitalize the campus with the goal of increasing enrollment, despite the investment made by the Higher Education Policy Commission (HEPC), WVU and the state. The bill also includes a finding regarding the lack of available state dollars to continue to invest in WVU-Tech. There are also findings regarding WVU's purchase of Mountain State University's Beckley campus, its proposal to relocate WVU-Tech to Beckley, as well as the approval by the HEPC of that proposal. The bill also recognizes the collaboration agreement between WVU, WVU-Tech, Bluefield State College (Bluefield) and Concord University (Concord).

The bill sets forth an intent for collaboration between WVU, WVU-Tech, Bluefield, Concord and Marshall University (MU), as well as appropriate public and private entities and local governments near Montgomery. It adds Bluefield, Concord and the West Virginia School of Osteopathic Medicine to the institutions that must collaborate regarding engineering and other appropriate programs. The bill directs the WVU Board of Governors to monitor and take appropriate steps to address faculty salary levels.

The bill removes the language requiring that the WVU-Tech campus remain in Montgomery. It clarifies language regarding the WVU-Tech board of visitors and provides that this section does not affect the independent accreditation or continued operation of BridgeValley Community and Technical College.

The bill sets forth conditions in which WVU must continue to collaborate with County Commissions of Kanawha and Fayette Counties, the City of Smithers, and the City of Montgomery, should it choose to participate. It further provides for collaboration between WVU, WVU-Tech, Concord and Bluefield prior to a required program review and approval process and requires the presidents of Concord, Bluefield, and WVU-Tech to meet quarterly to discuss collaborative efforts. The bill also deletes outdated provisions.

CODE REFERENCE: West Virginia Code §18B-1E-1, §18B-1E-2, §18B-1E-3 and §18B-1E-4 – repealed; §18B-1C-1 and §18B-1C-2 – amended

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 25, 2016

House Bill 4316

Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification

The National Board for Professional Teaching Standards has changed its definition of completion as it applies to the certification program, and therefore, this bill removes the definition which was the completion of 10 scorable entries. Instead, as a condition of being reimbursed for the 2nd half of the certification fee, it simply requires a teacher to submit satisfactory evidence of completion to the WVDE. The bill also requires that for the initial certification fee reimbursement, enrollment be verified by the National Board for Professional Teaching Standards, and otherwise improves the language in the bill.

CODE REFERENCE: West Virginia Code §18A-4-2a – amended

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 25, 2016

House Bill 4322

Relating to expanding the Learn and Earn Program

The bill modifies language concerning the Workforce Development Initiative Program through which the Legislature provides funding to the Council for Community and Technical Colleges to provide grants to the colleges to meet business or business sector needs. The bill removes language from current law that until now specifically allows the use of program grants to assist in “the modernization and procurement of equipment needed for workforce training programs.” The bill also adds language that removes any limitation on the purposes for which the Legislature’s funding for the program is being provided. Finally, the bill removes the authority to use the funds to provide a special match of \$3 for every \$1 provided by a Community or Technical College’s partner in the program.

CODE REFERENCE: West Virginia Code §18B-3D-1 and §18B-3D-4 – amended

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 16, 2016

House Bill 4351

Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture

This bill transfers Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture effective July 1, 2016. It transfers all real and personal property, operating funds, and employees at their existing hourly rate with all accrued benefits. All active full-time transferred employees shall participate in the Public Employees Retirement System (PERS) as of July 1, 2016 and considered in the PERS system as of their original date of hire. The Consolidated Public Retirement Board is required to transfer assets and service credit from the Teachers Retirement System (TRS) to PERS for employees in the system prior to December 30, 2016. The bill outlines how to compute the asset share to be transferred. Upon transfer of assets and service credit, TRS is held harmless from providing any form of retirement benefit. Transferred employees who are members of the Teachers Defined Contribution System remain invested in that system until termination of employment with the Department of Agriculture. The Commissioner of the Department of Agriculture is given all the powers, duties and responsibilities relating to Cedar Lakes Camp and Conference Center previously vested in the West Virginia Board of Education.

CODE REFERENCE: West Virginia Code §18-2-16b – new

DATE OF PASSAGE: March 10, 2016

EFFECTIVE DATE: July 1, 2016

ACTION BY GOVERNOR: Signed March 24, 2016

House Bill 4461

Relating to School Building Authority School Major Improvement Fund eligibility

Prior to the effective date of this bill, as a condition of receiving an allocation of school major improvement funds from the School Building Authority, a county board must have expended in the previous fiscal year an amount of county moneys equal to or exceeding the lowest average amount of money included in the county board's maintenance budget over any three of the previous five years and must have budgeted an amount equal to or greater than the average in the current fiscal year. This bill replaces that eligibility requirement with the requirement that the county board provide annual school facility maintenance expenditure data to the authority which must be jointly reviewed by the authority and the state Department of Education Office of School Facilities and Transportation to assist the authority in its determination of the most meritorious projects to be funded through the School Major Improvement Fund.

CODE REFERENCE: West Virginia Code §18-9D-15 – amended

DATE OF PASSAGE: March 11, 2016

EFFECTIVE DATE: June 9, 2016

ACTION BY GOVERNOR: Signed March 24, 2016

House Bill 4566

Relating to school personnel

This bill moves various deadlines for county boards to notify and take final action on personnel transfers, releases and reductions before they are required to take final action. The rationale behind this change is to allow more information on expected county board budgets and enrollments for the next year before disrupting the system with potential lay-off, transfer and termination notices. Changes to improve efficiency are also included.

Specifically, the committee substitute makes the following statutory changes:

- §18-4-2 – Adds assistant and associate superintendents to the individuals to be included under provisions for permanent administrative certification for superintendents.
- §18A-2-2 – Moves the deadline from March 1 to May 1 to terminate continuing contracts of professionals; requires the WVDE to report disqualifications to teach status on National Association of State Directors of Teacher Education and Certification database; and, moves the deadline from January 15 to March 1 for notice of retirement for professionals to qualify for \$500 bonus.
- §18A-2-5a - Moves the deadline from February 1 to March 1 for notice of retirement for service personnel to qualify for \$500 bonus, if bonus is authorized by county board and paid from local funds.
- §18A-2-6 – Moves the deadline from March 1 to May 1 to terminate continuing contracts of service personnel.
- §18A-2-7 – Moves the deadlines from March 1 to April 1 for notice of consideration for transfer of school personnel and from April 15 to May 1 for a hearing on the proposed transfer if demanded by the personnel; moves the deadline from April 15 to May 1 for furnishing list personnel considered for transfer to county board; changes single form of notice to personnel on the list from certified mail, return receipt requested, to broader written receipt notification documented by the superintendent; and, aligns provisions allowing transfers to accommodate unforeseen changes after assignments are made by moving the date from March 1 to May 1 to match the decision deadlines.
- §18A-2-7b – Consolidates in a new section all provisions restricting voluntary transfers of personnel to posted vacant positions prior to beginning of instructional term with changes as follows:
 - Provisions for professionals are moved from §18A-4-7a(m). The requirement for the county superintendent to report each transfer made to the state board is deleted.
 - Provisions for service persons employed and assigned as an autism mentor or aide who work with students with autism, or as a paraprofessional, interpreter, early childhood classroom assistant teacher, or aide who work with a student with an exceptionality whose IEP requires one-on-one services are moved from §18A-5-8. Early childhood classroom assistant teacher who works with a student with an exceptionality whose IEP requires one-on-one services has been added. The beginning date of the limitation has been moved from after 5 days to after 20 days prior to the beginning of the instructional term. The requirement for the county superintendent to report each transfer made to the state board is deleted.
 - Provisions limiting aide transfers are moved from §18A-5-8 and are applied to all other service persons except extracurricular assignments for bus operators. The limit begins after 20 days prior to the beginning of the instructional term. Transfers are limited to one time

during any one half of the instructional term unless otherwise mutually agreed upon. A provision is added for a person returning from an approved leave of absence to fill a vacant position.

- §18A-2-8a – Moves the deadline from April 15 to May 1 for providing the county board a list of probationary teachers recommended for rehire for the next year.
- §18A-4-7a – Removes requirement to submit lateral transfer policies to state board to be complied for reports to LOCEA (consistent with SB 369, previously passed by the Legislature).
 - It also changes provisions for filling positions known on or before March 1 to exist for the next school year. Rather than going exclusively to employees subject to release, the new provisions would allow the board to fill the positions from among all qualified applicants and consider employees subject to release before posting for application for nonemployees.
- §18A-4-8b – Requires vacancies to be filled within 20 days from the closing date of the posting period, rather than after the five-day minimum posting period.
 - The requirement to notify all applicants of status of his or her application after a hiring decision made is removed, with only the successful applicant to be notified.
 - The requirement to notify service personnel on the preferred recall list from time to time by certified mail of all position openings is replaced with a requirement to send it annually, with written receipt notification document by the superintendent, and instructions on accessing the postings on any website maintained by or available for the use of the county board.
- §18A-4-8e – Requires the state board to review and, if needed, update competency tests for service personnel at least every five years.
 - It removes the requirement to provide a minimum one day of appropriate in-service training to employees to assist them in preparing to take the competency tests.
 - The Committee moved to amend subsection (5) to return the subsection to its original language (regarding Board of Education promulgation of rules).
- §18A-5-8 – Deletes provisions related to voluntary transfers that are moved to the new section (§18A-2-7b) discussed above.

