

1 positions posted on job bank; requiring information on loan
2 forgiveness on job bank; defining critical need and shortage
3 area position; requiring continuous posting on job bank;
4 requiring certain other positions to be posted as critical
5 need and shortage positions; correcting references to outdated
6 provisions; requiring issuance of additional content area
7 certifications upon submission of certain test scores;
8 clarifying certain provisions in teacher in residence program
9 agreement; requiring principals and teachers to consider
10 certain qualifications in making recommendation for employment
11 of classroom teacher and document consideration; limiting
12 resignation and employment in another county in professional
13 positions after twentieth prior to instructional term subject
14 to certain exception; requiring position postings on county
15 website and statewide job bank and requiring information on
16 loan forgiveness programs applicable to position; and making
17 technical improvements.

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

19 That §18A-2-2, §18A-2-3 and §18A-2-7a of the Code of West
20 Virginia, 1931, as amended, be amended and reenacted; that §18A-3-1
21 of said code be amended and reenacted; and that §18A-4-7a of said
22 code be amended and reenacted, all to read as follows:

23 **ARTICLE 2. SCHOOL PERSONNEL.**

24 **§18A-2-2. Employment of teachers; contracts; continuing contract**
25 **status; how terminated; dismissal for lack of need;**

1 **released time; failure of teacher to perform**
2 **contract or violation thereof; written notice bonus**
3 **for teachers and professional personnel.**

4 (a) Before entering upon their duties, all teachers shall
5 execute a contract with their county boards, which shall state the
6 salary to be paid and shall be in the form prescribed by the state
7 superintendent. Each contract shall be signed by the teacher and
8 by the president and secretary of the county board and shall be
9 filed, together with the certificate of the teacher, by the
10 secretary of the office of the county board: *Provided*, That when
11 necessary to facilitate the employment of employable professional
12 personnel and prospective and recent graduates of teacher education
13 programs who have not yet attained certification, the contract may
14 be signed upon the condition that the certificate is issued to the
15 employee prior to the beginning of the employment term in which the
16 employee enters upon his or her duties.

17 (b) Each teacher's contract, under this section, shall be
18 designated as a probationary or continuing contract. A
19 probationary teacher's contract shall be for a term of not less
20 than one nor more than three years, one of which shall be for
21 completion of a beginning teacher internship pursuant to the
22 provisions of section two-b, article three of this chapter, if
23 applicable. If, after three years of such employment, the teacher
24 who holds a professional certificate, based on at least a

1 bachelor's degree, has met the qualifications for a bachelor's
2 degree and the county board enter into a new contract of
3 employment, it shall be a continuing contract, subject to the
4 following:

5 (1) Any teacher holding a valid certificate with less than a
6 bachelor's degree who is employed in a county beyond the three-year
7 probationary period shall upon qualifying for the professional
8 certificate based upon a bachelor's degree, if reemployed, be
9 granted continuing contract status; and

10 (2) A teacher holding continuing contract status with one
11 county shall be granted continuing contract status with any other
12 county upon completion of one year of acceptable employment if the
13 employment is during the next succeeding school year or immediately
14 following an approved leave of absence extending no more than one
15 year.

16 (c) The continuing contract of any teacher shall remain in
17 full force and effect except as modified by mutual consent of the
18 school board and the teacher, unless and until terminated, subject
19 to the following:

20 (1) A continuing contract may not be terminated except:

21 (A) By a majority vote of the full membership of the county
22 board on or before March 1 of the then current year, after written
23 notice, served upon the teacher, return receipt requested, stating
24 cause or causes and an opportunity to be heard at a meeting of the
25 board prior to the board's action on the termination issue; or

1 (B) By written resignation of the teacher on or before March
2 1 to initiate termination of a continuing contract;

3 (2) The termination shall take effect at the close of the
4 school year in which the contract is terminated;

5 (3) The contract may be terminated at any time by mutual
6 consent of the school board and the teacher;

7 (4) This section does not affect the powers of the school
8 board to suspend or dismiss a principal or teacher pursuant to
9 section eight of this article;

10 (5) A continuing contract for any teacher holding a
11 certificate valid for more than one year and in full force and
12 effect during the school year 1984-1985 shall remain in full force
13 and effect;

14 (6) A continuing contract does not operate to prevent a
15 teacher's dismissal based upon the lack of need for the teacher's
16 services pursuant to the provisions of law relating to the
17 allocation to teachers and pupil-teacher ratios. The written
18 notification of teachers being considered for dismissal for lack of
19 need shall be limited to only those teachers whose consideration
20 for dismissal is based upon known or expected circumstances which
21 will require dismissal for lack of need. An employee who was not
22 provided notice and an opportunity for a hearing pursuant to this
23 subsection may not be included on the list. In case of dismissal
24 for lack of need, a dismissed teacher shall be placed upon a
25 preferred list in the order of their length of service with that

1 board. No teacher may be employed by the board until each
2 qualified teacher upon the preferred list, in order, has been
3 offered the opportunity for reemployment in a position for which he
4 or she is qualified, not including a teacher who has accepted a
5 teaching position elsewhere. The reemployment shall be upon a
6 teacher's preexisting continuing contract and has the same effect
7 as though the contract had been suspended during the time the
8 teacher was not employed.

9 (d) In the assignment of position or duties of a teacher under
10 a continuing contract, the board may provide for released time of
11 a teacher for any special professional or governmental assignment
12 without jeopardizing the contractual rights of the teacher or any
13 other rights, privileges or benefits under the provisions of this
14 chapter. Released time shall be provided for any professional
15 educator while serving as a member of the Legislature during any
16 duly constituted session of that body and its interim and statutory
17 committees and commissions without jeopardizing his or her
18 contractual rights or any other rights, privileges, benefits or
19 accrual of experience for placement on the state minimum salary
20 schedule in the following school year under the provisions of this
21 chapter, board policy and law.

22 (e) Any teacher who fails to fulfill his or her contract with
23 the board, unless prevented from doing so by personal illness or
24 other just cause or unless released from his or her contract by the
25 board, or who violates any lawful provision of the contract, is

1 disqualified to teach in any other public school in the state for
2 a period of the next ensuing school year and the State Department
3 of Education or board may hold all papers and credentials of the
4 teacher on file for a period of one year for the violation:
5 *Provided*, That marriage of a teacher is not considered a failure to
6 fulfill, or violation of, the contract.

7 (f) Any classroom teacher, as defined in section one, article
8 one of this chapter, who desires to resign employment with a county
9 board or request a leave of absence, the resignation or leave of
10 absence to become effective on or before July 15, of the same year
11 and after completion of the employment term, may do so at any time
12 during the school year, but at least forty-five days before the
13 beginning of the Fall instructional term, by written notification
14 of the resignation or leave of absence and any notification
15 received by a county board shall automatically extend the teacher's
16 public employee insurance coverage until August 31 of the same
17 year.

18 (g) (1) A classroom teacher who gives written notice to the
19 county board on or before January 15 of the school year of his or
20 her retirement from employment with the board at the conclusion of
21 the school year shall be paid \$500 from the Early Notification of
22 Retirement line item established for the Department of Education
23 for this purpose, subject to appropriation by the Legislature. If
24 the appropriations to the Department of Education for this purpose
25 are insufficient to compensate all applicable teachers, the

1 Department of Education shall request a supplemental appropriation
2 in an amount sufficient to compensate all such teachers.
3 Additionally, if funds are still insufficient to compensate all
4 applicable teachers, the priority of payment is for teachers who
5 give written notice the earliest. This payment shall not be
6 counted as part of the final average salary for the purpose of
7 calculating retirement.