CODE REFERENCE: West Virginia Code §18-4-2, §18A-2-2, §18A-2-5a, §18A-2-6, §18A-2-7, §18A-2-8a, §18A-4-7a, §18A-4-8b, §18A-4-8e, and §18A-5-8 – amended; §18A-2-7b – new

DATE OF PASSAGE: March 12, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Signed April 1, 2016

House Bill 4617

Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program

This bill authorizes two rules of the Higher Education Policy Commission: One related to the Underwood-Smith Teacher Scholarship Program and the other related to the Nursing Scholarship Program. On September 14, 2015, LOCEA recommended that the Legislature authorize both rules.

Underwood-Smith Teacher Scholarship Program

- Replaces the eligibility requirement for loan assistance that a teacher have earned a teaching degree and be certified to teach in WV with the requirement that the teacher be under contract with a county board in WV to teach in a subject area of critical need or in a school or geographic area of critical need full time.
- Removes a certified teacher in a subject area of critical need who is enrolled in an advanced in-field degree course or who has earned an advanced in-field degree from the list of teachers who are given priority in receiving loan assistance.
- Authorizes the Vice Chancellor for Administration to develop additional eligibility criteria.
- Increases the maximum annual loan assistance from \$2,000 to \$3,000.
- Allows the loan assistance to be canceled if the recipient does not submit proof of fulfillment of the terms of the loan assistance agreement by the required deadline.

Nursing Scholarship Program

- In order to address the shortage of nurse educators, this rule expands the degree programs eligible for the Nursing Scholarship Program:
 - Makes applicants accepted to doctoral programs in education eligible. Previously, only applicants accepted to doctoral programs in nursing were eligible.
 - Makes applicants accepted to any nursing master's degree program eligible. Previously, only applicants accepted to nursing education master's degree programs were eligible.

CODE REFERENCE: West Virginia Code §18B-17-2 – amended

DATE OF PASSAGE: March 8, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Signed March 15, 2016

House Bill 4730

Relating to computer science courses of instruction

The bill makes findings regarding computer technology. It requires that prior to the 2017 session, the Board of Education submit a plan to LOCEA for the implementation of computer science instruction and learning standards that includes recommendations on at least the following:

- Core learning standards designed to provide the foundation for a complete K-12 computer science curriculum and its implementation, including, but not limited to:
 - introducing fundamental concepts at the elementary school level;
 - providing secondary level computer science that is both accessible and worthy of academic credit and may fulfill a computer science, math, or science graduation credit;
 - encouraging additional secondary-level computer science courses that allow interested students more in-depth preparation for entry into the work force or college; and,
 - increasing the availability of rigorous computer science for all students.
- Teaching standards and secondary certificate endorsements, if necessary, for teachers to deliver curriculum appropriate to meet the standards;
- Units of instruction or courses in academic and vocational technical settings that complement any existing K-12 computer science and IT curricula where they are already established, especially the Advanced Placement computer science curricula and professional IT certifications; and
- Proposals for implementation over a period not to exceed four years and estimates of any associated additional costs.

CODE REFERENCE: West Virginia Code §18-2-12 – new

DATE OF PASSAGE: March 12, 2016

EFFECTIVE DATE: June 10, 2016

ACTION BY GOVERNOR: Signed March 25, 2016

2015 Regular Session



Senate Bill 7

Requiring CPR and care for conscious choking instruction in public schools

This bill requires that at least 30 minutes of CPR and the psychomotor skills necessary to perform CPR be taught in the public school system once during grades 9 through 12 as a condition of graduation. The instruction must be based upon an instructional program established by the American Heart Association, The American Red Cross, or another nationally-based program that uses the most current evidence-based Emergency Cardiovascular Care guidelines. These standards are minimum standards and do not preclude additional instruction. The bill provides that a certified CPR trainer is not required for CPR instruction unless that instruction is to result in certification. It permits the instruction to be provided by community members such as EMTs, paramedics, police officers, firefighters, and American Heart Association representatives. These community members are encouraged to provide training and instructional resources at no cost to the schools. The bill also adds the requirement that care for conscious choking be taught with First Aid.

CODE REFERENCE: West Virginia Code §18-2-9 – amended

DATE OF PASSAGE: February 12, 2015

EFFECTIVE DATE: July 1, 2015

ACTION BY GOVERNOR: Signed February 24, 2015

Senate Bill 19

Specifying minimum early childhood education program instruction days

For school years beginning on and after the 2016-2017 school year, this bill reduces the minimum number of instructional days per week for early childhood education programs from five to four; requires a minimum of 1,200 minutes of instruction per week; and a minimum of 146 instructional days per year. For school years beginning on and after the 2016-2017 school year, State Board of Education policy currently requires an instructional day of 300 minutes and 160 instructional days per year.

CODE REFERENCE: West Virginia Code §18-5-44 – amended

DATE OF PASSAGE: March 13, 2015

EFFECTIVE DATE: June 11, 2015

ACTION BY GOVERNOR: Vetoed April 1, 2015

Senate Bill 238

Exempting county boards of education from liability arising from unorganized recreation

The bill limits the liability of County boards of education for loss or injury arising from the use of school property made available for unorganized recreation. County boards remain liable for acts or omissions which constitute gross negligence or willful and wanton conduct.

CODE REFERENCE: West Virginia Code §18-5-19 and §18-5-19d – amended

DATE OF PASSAGE: February 25, 2015

EFFECTIVE DATE: May 26, 2015

ACTION BY GOVERNOR: Signed March 5, 2015

Senate Bill 243

Relating to school nutrition standards during state of emergency or preparedness.

The bill authorizes the Governor or the Legislature to suspend school nutrition standards during a state of emergency or preparedness. Safe alternatives must be available for distribution to students. The suspension is limited to the affected geographic area. The suspension must be reported to the Joint Committee on Government and Finance.

CODE REFERENCE: West Virginia Code §15-5-6a – new

DATE OF PASSAGE: March 13, 2015

EFFECTIVE DATE: March 13, 2015

ACTION BY GOVERNOR: Signed March 24, 2015

Senate Bill 286

Relating to compulsory immunizations of students; exemptions

This bill rewrites the code sections relative to compulsory immunizations for school children. It sets forth the immunizations that are required for public school attendance in code.

The passed version of the bill codifies the process for obtaining a medical exemption and provides that an exemption would be approved by the State Health Officer who is the Commissioner for the Bureau for Public Health. The Commissioner may appoint an Immunization Specialist who would be a physician who could act as his or her designee in the exemption process. Finally, the bill alters the make-up of the Immunization Advisory Committee. This committee is to advise the Secretary on the changing needs and opportunities for immunization from known diseases.

CODE REFERENCE: West Virginia Code §16-3-4 and §16-3-5 – amended

DATE OF PASSAGE: March 18, 2015

EFFECTIVE DATE: June 16, 2015

ACTION BY GOVERNOR: Signed March 31, 2015

Senate Bill 287

Providing posthumous high school diplomas

This bill provides for the awarding of a posthumous diploma to the parents of a student who died while enrolled in a school district in grade 12. This bill will be known as “Todd’s Law.”

CODE REFERENCE: West Virginia Code §18-2-32 – new

DATE OF PASSAGE: March 18, 2015

EFFECTIVE DATE: June 16, 2015

ACTION BY GOVERNOR: Signed March 31, 2015

Senate Bill 298

Clarifying funds within Public Employees Retirement Fund

This bill amends the current section concerning unified accounting for the Public Employees Retirement System to state that all references to the members deposit fund, the employers accumulation fund, the retirement reserve fund, the income fund and the expense fund mean the Public Employee's Retirement Fund.

CODE REFERENCE: West Virginia Code §5-10-28 – amended

DATE OF PASSAGE: February 20, 2015

EFFECTIVE DATE: May 21, 2015

ACTION BY GOVERNOR: Signed March 3, 2015

Senate Bill 425

Providing WVU, MU and WVSOM more authority to invest assets

The purpose of this bill is to provide West Virginia University, Marshall University, and the Osteopathic School of Medicine with more authority to invest assets of the respective institutions. This bill removes the cap on the amount of non-general-revenue funds these institutions may invest with their foundations.

CODE REFERENCE: West Virginia Code §12-1-12d – amended

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed March 31, 2015

Senate Bill 439

Relating to higher education

This bill changes several sections of code related to higher education. Specifically, the bill does the following:

Article 4 - General Administration

- **§18B-4-2a** – This section deletes obsolete language regarding the Vice Chancellor of Human Resources position. It adds the ability of the Vice Chancellor to offer advice to organizations and gives the Vice Chancellor the option of designating a qualified designee to chair the Job Classification Committee.
 - The section deletes language making the Vice Chancellor responsible for compensation programs for faculty and/or nonclassified employees and adds that the Vice Chancellor will assist with such programs as directed or requested. It further defines the Vice Chancellor's responsibility for coordinating classification and compensation programs for classified employees.
 - The section deletes language requiring market comparison studies for each class of employees, leaving the mandate for classified employees only. It deletes the reference to relative market equity and leaves a requirement that market study be reported annually. Rather than requiring the Vice Chancellor to carry out certain duties with respect to training, the section changes the language requiring the Vice Chancellor to meet such duties "as requested by the organizations."
 - The section deletes language requiring the Vice Chancellor to conduct performance reviews and, instead, directs the Vice Chancellor to conduct such reviews as requested.