8 (2) The position of a classroom teacher providing written
9 notice of retirement pursuant to this subsection may be considered
10 vacant and the county board may immediately post the position as an
11 opening to be filled at the conclusion of the school year. If a
12 teacher has been hired to fill the position of a retiring classroom
13 teacher prior to the start of the next school year, the retiring
14 classroom teacher is disqualified from continuing his or her
15 employment in that position. However, the retiring classroom
16 teacher may be permitted to continue his or her employment in that
17 position and forfeit the early retirement notification payment if,
18 after giving notice of retirement in accordance with this
19 subsection, he or she becomes subject to a significant unforeseen
20 financial hardship, including a hardship caused by the death or
21 illness of an immediate family member or loss of employment of a
22 spouse. Other significant unforeseen financial hardships shall be
23 determined by the county superintendent on a case-by-case basis.
24 This subsection does not prohibit a county school board from
25 eliminating the position of a retiring classroom teacher.

1 **§18A-2-3. Employment of substitute teachers and retired teachers**
2 **as substitutes in areas of critical need and shortage;**
3 **employment of prospective employable professional**
4 **personnel.**

5 (a) The county superintendent, subject to approval of the
6 county board, may employ and assign substitute teachers to any of
7 the following duties: (1) To fill the temporary absence of any
8 teacher or an unexpired school term made vacant by resignation,
9 death, suspension or dismissal; (2) to fill a teaching position of
10 a regular teacher on leave of absence; and (3) to perform the
11 instructional services of any teacher who is authorized by law to
12 be absent from class without loss of pay, providing the absence is
13 approved by the board of education in accordance with the law. The
14 substitute shall be a duly certified teacher.

15 (b) Notwithstanding any other provision of this code to the
16 contrary, a substitute teacher who has been assigned as a classroom
17 teacher in the same classroom continuously for more than one half
18 of a grading period and whose assignment remains in effect two
19 weeks prior to the end of the grading period, shall remain in the
20 assignment until the grading period has ended, unless the principal
21 of the school certifies that the regularly employed teacher has
22 communicated with and assisted the substitute with the preparation
23 of lesson plans and monitoring student progress or has been
24 approved to return to work by his or her physician. For the

1 purposes of this section, teacher and substitute teacher, in the
2 singular or plural, mean professional educator as defined in
3 section one, article one of this chapter.

4 (c) (1) The Legislature hereby finds and declares that due to
5 a shortage of qualified substitute teachers, a compelling state
6 interest exists in expanding the use of retired teachers to provide
7 service as substitute teachers in areas of critical need and
8 shortage. The Legislature further finds that diverse circumstances
9 exist among the counties for the expanded use of retired teachers
10 as substitutes. For the purposes of this subsection, "area of
11 critical need and shortage for substitute teachers" means an area
12 of certification and training in which the number of available
13 substitute teachers in the county who hold certification and
14 training in that area and who are not retired is insufficient to
15 meet the projected need for substitute teachers.

16 (2) A person receiving retirement benefits under the
17 provisions of article seven-a, chapter eighteen of this code or who
18 is entitled to retirement benefits during the fiscal year in which
19 that person retired may accept employment as a substitute teacher
20 for an unlimited number of days each fiscal year without affecting
21 the monthly retirement benefit to which the retirant is otherwise
22 entitled if the following conditions are satisfied:

23 (A) The county board adopts a policy recommended by the
24 superintendent to address areas of critical need and shortage for
25 substitute teachers;

1 (B) The policy sets forth the areas of critical need and
2 shortage for substitute teachers in the county in accordance with
3 the definition of area of critical need and shortage for substitute
4 teachers set forth in subdivision (1) of this subsection;

5 (C) The policy provides for the employment of retired teachers
6 as substitute teachers during the school year on an expanded basis
7 in areas of critical need and shortage for substitute teachers as
8 provided in this subsection;

9 (D) The policy provides that a retired teacher may be employed
10 as a substitute teacher in an area of critical need and shortage
11 for substitute teachers on an expanded basis as provided in this
12 subsection only when no other teacher who holds certification and
13 training in the area and who is not retired is available and
14 accepts the substitute assignment;