Article 7 - Personnel Generally

- **§18B-7-1** – This section amends transparency language to acknowledge occasional privacy considerations.
 - It adds the requirement that current and reliable data be provided to governing boards, the Higher Education Policy Commission (HEPC), the Community and Technical College Council (CTCC), the Governor, and the Legislature, replacing similar language that was originally contained in §18B-9A-1.
 - The section adds intent language regarding fairness, accountability and transparency, taken from §18B-9A-1 regarding Classification and Compensation System and applies it to Personnel Generally.
 - It adds the intent that each higher education organization achieve full funding of the salary schedule, originally contained in §18B-9-1.
- **§18B-7-2** – This section deletes definitions for "relative market equity" and "relative market status." It adds a definition for "Full-time."
- **§18B-7-8** – This section deletes the requirement for implementation reports. It deletes the word "peers" and amends the benchmark from national and regional markets to best practices and appropriate labor markets. The section changes the deadline for a job classification system report from July 1, 2014 to July 1, 2016.
- **§18B-7-9** – This section deletes obsolete language regarding correcting deficiencies.
- **§18B-7-11** – Current code specifies that nonclassified employees may not exceed 20% of the total number of classified and nonclassified employees and gives further detail regarding this ratio.

Current code also provides for a 25% ratio under certain conditions. The new language provides a cap on nonclassified employees at 25 % without conditions. It also deletes obsolete language.

- **§18B-7-16** – This section deletes the requirement to collect and analyze data regarding outsourcing. It adds the requirement to determine the appropriate definition of a “nonclassified” position, recommend best practices, and recommend the appropriate number of nonclassified positions for the HEPC and CTCC.

Article 9 - Classified Employee Salary Schedule and Classification System

- **§18B-9-1** – This section deletes legislative intent and moves it to §18B-7-1.
- **§18B-9-2** – This section deletes the definitions of “job description”, “job title”, “pay grade”, and “personnel classification system”.

Article 9A - Classification and Compensation System

- **§18B-9A-1** – This section deletes intent language regarding fairness, accountability and transparency and related data reporting and applies it to Personnel generally at §18-7-1.
- **§18B-9A-2** – This section amends the definitions of “classified employee” or “employee”, “position description”, “job evaluation”, “pay grade” and “position information questionnaire”. It adds definitions for “job specification”, “midpoint differential” and “pay range spread”. The section deletes the definition for “step”.
- **§18B-9A-3** – This section deletes language regarding the level of employment one must have for the article to be applicable. This language was moved to §18B-7-2, the definitions section of Personnel Generally.
- **§18B-9A-4** – This section adds language specifying that this section applies to classified employees. It deletes a requirement that Job Classification Committee members be approved by the HEPC and CTCC. The section deletes the detailed procedure for evaluating jobs.
- **§18B-9A-5** – This section deletes a requirement that Compensation Planning and Review Committee members be approved by the HEPC and CTCC. It specifies oversight for classified compensation.
- **§18B-9A-5a** – This new section, revised and taken from §18B-9A-6, adds the stipulation that the HEPC and CTCC may not delegate approval of any of the following to the Compensation Planning and Review Committee or the Job Classification Committee: classification and compensation rule, job evaluation plan and annual market classified salary schedule.
- **§18B-9A-6** – This section replaces “market salary structure” and “minimum salary schedules” with “classified salary schedule”.
 - It deletes language regarding delegation to Compensation Planning and Review Committee or the Job Classification Committee and places it in the new section §18B-9A-5a, with minor revisions.
 - The section adds the words “or for good cause” to allow for needed adjustments without the cost of a major market study.
 - It amends language regarding pay grade to job worth hierarchy.
 - The section deletes reference to an external vender market study.
 - It deletes reference to relative market equity.
- **§18B-9A-7** – This section deletes obsolete language. It extends the time to correct deficiencies from 4 months to an agreed upon time period. The section deletes the reference to a formal reprimand for deficiencies. It also deletes reference to certification that an organization has achieved full

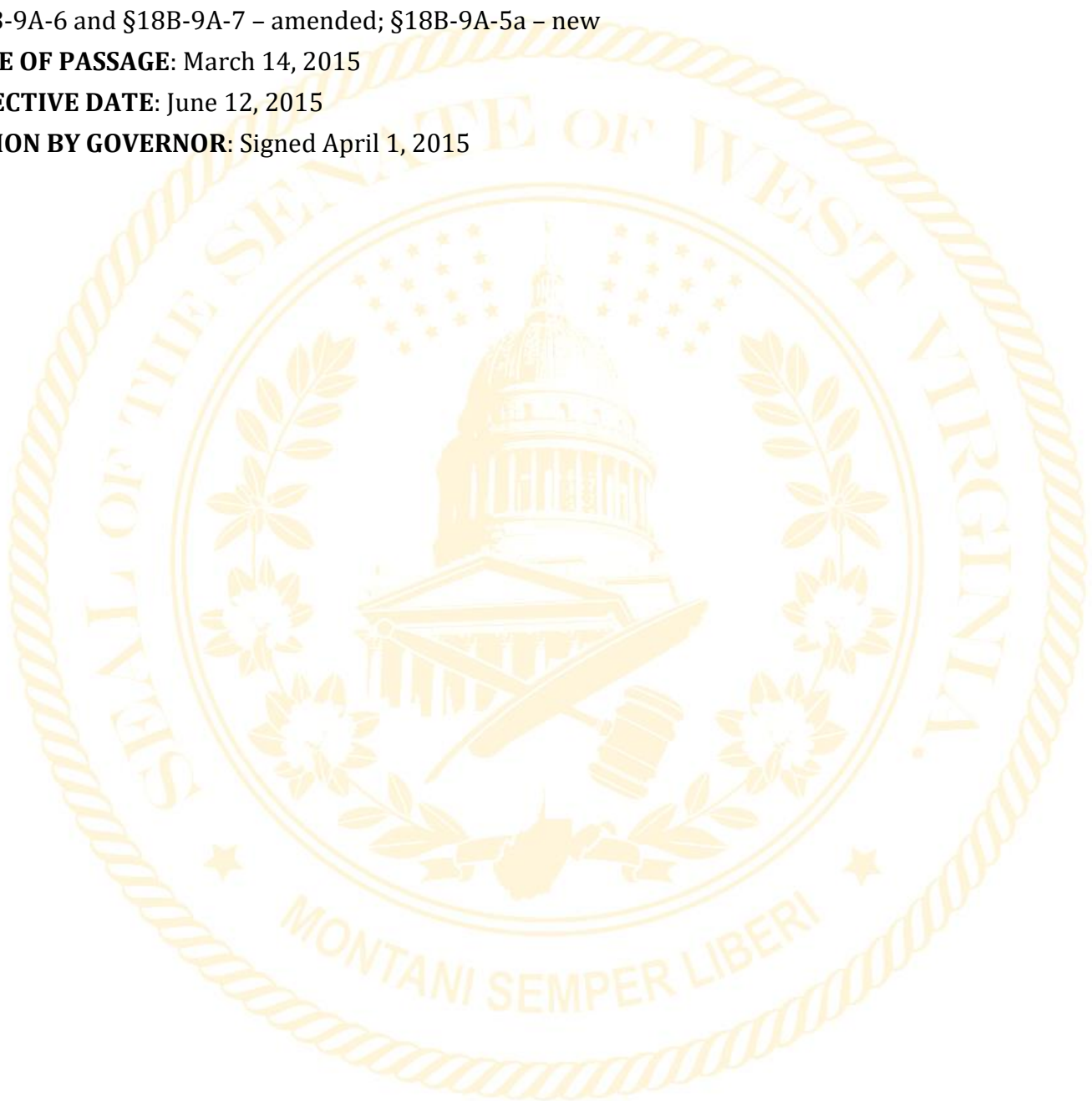
funding of the temporary annual classified employee salary schedule. The section amends language regarding measurable factors for compensation decisions. It deletes reference to “steps” and replaces it with pay range and similar language. The section and its title delete reference to an emergency rule which has already been accomplished.

CODE REFERENCE: West Virginia Code §18B-4-2a; §18B-7-1, §18B-7-2, §18B-7-8, §18B-7-9 and §18B-7-11; §18B-7-16; §18B-9-1 and §18B-9-2; and §18B-9A-1, §18B-9A-2, §18B-9A-3, §18B-9A-4, §18B-9A-5, §18B-9A-6 and §18B-9A-7 – amended; §18B-9A-5a – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed April 1, 2015



Senate Bill 447

Allowing issuance of diploma by public, private or home school administrator.

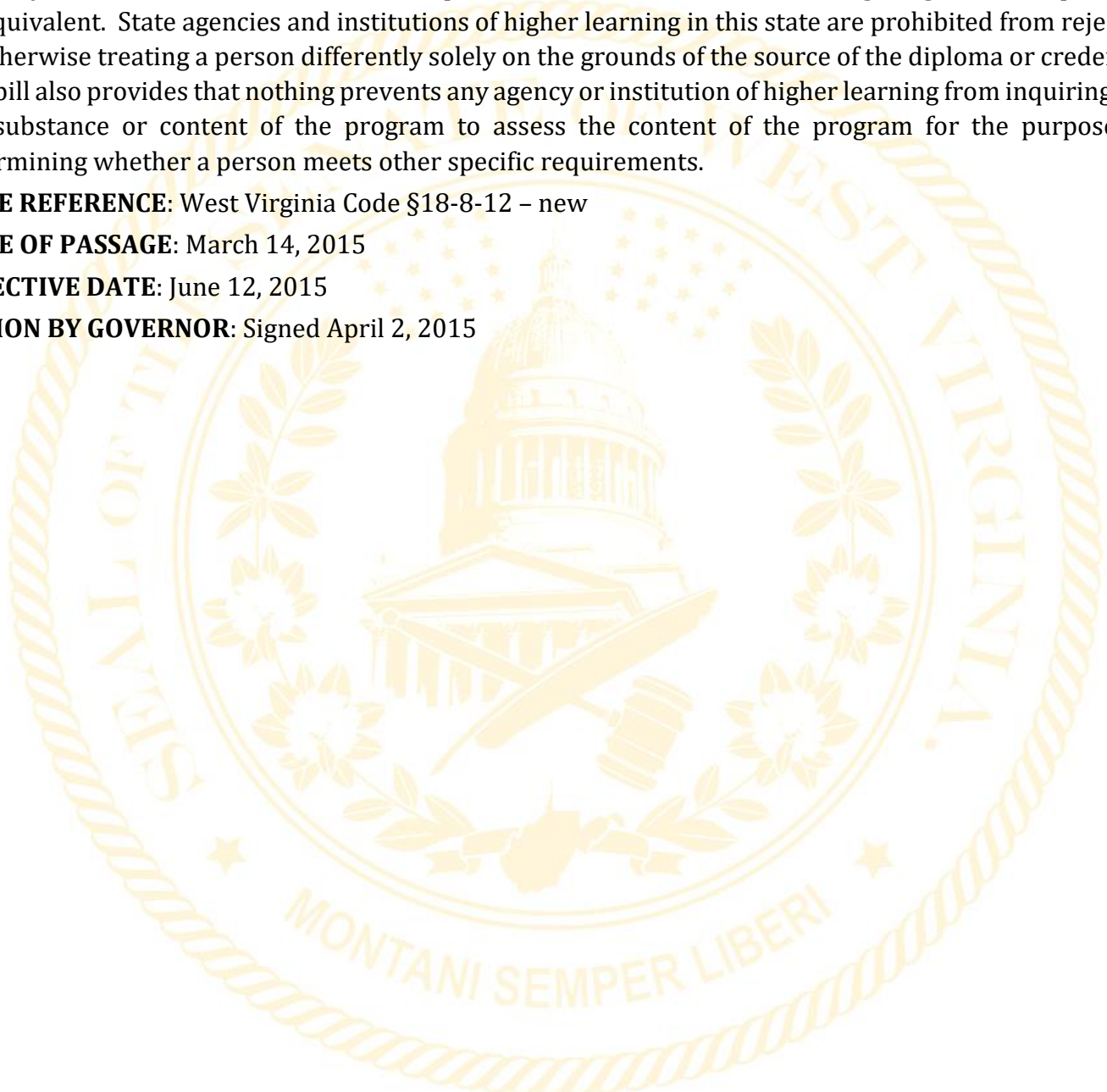
This bill allows a person who administers a program of secondary education at a public, private, or home school that meets the requirements of chapter 18 to issue a diploma or other appropriate credential to a person who has completed the program of secondary education. The bill declares that the credential is legally sufficient to demonstrate that the person meets the definition of having a high school diploma or its equivalent. State agencies and institutions of higher learning in this state are prohibited from rejecting or otherwise treating a person differently solely on the grounds of the source of the diploma or credential. The bill also provides that nothing prevents any agency or institution of higher learning from inquiring into the substance or content of the program to assess the content of the program for the purposes of determining whether a person meets other specific requirements.

CODE REFERENCE: West Virginia Code §18-8-12 – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed April 2, 2015



Senate Bill 455

Relating to public higher education procurement and payment of expenses

The bill revises statutes governing purchases and other financial transactions of higher education institutions. Among the amendments are:

- **§12-3A-6** – This section is amended to provide circumstances under which higher education institutions may become exempt from the State’s electronic commerce system.
- **§18B-5-4** – This section raises the threshold in rules governing higher education purchases and acquisitions for when competitive bids are required from \$25,000 to \$50,000; to allow notices for acquisitions and purchases to be posted electronically instead of in the school’s purchasing office; to decrease the time period of the prior notice of higher education solicitations of competitive bids from two weeks to five days; and to exempt West Virginia University (WVU) and Marshall University (MU) from the requirement that purchases subject to competitive sealed bids be encumbered in the state’s centralized accounting system. This section also changes the schedule for the performance audits of purchasing functions and duties for all higher education institutions other than WVU and MU from once a year to every 3 years (WVU and MU are now on that 3 year schedule).
- **§18B-5-4a** – This new section provides that no higher education institution under the jurisdiction of the HEPC is required to solicit competitive bids or require a valid bid bond or other surety for any construction project unless the value exceeds \$100,000 in total cost.
- **§18B-5-6** – This section is amended to exempt design-build procurements by any higher education institution from the state’s purchasing requirements as well as the state’s requirements governing design-build contacts entered into by state agencies.
- **§18B-5-7** – This section removes current law requirements for the disposal of property and equipment by the HEPC, the CTCC and governing boards of each state higher education institution, and to permit them each to adopt their own rules governing such disposal, and specifically permit those entities to donate equipment, supplies or materials if they approve themselves doing so. This section also requires the HEPC, the CTCC and governing boards of each state higher education institution to report to the Legislative Auditor biannually on their sales of commodities during the preceding biennium.

CODE REFERENCE: West Virginia Code §12-3A-6; §18B-1F-4; §18B-5-4, §18B-5-6 and §18B-5-7; §18B-5-4a – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed March 18, 2015

Senate Bill 529

Relating to PERS, SPRS and TRS benefits and costs

The bill amends the provisions of the WV Code relating to the WV Public Employees Retirement System (PERS); the Teachers Retirement System (TRS); and the State Police Retirement System (Trooper B). The bill makes substantive changes to the plans as follows:

- **Changes to PERS**

- Military service credit
 - Rewrites section authorizing service credit for up to 5 years for any time served in active duty in the US armed forces - to acknowledge the recent Supreme Court case.
 - For those becoming members for the 1st time on or after 7/1/15, authorizes the purchase of up to 60 months of military service credit for time served in active military duty so long as the member has completed at least 12 consecutive months of contributory service and pays the actuarial reserve purchase amount within a 48 month period.
- For those becoming members for the 1st time on or after 7/1/15:
 - Eliminates the provision allowing 10 months of service credit to earned credited as one year of credit.
 - Eliminates the ability to use accrued sick or annual leave for additional service credit.
 - Increases the regular retirement age to 62 with at least 10 years of service (current code is 60 with 5 years of service).
 - Increases the age and years of service required for eligibility for a reduced pension annuity (early retirement).
 - Increases the age and years of service required for eligibility for deferred retirement.
 - Eliminates the "rule of 80."
 - Increases the employee contribution rate from 4.5% to 6.0%.
 - Removes the ability for a PERS member who becomes a TRS member, or vice versa, to use the highest salary from either system in both benefit calculations.
 - Increases from 5 to 10 the amount of contributory service a member must have served in both PERS and TRS to be eligible for the reciprocity provisions.
 - Changes final average salary to the average of any period of 5 consecutive years of contributing service out of last 15 (current code is average of any period of 3 consecutive years out of last 15).

- **Changes to TRS**

- For those becoming members for the 1st time on or after 7/1/15
 - Eliminates the ability to use accrued sick or annual leave for additional service credit.
 - Authorizes the purchase of up to 60 months of military service credit for time served in active military duty so long as the member has completed at least 12 consecutive months of contributory service and pays the actuarial reserve purchase amount within a 48 month period.
 - Increases the regular retirement age to 62 with at least 10 years of service (current code is 60 with 5 years of service OR 55 with 30 years of service OR any age with 35 years of service).
 - Increases the age and years of service required for eligibility for deferred retirement.