15 (E) The retired teacher's retirement became effective at least
16 forty days before the first instructional term during which he or
17 she is employed as a substitute;

18 (F) The positions are posted on the statewide job bank in
19 accordance with section seven-a of this article;

20 ~~(E)~~ (G) The policy is effective for one school year only and
21 is subject to annual renewal by the county board;

22 ~~(F)~~ (H) The state board approves the policy and the use of
23 retired teachers as substitute teachers on an expanded basis in
24 areas of critical need and shortage for substitute teachers as
25 provided in this subsection; and

1 ~~(G)~~ (I) Prior to employment of a substitute teacher beyond the
2 post-retirement employment limitations established by the
3 Consolidated Public Retirement Board, the superintendent of the
4 affected county submits to the Consolidated Public Retirement Board
5 and the state board, in a form approved by the retirement board, an
6 affidavit signed by the superintendent stating the name of the
7 county, the fact that the county has adopted a policy to employ
8 retired teachers as substitutes to address areas of critical need
9 and shortage, the name or names of the person or persons to be
10 employed pursuant to the policy, the critical need and shortage
11 area position filled by each person, the date that the person gave
12 notice to the county board of the person's intent to retire, and
13 the effective date of the person's retirement.

14 (3) Any person who retires and begins work as a substitute
15 teacher within the same employment term shall lose those retirement
16 benefits attributed to the annuity reserve, effective from the
17 first day of employment as a retiree substitute in that employment
18 term and ending with the month following the date the retiree
19 ceases to perform service as a substitute.

20 (4) Retired teachers employed to perform expanded substitute
21 service pursuant to this subsection are considered day-to-day,
22 temporary, part-time employees. The substitutes are not eligible
23 for additional pension or other benefits paid to regularly employed
24 employees and shall not accrue seniority.

25 (5) When a retired teacher is employed as a substitute to fill

1 a vacant position, the county board shall continue to post the
2 vacant position, including posting on the statewide job bank as
3 provided in section seven-a of this article, until it is filled
4 with a ~~regularly employed teacher.~~ fully certified or permitted
5 applicant who is not retired. The state board shall monitor and
6 enforce the provisions of this subsection and section seven-a of
7 this article regarding the posting of positions on the statewide
8 job bank and report to the Legislative Oversight Commission on
9 Education Accountability on its actions.

10 (6) Until this subsection is expired pursuant to subdivision
11 (7) of this subsection, the state board, annually, shall report to
12 the Joint Committee on Government and Finance prior to February 1
13 of each year. Additionally, a copy shall be provided to the
14 Legislative Oversight Commission on Education Accountability. The
15 report shall contain information indicating the effectiveness of
16 the provisions of this subsection on expanding the use of retired
17 substitute teachers to address areas of critical need and shortage
18 including, but not limited to, the number of retired teachers, by
19 critical need and shortage area position filled and by county,
20 employed beyond the post-retirement employment limit established by
21 the Consolidated Public Retirement Board, the date that each person
22 gave notice to the county board of the person's intent to retire,
23 and the effective date of the person's retirement.

24 (7) The provisions of this subsection shall expire on ~~June 30,~~
25 ~~2014~~ June 30, 2017.

1 (d) (1) Notwithstanding any other provision of this code to
2 the contrary, each year a county superintendent may employ
3 prospective employable professional personnel on a reserve list at
4 the county level subject to the following conditions:

5 (A) The county board adopts a policy to address areas of
6 critical need and shortage as identified by the state board. The
7 policy shall include authorization to employ prospective employable
8 professional personnel;

9 (B) The county board posts a notice of the areas of critical
10 need and shortage in the county in a conspicuous place in each
11 school for at least ten working days; and

12 (C) There are not any potentially qualified applicants
13 available and willing to fill the position.