- Eliminates provisions allowing retirement at any age with 35 years of service.
- Increases the age and years of service required for eligibility for early retirement.
- Authorizes those members that transferred from the Teacher's Defined Contribution Retirement System (TDC) to TRS who did not purchase full credit in TRS to purchase such credit prior to July 1, 2015. The member must pay 1.5% of his or her estimated total earnings for which assets were transferred from TDC plus interest of 4% per annum accumulated from the date of the member's initial participation in TDC through June 30, 2009, and interest of 7.5% per annum accumulated from July 1, 2009, through July 1, 2015.
- **Changes to Trooper B**
 - For those becoming members for the 1st time on or after 7/1/15: eliminates the ability to use accrued sick or annual leave for additional service credit.

CODE REFERENCE: West Virginia Code §5-10-2, §5-10-14, §5-10-15, §5-10-15a, §5-10-20, §5-10-21 and §5-10-29; §5-13-2; §5-16-13; §15-2A-21; §18-7A-17, §18-7A-23 and §18-7A-25; §18-7D-6 – amended; §5-10-21a; §18-7A-17a and §18-7A-25b – new

DATE OF PASSAGE: March 18, 2015

EFFECTIVE DATE: March 18, 2015

ACTION BY GOVERNOR: Signed April 3, 2015

Senate Bill 532

Relating to civil liability immunity for clinical practice plans and medical and dental school personnel

This bill requires that the WV Board of Risk and Insurance Management provide medical professional liability insurance to the state's medical and dental schools, including all of their clinical practice plans, all of their directors, officers, employees and agents.

A fiscal note submitted by the WV Board of Risk and Insurance Management states that it currently provides such medical professional liability insurance so there should be no additional costs or expenses.

CODE REFERENCE: West Virginia Code §55-7E-1 through §55-7E-6 – new

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: June 10, 2015

ACTION BY GOVERNOR: Signed March 24, 2015

Senate Bill 577

Allowing higher education governing boards invest certain funds with nonprofit foundations.

This bill allows the governing boards of four-year public colleges and universities other than WVU, MU and WVSOM to invest funds with its nonprofit foundation. The college or university must first consult with the Investment Management Board and the Board of Treasury Investments to determine what their estimated rate of return would be if the moneys were instead invested with the Investment Management Board or the Board of Treasury Investments. The funds invested cannot include any funds made available to the institution from the state General Revenue Fund or funds from the State Lottery Fund or the State Excess Lottery Revenue Fund. The funds invested are limited to \$1 million. The bill includes provisions related to requiring investments to be made in accordance with the Uniform Prudent Investor Act. The bill also provides that the institution is only authorized to invest with its foundation upon the HEPC's written finding that the plan is financially prudent. It also requires the institution have certain minimum bond ratings by two of the following three rating agencies: Moody's, S&P and Fitch. A governing board is required to report annually to the Governor and the Joint Committee on Government and Finance on the performance of investments managed by its foundation.

CODE REFERENCE: West Virginia Code §12-1-12e – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: April 2, 2015

Senate Bill 584

Transferring Cedar Lakes Camp and Conference Center to private, nonstock, not for profit corporation

The bill allows the State Board of Education to “transfer ownership, operation and control of Cedar Lakes” to a West Virginia private, nonstock, not for profit corporation; to deed to the not for profit corporation “in fee simple absolute all real estate at Cedar Lakes owned by the board;” and to transfer all contractual rights and duties relating to Cedar Lakes to the not for profit corporation, all on or after July 1, 2017. Throughout the bill, this not for profit corporation is referred to as the “foundation.” The bill provides for the transfer of all moneys that have been donated the Department of Education for Cedar Lakes to the foundation. The bill also directs that Department of Education employees who work at Cedar Lakes will become employees of the foundation. Provisions are made to protect their sick and annual leave, and provide training and an employment preference through the Division of Personnel if they are laid off by the foundation before July 1, 2018.

CODE REFERENCE: West Virginia Code §18-2-16 and §18-2-16a – amended; §18-2L-1 through §18-2L-11 – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION OF GOVERNOR: Signed April 3, 2015

House Bill 2005

Relating to alternative programs for the education of teachers

This bill relates to teacher certifications.

It expands opportunities for teachers from other states to receive a West Virginia teacher's certificate. Now a person with a teaching certificate or certificate of eligibility issued by another state can receive a West Virginia teacher's certificate if he or she graduated from an educator preparation program, even if the institution that provided the program is not regionally accredited.

The bill clarifies the eligibility requirements for teacher-in-residence program candidates. Previously, due to an ambiguity in the code, candidates for elementary school teacher-in-residence positions were sometimes required to have completed substantive courses that were entirely unwarranted by the classes that they were hoping to teach. The bill corrects this misunderstanding by removing a reference to "content area preparation courses." Now the reference is simply to "preparation courses."

The bill primarily addresses alternative certification programs for the education of teachers. Like previous code, the bill anticipates that three kinds of alternative programs will be offered. The first kind of program is designed to allow a person who did not graduate from a traditional teacher education program to transition to a career in classroom teaching. The other two programs are designed to develop qualified special education teachers.

The bill defines essential terms. Some terms are new; others are merely revised.

If a school or school district wishes to offer an alternative certification program, the bill requires it to partner with at least one other entity. Permissible partners include accredited colleges and universities, entities affiliated with accredited colleges and universities (like Teach for America), the West Virginia Department of Education and regional education service agencies (RESAs).

Partners must enter into a partnership agreement, and the bill lists the matters that must be addressed in the agreement. The bill provides partners considerable discretion in crafting their programs, but partners must not enroll an alternative teacher for a position unless (a) the position has been advertised for ten days and (b) no qualified certified teacher has applied. The bill, following previous code, contains another similar provision that requires the position to have been advertised twice in accordance with §18A-4-7a. Partners must also provide alternative certification teachers at least six credit hours, or six staff development hours, of instruction in one or more of several subject areas. As noted above, partners enjoy substantial control over the particulars of their alternative certification program. This opportunity for discretion is an important feature of the bill. Previously, the code was quite prescriptive about the kinds and durations of training that partners would have to provide.

The bill requires the State Board to develop rules that provide structure to and guidance regarding the process of establishing and seeking admission to an alternative certification program. An alternative program must be approved by the State Board, but approval is mandatory if the board determines that the program will comply, in all material respects, with the statute and the board's rules.

Like previous code, the bill provides a set of criteria for persons who wish to participate in an alternative certification program. Perhaps the most significant new requirement is that the person's academic or occupational qualifications be of a kind to suggest that the person will succeed in the teaching position that he or she would occupy during the alternative certification program. The bill assumes that subject matter similarity between the candidate's academic or occupational background and the course that he or she will be teaching is the key index of his or her success in the classroom. This feature of the

bill should limit participation in alternative certification programs, in most instances, to persons who wish to teach at the high school level.

An alternative program teacher enjoys a measure of job security, as long as he or she makes satisfactory progress. His or her contract must be renewed from year to year until he or she completes the program. On the other hand, if he or she works for a school or school district that reduces its teaching force, the alternative program teacher will be cut. The bill is quite clear that traditionally certified teachers will be preferred in such circumstances.

The bill simplifies the certification process for alternative program teachers. Previous code provided for one-year certificates that could be renewed from year to year for a cumulative duration of three years. Under the bill, alternative program teaching certificates are good for a maximum of three years but may not be renewed. The bill preserves the evaluation and recommendation procedures that occur at the end of an alternative certification program. These procedures, which were previously codified in §18A-3-1b, have been recodified in §18A-3-1i and revised for greater clarity.

The final section of the bill moves beyond alternative certification programs to address teacher certification in general. The requirements for professional teaching certificates are modified and reorganized for clarity. The alternative path to certification, for example, no longer requires that a teacher's degree be "in a discipline taught in the public schools." This is a significant change and one that should create valuable opportunities to recruit second-career professionals to the teaching profession. A chemical engineer, for example, might make an ideal chemistry teacher. But prior code would have excluded him or her because chemical engineering is not "a discipline taught in the public schools." The bill also expands opportunities for persons who wish to supervise sports and other extracurricular activities. Previous code required county boards of education to prefer professional educators for coaching positions whenever they applied. Boards now have authority to pass over a professional educator in circumstances where an interested layman would be more suitable.

CODE REFERENCE: West Virginia Code §18A-3-1, §18A-3-1a, §18A-3-1b and §18A-3-2a – amended; §18A-3-1c, §18A-3-1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h and §18A-3-1i – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: April 2, 2015

House Bill 2139

Relating to employment of retired teachers as substitutes in areas of critical need and shortage for substitutes

The general purpose of the bill is to restart expired provisions that allow retired teachers to be employed as substitutes in areas of critical need and shortage for substitutes beyond the 140 day post-retirement employment limit. The provisions expired June 30, 2014 and are extended until June 30, 2017.

The bill also reduces the waiting period after retirement from 40 days to 20 days. It includes provisions to verify compliance and facilitate employment of regularly employed teachers in vacant positions filled by retired teachers employed as substitutes. These are:

- The affidavit from the affected county to the retirement board prior to employment of a retired teacher past the 140 day limit must now go first to the State Board to verify compliance and eligibility;
- For eligibility to fill a vacant position, the retired teacher's retirement must have become effective at least 20 days before the first employment term during which he or she is employed as a substitute; and
- The position vacancy must be posted electronically and easily accessible to prospective employees as determined by the state board.