14 (2) Prospective employable professional personnel may only be
15 employed from candidates at a job fair who have or will graduate
16 from college in the current school year or whose employment
17 contract with a county board has or will be terminated due to a
18 reduction in force in the current fiscal year.

19 (3) Prospective employable professional personnel employed are
20 limited to three full-time prospective employable professional
21 personnel per one hundred professional personnel employed in a
22 county or twenty-five full-time prospective employable professional
23 personnel in a county, whichever is less.

24 (4) Prospective employable professional personnel shall be
25 granted benefits at a cost to the county board and as a condition

1 of the employment contract as approved by the county board.

2 (5) Regular employment status for prospective employable
3 professional personnel may be obtained only in accordance with the
4 provisions of section seven-a, article four of this chapter.

5 (e) The state board annually shall review the status of
6 employing personnel under the provisions of subsection (d) of this
7 section and annually shall report to the Legislative Oversight
8 Commission on Education Accountability on or before November 1 of
9 each year. The report shall include, but not be limited to, the
10 following:

11 (A) The counties that participated in the program;

12 (B) The number of personnel hired;

13 (C) The teaching fields in which personnel were hired;

14 (D) The venue from which personnel were employed;

15 (E) The place of residency of the individual hired; and

16 (F) The state board's recommendations on the prospective
17 employable professional personnel program.

18 **§18A-2-7a. Statewide job bank.**

19 (a) The state board shall establish and maintain a statewide
20 job bank to assist with the recruitment of highly qualified
21 professional personnel to fill positions in the public schools and
22 with the recruitment and reemployment of experienced professional
23 personnel whose employment with county boards has been terminated
24 because of a reduction in force. The state board shall collaborate
25 with the higher education policy commission to ensure that students

1 in the teacher preparation programs in the state are informed of
2 the statewide job bank and that the program student placement
3 offices use it to assist students in locating potential employment
4 in the state.

5 (b) The job bank shall consist of ~~two~~ three parts for each
6 county:

7 (1) A list of the names, qualifications and contact
8 information of all professional personnel who have been terminated
9 because of a reduction in force, except personnel who have
10 requested in writing that they not be listed in the job bank; ~~and~~

11 (2) A list of professional ~~positions~~ position postings for
12 which the county is seeking applicants and appropriate contact and
13 other information to facilitate application for the positions; and

14 (3) Information on state and federal loan forgiveness programs
15 for which teachers are eligible when employed at specific schools
16 in the county or in certain areas of critical need and shortage.

17 (c) The job bank shall be accessible electronically to each
18 county and to individuals on a read only basis, except that each
19 county shall have the capability of editing information for the
20 county and shall be responsible for maintaining current information
21 on the county lists.

22 (d) A critical need and shortage area position, not including
23 a substitute position, is a professional personnel position that
24 has been posted on the statewide job bank for at least ninety
25 consecutive days and no fully certified or permitted applicant has

1 applied. A critical need and shortage area position shall be
2 posted continuously on the statewide job bank until filled with a
3 fully certified or permitted applicant. Continuous posting
4 includes posting during periods of reductions in force in other
5 positions. The posting of a position as a critical need and
6 shortage position also includes:

7 (1) A position in an area of certification that has been
8 filled for one or more instructional terms by a teacher with an
9 out-of-field authorization to teach in that area of certification
10 which position shall be continually posted on the statewide job
11 bank after the first year until filled by a fully certified or
12 permitted applicant;

13 (2) A vacant position that is filled by a retired teacher as
14 a substitute in accordance with section two of this article which
15 position shall continue to be a vacant position and shall be posted
16 on the statewide job bank until filled by a fully certified or
17 permitted applicant who is not retired; and

18 (3) A substitute teacher position in an area of certification
19 that has been identified by a county board as an area of critical
20 need and shortage for substitute teachers in accordance with
21 section two of this article and that has been filled by retired
22 teachers for more than one hundred forty days which position shall
23 be continually posted on the statewide job bank as a substitute
24 teacher position commencing with the first day in excess of one
25 hundred forty that it is filled by one or more retired teachers.