CODE REFERENCE: West Virginia Code §18A-2-3 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: March 12, 2015

ACTION BY GOVERNOR: March 26, 2015

House Bill 2140

Building governance and leadership capacity of county board during period of state intervention.

This bill provides that, in addition to declaring the office of the county superintendent vacant, state board intervention also may include declaring that certain positions of personnel who serve at the will and pleasure of the county superintendent are vacant. These positions include professional personnel employed as deputy, associate or assistant superintendents by the board in offices, departments or divisions at locations other than a school and who are directly answerable to the superintendent.

This bill also requires that a county board under state board intervention establish plans, subject to approval of the state board, to improve performance sufficiently to end the intervention within a period of not more than five years. The state superintendent is required to maintain oversight and provide assistance and feedback to the county board on development and implementation of the goals and action plans. The bill also sets forth the minimum requirements for the goals and action plans.

At least once each year during the intervention, the OEPA is required to assess the readiness of the county board to accept the return of control of the system or school from the state board and sustain the improvements, and must make a report and recommendations to the state board. The state board may end the intervention or return any portion of control that was previously removed at its sole determination. If the state board determines at the 5th annual assessment that the county board is still not ready to accept return of control by the state board and sustain improvements, the state board must hold a public hearing in the affected county at which the attendance by all members of the county board is requested so that the reasons for continued intervention and the concerns of the citizens of the county may be heard. The state board may continue the intervention only after it holds the public hearing and may require revision of the goals and action plans.

Following the termination of an intervention, the support for governance education and development must continue as needed for up to three years. If at any time within this three years, the state board determines that intervention is again necessary, the state board must again hold a public hearing in the affected county so that the reasons for the intervention and the concerns of the citizens of the county can be heard.

CODE REFERENCE: West Virginia Code §18-2E-5 – amended

DATE OF PASSAGE: March 13, 2015

EFFECTIVE DATE: June 11, 2015

ACTION BY GOVERNOR: Signed March 26, 2015

House Bill 2160

WV Schools for the Deaf and Blind eligible for School Building Authority funding

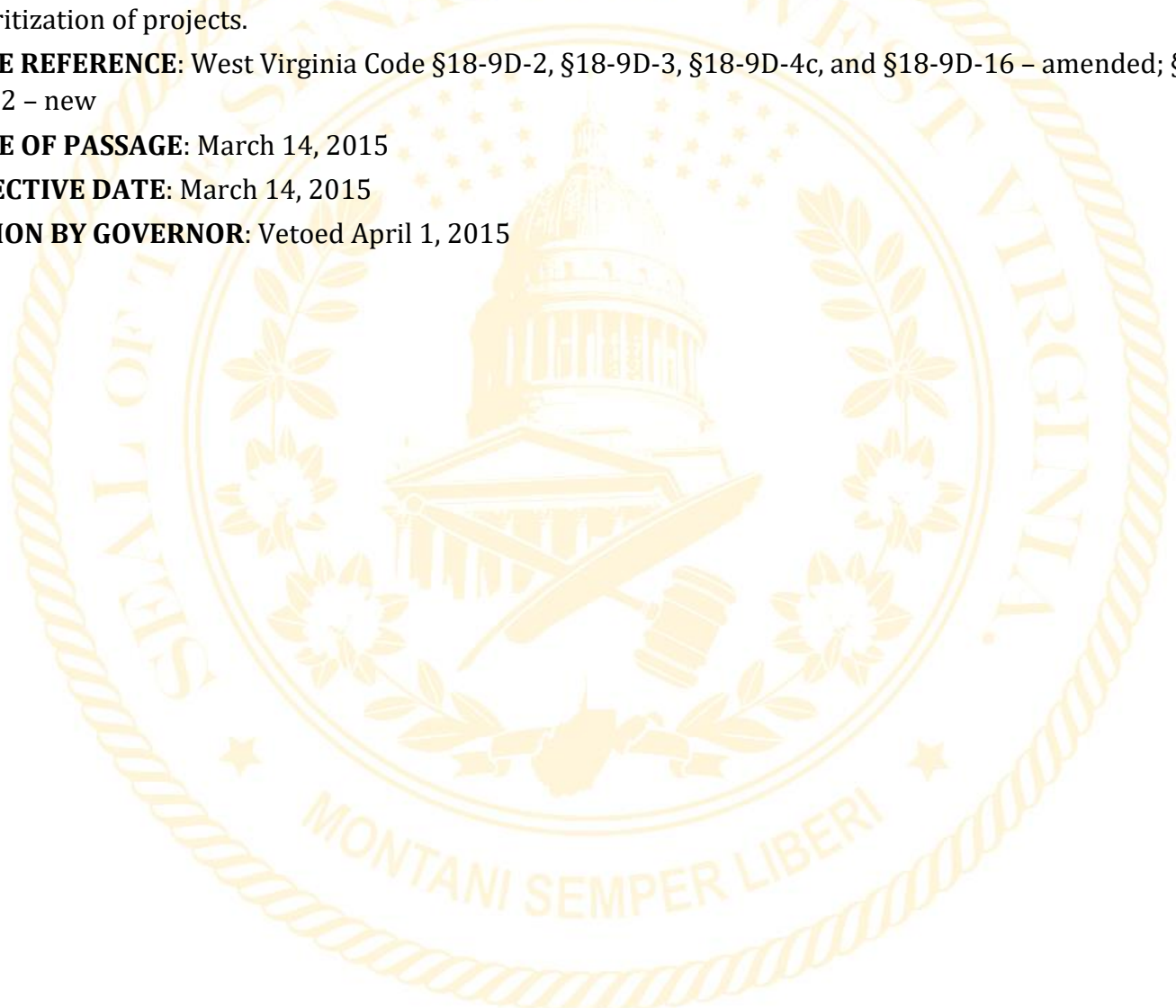
The bill would amend the provisions of the WV Code relating to the operation of the WV School Building Authority. The bill would allow the WV Schools for the Deaf and Blind (Schools) to be eligible for funding it is currently ineligible for through the WV School Building Authority. The Schools are not affiliated with any one county board of education, but are under the jurisdiction of the State Board of Education. Current code authorizes up to 3% of the annual amounts available for all projects for statewide projects which would include the Schools. The remainder available is restricted to projects for county school boards which precludes the Schools from participation. The bill also provides that the SBA may not require a local match from the Schools, nor may it penalize the Schools for not having a local match in its prioritization of projects.

CODE REFERENCE: West Virginia Code §18-9D-2, §18-9D-3, §18-9D-4c, and §18-9D-16 – amended; §18-9D-22 – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: March 14, 2015

ACTION BY GOVERNOR: Vetoed April 1, 2015



House Bill 2370

Increasing the powers of regional councils for governance of regional education service agencies.

This bill makes the following amendments relating to RESAs:

- Replaces the requirement that state board consult with the regional council during the process of selecting a RESA executive director with the requirement that the state board select an executive director only upon the nomination of one or more candidates by the regional council of the RESA. If the board refuses to select any of the candidates nominated, the regional council is required to nominate others and submit them to the board. All candidates nominated are required to meet the qualifications for the position established by the state board. The bill also provides that nothing is to prohibit the timely employment of persons to perform necessary duties.
- Requires annual evaluations of the performance of RESA executive directors, and requires that one half of the evaluation rating be determined by the regional council.
- Requires the state board to consult with regional councils on the development of the RESA executive director job description, qualifications and procedures.
- Expands the purposes of a regional council to include informing the executive director in carrying out his or her duties to achieve the purposes of the RESA section and providing educational services to the county school systems within the region.
- Removes outdated language relating to requiring the county boards to bear the cost of and fully participate in the implementation of the statewide electronic information system and allowing a waiver that would allow a county to use a comparable management information system.
- Removes language related to RESA's serving as the lead agency for computer installation, maintenance and repair including the suggested time schedules for computer installation, maintenance and repair and language imposing reporting requirements to LOCEA. However, other language remains making technology installation, maintenance, and repair one of the purposes of RESAs.
- In an effort to shift control and focus away from the state board and more toward counties, removes requirement that each agency provide coordinated professional development programs within its region to meet the professional development goals established by the state board. However, other language remains making the provision of high quality, targeted staff development one of the purposes of RESAs.

CODE REFERENCE: West Virginia Code §18-2-26 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: June 10, 2015

ACTION BY GOVERNOR: Signed March 26, 2015

House Bill 2377

Authorizing State Board of Education to approve certain alternatives with respect to instructional time

The purpose of this bill is to allow schools to provide constructive, educational activities for students to compensate for scheduled school time that is lost due to events such as inclement weather or power failures. Schools could implement such methods as compiling instructional packets for students to work on at home when school is canceled for snow storms or extending the school day to utilize banked time.

This bill authorizes the State Board of Education to approve alternatives to the statutory provisions regarding instructional time under certain narrow conditions. A county board may propose for State Board approval an alternative to applicable statutes which meets the spirit and intent of statutory law and is intended solely to optimize student learning. The bill recognizes the constitutional authority of the State Board over the general supervision of public schools, and grants it sole discretion to determine whether a plan meets the spirit and intent of statutory law and is intended solely to optimize student learning.