1 (e) (1) For the purposes of this section, the term "permitted
2 applicant" includes only:

3 (A) A certified teacher issued a permit valid for five years
4 permitting him or her to teach in an area for which he or she is
5 not fully certified while pursuing full certification in that area;
6 and

7 (B) A prospective teacher who is issued a teacher-in-residence
8 permit for completion of a teacher-in-residence program in
9 accordance with section one, article three of this chapter."

10 (2) For the purposes of this section, the term "fully
11 certified applicant" also includes an alternative program teacher
12 certificate issued to a person participating in a program in
13 accordance with section one-a, article three of this chapter.

14 (f) The provisions of this section and section three of this
15 article related to the required posting of positions on the
16 statewide job bank are effective on and after January 1, 2015.

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

19 **§18A-3-1. Teacher preparation programs; program approval and**
20 **standards; authority to issue teaching certificates.**

21 (a) The education of professional educators in the state is
22 under the general direction and control of the state board after
23 consultation with the Secretary of Education and the Arts and the
24 Chancellor for Higher Education who shall represent the interests

1 of educator preparation programs within the institutions of higher
2 education in this state as defined in section two, article one,
3 chapter eighteen-b of this code.

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

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

10 (2) Beginning teacher ~~internship and~~ induction, mentoring and
11 professional support programs;

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

15 (4) Alternative preparation programs in this state leading to
16 certification, including programs established pursuant to the
17 provisions of section one-a of this article and programs which are
18 in effect on the effective date of this section; and

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

22 (b) After consultation with the Secretary of Education and the
23 Arts and the Chancellor for Higher Education, the state board shall
24 adopt standards for the education of professional educators in the
25 state and for awarding certificates valid in the public schools of

1 this state. The standards include, but are not limited to the
2 following:

3 (1) A provision for the study of multicultural education. As
4 used in this section, multicultural education means the study of
5 the pluralistic nature of American society including its values,
6 institutions, organizations, groups, status positions and social
7 roles;

8 (2) A provision for the study of classroom management
9 techniques, including methods of effective management of disruptive
10 behavior including societal factors and their impact on student
11 behavior; ~~and~~

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

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

18 (B) Has graduated from an educator preparation program at a
19 regionally accredited institution of higher education;

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

21 (D) Meets all of the requirements of the state for full
22 certification except employment; and

23 (4) A teacher with a valid West Virginia teaching certificate
24 shall be awarded certification to teach in an additional area of
25 certification upon submission of a score on the appropriate content

1 area test required of other teachers for certification in that area
2 regardless of whether additional course work was taken in that
3 area.

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

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

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

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

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

25 (4) Assurance that the student teacher, under the direction

1 and supervision of the supervising teacher, shall exercise the
2 authority of a substitute teacher; and

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

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

17 (e) *Teacher-in-residence programs.* --

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

24 (2) A "teacher-in-residence program" means an intensively
25 supervised and mentored residency program for prospective teachers

1 during their senior year that refines their professional practice
2 skills and helps them gain the teaching experience needed to
3 demonstrate competence as a prerequisite to certification to teach
4 in the West Virginia public schools.

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

9 (A) A requirement that the prospective teacher in a
10 teacher-in-residence program shall have completed the content area
11 preparation courses and shall have passed the appropriate basic
12 skills and subject matter test or tests required by the state board
13 for teachers to become certified in the area for which licensure is
14 sought;

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

19 (C) Specifics regarding the program of instruction for the
20 teacher-in-residence setting forth the responsibilities for
21 supervision and mentoring by the higher education institution's
22 educator preparation program, the school principal, and peer
23 teachers and mentors, including providing additional time for the
24 peer teachers and mentors and teacher-in-residence to perform these
25 duties, and the responsibilities for the formal instruction or

1 professional development necessary for the teacher-in-residence to
2 perfect his or her professional practice skills. The program also
3 may include other instructional items as considered appropriate.