The bill removes obsolete provisions regarding developmental programming and instruction and outdated provisions regarding the school entrance age which conflict with current law.

CODE REFERENCE: West Virginia Code §18-2-5 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: June 10, 2015

ACTION BY GOVERNOR: Signed March 27, 2015

House Bill 2381

Providing a teacher mentoring increment for classroom teachers with national board certification who teach and mentor at certain schools

The bill creates a new section of code to provide an additional \$2,000 per year to classroom teachers with certification by the National Board for Professional Teaching Standards who teach in a “persistently low performing school” and mentor other teachers at the school. The bill sets forth parameters for the additional money and defines “persistently low performing school” and “mentoring.” An eligible teacher may continue to receive this payment for up to five years, regardless of the change in status of the school. A teacher may become eligible again at the end of the five year period, provided the criteria are met.

CODE REFERENCE: West Virginia Code §18-4-2c – new

DATE OF PASSAGE: March 11, 2015

EFFECTIVE DATE: July 1, 2015

ACTION BY GOVERNOR: Signed March 26, 2015

House Bill 2478

Relating to public school finance

This bill provides that the allowance in the foundation school program toward the replacement value of the counties' bus fleets is \$15,000,000 for the school year beginning July 1, 2015, and \$18,000,000 for the school year beginning July 1, 2016.

CODE REFERENCE: West Virginia Code §18-9A-7 – amended

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: July 1, 2015

ACTION BY GOVERNOR: Signed March 31, 2015

House Bill 2502

Possessing deadly weapons on school buses or on the premises of educational facilities

This bill allows certain law enforcement officers and retired law enforcement officers to carry a gun on school property for the purpose of serving as school security. This bill authorizes active and retired law enforcement officers in certain circumstances to possess a firearm or deadly weapon on a school bus, on school property or at school sponsored functions, when certain conditions are met. The bill also establishes reporting requirements for the school principal.

This bill:

- Removes the provision allowing active law enforcement officers to carry guns only while serving as school security and allows them to carry guns on school property at all times;
- Clarifies that retired law enforcement officers serving as school security must be employed by a law enforcement agency and covered for liability purposes;
- Requires that a principal reports a gun free zone violation as soon as possible;
- Clarifies by standard language that two years imprisonment or fine of \$5,000 violation now subject to imprisonment and fine;
- Expands the law enforcement agencies to which the principal can report a violation to include county and municipal law enforcement offices; and
- Amends the article title to reflect evolution of family law masters to family courts.

CODE REFERENCE: West Virginia Code §61-7-11a – amended

DATE OF PASSAGE: March 11, 2015

EFFECTIVE DATE: June 9, 2015

ACTION BY GOVERNOR: Signed March 27, 2015

House Bill 2535

Relating generally to suicide prevention training, "Jamie's Law"

This bill creates "Jamie's Law". It requires that on or before September 1, 2015 and each year thereafter, a public middle and high school administrator disseminate and provide opportunities to discuss suicide prevention awareness information to all middle and high school students. The information can be obtained from the Bureau for Behavioral Health and Health Facilities or from a commercially developed suicide prevention training program approved by the State Board of Education in consultation with the Bureau to assure the accuracy and appropriateness of the information.

The bill also requires each public and private institution of higher education to develop and implement a policy to advise students and staff on suicide prevention programs available on and off campus and lists the minimum programs that students and staff are to be advised on. Additionally, each public and private institution of higher education shall provide all incoming students with information about depression and suicide prevention resources available to students. The bill also requires that information on certain suicide prevention programs be posted on the website of each institution of higher education. It also requires that any applicable free-of-cost prevention materials or programs be posted on the websites of the public and private institutions of higher education, the HEPC, and the CTCC.

The bill also requires the Bureau for Behavioral Health and Health Facilities, on or before August 1, 2015, to post on its website suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The website must include information related to suicide prevention training opportunities offered by the Bureau or an agency recognized by the Bureau as a training provider. The bill also requires the Bureau to annually review, for adequacy and completeness, the materials or programs posted on the websites of the institutions of higher education.

CODE REFERENCE: West Virginia Code §18-2-40, §18B-1B-7, §27-6-1 – new

DATE OF PASSAGE: March 10, 2015

EFFECTIVE DATE: July 1, 2015

ACTION BY GOVERNOR: Signed March 26, 2015

House Bill 2550

Increasing number of unexcused absences of a student before action may be taken against the parent

This bill revises and defines the procedure for reporting unexcused absences of a student to a parent, guardian or custodian and provides that notice is received, and opportunity for conference with the school is achieved, before the action is referred to the court system. It revises the number of absences that trigger court action from five days to ten days.

CODE REFERENCE: West Virginia Code §18-8-4 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: June 10, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2598

Ensuring that teachers of students with disabilities receive complete information about the school's plan for accommodating the child's disabilities

The bill requires the school or county board to provide specific instruction to a teacher regarding the contents and requirements of an accommodation plan prepared for his or her student pursuant to Section 504 of the Rehabilitation Act of 1973. If the plan is prepared in writing, the school must provide the teacher with a copy of the plan and any updates, and the teacher must sign the document to acknowledge receipt.

CODE REFERENCE: West Virginia Code §18-20-2 – amended

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2632

Exempting the procurement of certain instructional materials for use in and in support of public schools from the division of purchasing requirements

This Act exempts the procurement of instructional materials, digital content resources, instructional technology, hardware, software, telecommunications and technical services for use in and in support of public schools from the division of purchasing requirements. The Act removes outdated language from other instructional technology related Code sections and updates the name of state technology plan. It requires the State Board of Education to define "equitable distribution" of technology resources to the counties and allows the Board to include per-school site equity in the definition. It also clarifies that technology tools purchased from the funds must adhere to state contract prices and it adds personalized learning as potential student use for technology. This Act also include an exemption of the West Virginia State Police Forensic Laboratory from state purchasing guidelines.

CODE REFERENCE: West Virginia Code §5A-3-1, §5A-3-3, §18-2E-7 and §18-9A-10 – amended

DATE OF PASSAGE: March 11, 2015

EFFECTIVE DATE: March 11, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2645

Expanding the availability of the Underwood-Smith Teacher Loan Assistance Program

This bill expands the availability of the Underwood-Smith Teacher Loan Assistance Program to include not only teachers who are certified in an area of critical need but those schools and geographic areas of critical need. It increases the annual amount of assistance available from \$2,000 to \$3,000.

CODE REFERENCE: West Virginia Code §18C-4A-1, §18C-4A-2 and §18C-4A-3 – amended

DATE OF PASSAGE: March 9, 2015

EFFECTIVE DATE: June 7, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2674

Making home schooled students eligible for a PROMISE scholarship without taking the GED test

This bill makes home schooled students eligible for a PROMISE scholarship without taking the GED test.

CODE REFERENCE: West Virginia Code §18C-7-6 – amended

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Vetoed April 1, 2015

House Bill 2702

Redefining service personnel class titles of early childhood classroom assistant teacher

This bill requires multiclassification of aide and Early Childhood Classroom Assistant Teacher (ECCAT) positions. It also changes the designations of ECCATs to I, II and III rather than temporary authorization, permanent authorization and paraprofessional certificate. The bill also allows aids eligible for full retirement benefits before July 1, 2020, to remain employed as an aid in that position and be granted ECCAT permanent authorization. It removes the minimum requirements for a state-awarded certificate for ECCATs from code, and instead provides that they be determined by the state board. The bill also provides that any person employed as an aide in a kindergarten program who is eligible for full retirement benefits before the first day of the instructional term in the 2020-2021 school year, cannot be subject to a reduction in force or transferred to create a vacancy for the employment of a less senior Early Childhood Classroom Assistant Teacher.

CODE REFERENCE: West Virginia Code §18-5-18, §18A-4-8, §18-5-8a and §18-5-8b – amended

DATE OF PASSAGE: March 9, 2015

EFFECTIVE DATE: March 9, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2755

Relating to service and professional employee positions at jointly established schools

The purpose of this bill is to address personnel issues relating to service and professional employee positions at jointly established schools. The bill provides that employees who are hired by the county board of the receiving county accrue seniority in both the sending and receiving counties during the time they are employed at the jointly established school. Upon losing a position at the jointly established school due to reduction in force or involuntary transfer, the employee displaces a less senior employee in the county of employment which immediately preceded employment at the jointly established school. Once an employee from the sending county voluntarily transfers or resigns from a position at the jointly established school and is no longer employed in the receiving county, the employee's seniority and any other statutory rights in the receiving county cease. The bill also provides that when initially filling service and professional employee positions at the jointly established school, the counties must follow the procedures established in cases of inter-county transfer arrangements. For the initial school year of the jointly established school's opening only, the receiving county may not fill any vacancies created by the retirement or voluntary transfer of employees of the receiving county school from February 1 of the school year immediately preceding the opening of the school until January 1 following the opening of the jointly established school until the receiving county has received the certified list of employees prepared pursuant to the inter-county transfer provisions. The receiving county may not fill any of the vacancies until the vacancies have been offered to qualified individuals from the certified list.

CODE REFERENCE: West Virginia Code §18-5-11a – amended

DATE OF PASSAGE: March 9, 2015

EFFECTIVE DATE: March 9, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2780

Enhancing the ability of campus police officers at public colleges to perform their duties

For enhancing the ability of campus police officers to perform their duties, this bill allows a higher education governing board to apply for and receive any public or private grant or other financial award that is available to other law enforcement agencies in the state. It also allows a governing board to compensate employees and pay tuition and expenses for attendance at a law-enforcement training academy. The governing board can require that each employee enter into a written agreement that obligates the employee to repay the employer if he or she voluntarily discontinues employment within one year immediately following completion of the curriculum. The amount of the repayment is proportionate to the portion of a full year that the officer remained employed.

CODE REFERENCE: West Virginia Code §18B-4-5 and §30-29-8 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: June 10, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2793

Relating to exemptions from mandatory school attendance

This bill makes the following changes relating to the home school exemption:

- Provides that a parent or legal guardian of a child who is exempt from compulsory school attendance is not subject to prosecution nor is the child a status offender.
- Requires leave of the circuit court and a showing of probable cause before the county superintendent can petition the circuit court of the county for an order denying home instruction.
- Changes requirement that notice to provide home instruction be provided annually to requiring that the notice be provided upon commencing home instruction.
- Removes requirement that notice include the grade level of the child.
- Removes requirement that if the child is enrolled in a public school, notice of intent to provide home instruction be given at least two weeks prior to withdrawing the child from public school.
- Requires notice to include assurance that the child shall receive instruction in reading, language, mathematics, science and social studies and that the child be assessed annually.
- Requires that the person providing home instruction notify the county superintendent or county board upon termination of home instruction for a child who is of compulsory attendance age.
- Requires that, upon establishing residence in a new county, the person providing home instruction notify the previous county superintendent or county board and submit a new notice of intent to the superintendent or county board of the new county of residence.
- Modifies requirement for submitting satisfactory evidence of a high school diploma by requiring the evidence to be submitted with the notice to provide home instruction and explicitly allowing the high school diploma to be from a public school, private school, or a homeschool.
- Removes requirement that home instructor outline a plan of instruction for the ensuing school year.
- Removes the requirement that when the academic assessment takes place outside of a public school, the parent or legal guardian pay the cost.
- Amends provisions relating to meeting the assessment requirement through a nationally normed standardized achievement test as follows:
 - Replaces the requirement that the publication date of the chosen test not be more than ten years from the date the test is administered with the requirement that the test be normed not more than ten years from the date of administration.
 - Requires that the test be administered by a person qualified in accordance with the test's published guidelines.
 - Removes prohibition against the child's parent or guardian administering the test.
 - Replaces the requirement that the child's test results meet or exceed the 50th percentile with the requirement that the test results be within or above the average range for that test.
- Relating to meeting the assessment requirement through a portfolio of samples of the child's work, removes requirement that a written narrative be provided to the county superintendent relating to the child's academic progress. The bill also removes language providing that if the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress.
- Relating to meeting the assessment requirement through an alternative academic assessment, removes the requirement that criteria for acceptable progress be mutually agreed upon by the parent or guardian and the county superintendent.

- Requires a parent or guardian maintain copies of each student's academic assessment for three years.
- Requires a student that fails to make acceptable progress for two consecutive years be evaluated for learning disabilities.

CODE REFERENCE: West Virginia Code §18-8-1 – amended

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: March 14, 2015

ACTION BY GOVERNOR: Vetoed April 1, 2015



House Bill 2840

Providing an alternative plan to make up lost days of instruction

This bill authorizes county boards of education to provide instruction to students during emergency closures under an alternative plan to make up lost days of traditional instruction in a manner that meets the instructional day and time requirements for not more than 4 instructional days of accumulated time. This allows the board to maintain compliance in reaching the mandatory 180 instructional days without being required to repurpose other days or add additional days of instruction.

An “emergency closure” means hours or days during the instructional term when it is necessary to close schools for disease, epidemic, hazardous weather conditions, law-enforcement emergencies, inoperability of school buses or other equipment necessary to the school’s operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use.

The bill also provides that a county board may submit a plan for providing instruction during emergency closures and sets for the criteria to be included in that plan. These options may include lessons on electronic devices provided to students, lessons posted on a board or school website, distribution of emergency closure day packets of instructional assignments, or any combination of these instructional delivery methods. Implementation of the plan is subject to approval of the State Board of Education.

CODE REFERENCE: West Virginia Code §18-5-45a – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: July 1, 2015

ACTION BY GOVERNOR: Vetoed April 1, 2015

House Bill 2867

Requiring recommendations for higher education course credit transfer

This bill requires higher education institutions in the state to accept course credit transfers from other institutions in WV if the comparable course at the sending institution is at least 70% the same or similar to course at the receiving institution. The requirement applies to all institutions that are accredited by a national, regional, programmatic or other accrediting body recognized by the US Department of Education under the Higher Education Act of 1965. The Higher Education Policy Commission and Council for Community and Technical College Education are required to develop a plan for implementation of public institutions and to report that plan to LOCEA by December 1, 2015. The Higher Education Policy Commission and Council for Community and Technical College Education are required to develop a plan for private higher education institutions and to report the plan to LOCEA by December 1, 2017. The bill also requires that two representatives from private higher education institutions be included in the planning process.

CODE REFERENCE: West Virginia Code §18B-14-2 – new

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed March 31, 2015

House Bill 2884

Modifying training and development requirement for certain members of certain higher education boards

This bill modifies the deadline for newly appointed members of the Higher Education Policy Commission, Council for Community and Technical College Education and governing boards to complete the mandatory training and development hours. Current Code requires new members to complete three hours of training and development within six months of appointment. The bill changes the reporting period to a fiscal year schedule consistent with the reporting period for existing members.

The change is needed to make tracking members' compliance easier for the entities and reporting to the Governor and Legislature more streamlined for the Commission and Council.

CODE REFERENCE: West Virginia Code §18B-1D-9 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: June 10, 2015

ACTION BY GOVERNOR: Signed March 27, 2015

House Bill 2939

Relating to requirements for mandatory reporting of sexual offenses on school premises involving students

This bill expands the scope of the definition of “sexual assault” beyond just parents, guardians or custodians; adds three new subsections to section eight hundred three, article two, chapter forty-nine; increases the existing penalties for failure to report; and adds a new subsection to section eight hundred twelve, article two, chapter forty-nine.

§49-2-803 Person mandated to report suspected abuse and neglect; requirements

- New subsection (c) requires school personnel to report sexual contact, sexual intercourse or sexual intrusion observed or disclosed to school teachers or personnel within a twenty-four hour period.
- New subsection (d) requires county school boards and private school administrators to provide all employees with a written statement setting forth reporting requirements. In addition, requires all school employees to sign the acknowledgment that they have received and understand the reporting requirement.
- New subsection (e) making clear the requirement to report student-student conduct and teacher-student conduct. The new subsection (e) additionally requires immediate notification to parents of children involved in the alleged conduct.

§49-2-812 Failure to report; penalty

- The bill increases the existing penalties for Failure to Report from 30 days to not more than 90 days in jail. And increased the fine from \$1,000 to \$5,000.
- The new subsection (b) establishes a penalty that specifically addresses the failure to report a sexual incident on school premises. Any person who fails to report an incident is guilty of a misdemeanor and, upon conviction, will be confined in jail not more than six months or fined not more than \$10,000 or both.

CODE REFERENCE: West Virginia Code §49-1-201, §49-2-803, and §49-2-812 – amended

DATE OF PASSAGE: March 14, 2015

EFFECTIVE DATE: June 12, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2892

Authorizing certain legislative rules regarding higher education

This bill authorizes the following legislative rules:

- Higher Education Policy Commission: Capital Project Management rules; Underwood-Smith Teacher Scholarship Program rules; and Nursing Scholarship Program rules.
- WV Council for Community and Technical College Education: Capital Project Management rules.

CODE REFERENCE: West Virginia Code §18B-17-2 and §18B-17-3 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: March 12, 2015

ACTION BY GOVERNOR: Signed March 25, 2015

House Bill 2976

Expanding the eligible master's and doctoral level programs for which a Nursing Scholarship may be awarded

This bill broadens the Nursing Scholarship Program's eligibility criteria to include appropriate degree programs through which the nurse educator shortage can be addressed. The Nursing Scholarship Program provides awards targeted toward individuals who will help fill the nursing and nurse educator shortages in WV.

Masters level students pursuing any type of nursing degree would now qualify for a scholarship. Currently only students enrolled in a nurse educator master's degree program are eligible for a masters level award. Eligibility for a doctoral level award is expanded to include students enrolled in a doctoral level education program.

Scholarship recipients at the masters and doctoral levels are required to teach nursing in the state for two years following graduation.

CODE REFERENCE: West Virginia Code §18C 3-4 – amended

DATE OF PASSAGE: March 12, 2015

EFFECTIVE DATE: March 12, 2015

ACTION BY GOVERNOR: Signed March 27, 2015