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

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

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

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

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

25 (iv) The teacher-in-residence is provided the same liability

1 insurance coverage as other employees; and

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

8 (4) Other provisions that may be required by the state board.

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

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

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

16 and

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

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

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

25 (2) The educator preparation program shall include a

1 requirement that any student performing student teaching in a
2 nonpublic school shall complete the following:

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

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

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

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

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

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

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

24 (h) In addition to the requirements set forth in subsection
25 (g) of this section, an agreement for an alternate student teaching

1 experience between an institution of higher education and a
2 nonpublic school shall include the following:

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

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

14 (i) The state superintendent may issue certificates as
15 provided in section two-a of this article to graduates of educator
16 preparation programs and alternative educator preparation programs
17 approved by the state board. The certificates are issued in
18 accordance with this section and rules adopted by the state board
19 after consultation with the Secretary of Education and the Arts and
20 the Chancellor for Higher Education.

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

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

25 (B) Is of good moral character;

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

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

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

8 (j) In consultation with the Secretary of Education and the
9 Arts and the Chancellor for Higher Education, institutions of
10 higher education approved for educator preparation may cooperate
11 with each other, with the center for professional development and
12 with one or more county boards to organize and operate centers to
13 provide selected phases of the educator preparation program. The
14 phases include, but are not limited to the following:

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

16 (2) Beginning teacher ~~internship and induction~~, mentoring and
17 professional support programs;

18 (3) Instruction in methodology; and

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

22 By mutual agreement, the institutions of higher education, the
23 center for professional development and county boards may budget
24 and expend funds to operate the centers through payments to the
25 appropriate fiscal office of the participating institutions, the

1 center for professional development and the county boards.

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

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

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

14 (1) "Nonpublic school" means a private school, parochial
15 school, church school, school operated by a religious order or
16 other nonpublic school that elects to meet the following
17 conditions:

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

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

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

24 (2) "At-risk" means a student who has the potential for
25 academic failure, including, but not limited to, the risk of

1 dropping out of school, involvement in delinquent activity or
2 poverty as indicated by free or reduced lunch status; and

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

7 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

8 **§18A-4-7a. Employment, promotion and transfer of professional**
9 **personnel; seniority.**

10 (a) A county board of education shall make decisions affecting
11 the filling of vacancies in professional positions of employment on
12 the basis of the applicant with the highest qualifications:
13 *Provided*, That the county superintendent shall be hired under
14 separate criteria pursuant to section two, article four, chapter
15 eighteen of this code.

16 (b) In judging qualifications for the filling of vacancies of
17 professional positions of employment, consideration shall be given
18 to each of the following:

19 (1) Appropriate certification, licensure or both;

20 (2) Amount of experience relevant to the position or, in the
21 case of a classroom teaching position, the amount of teaching
22 experience in the required certification area;

23 (3) The amount of course work, degree level or both in the
24 relevant field and degree level generally;

1 (4) Academic achievement;

2 (5) In the case of a classroom teaching position or the
3 position of principal, certification by the National Board for
4 Professional Teaching Standards;

5 (6) Specialized training relevant to the performance of the
6 duties of the job;

7 (7) Past performance evaluations conducted pursuant to section
8 twelve, article two of this chapter and section two, article
9 three-c of this chapter or, in the case of a classroom teacher,
10 past evaluations of the applicant's performance in the teaching
11 profession;

12 (8) Seniority;

13 (9) Other measures or indicators upon which the relative
14 qualifications of the applicant may fairly be judged;

15 (10) In the case of a classroom teaching position, the
16 recommendation of the principal of the school at which the
17 applicant will be performing a majority of his or her duties; and

18 (11) In the case of a classroom teaching position, the
19 recommendation, if any, resulting from the process established
20 pursuant to the provisions of section five, article five-a, chapter
21 eighteen of this code by the faculty senate of the school at which
22 the employee will be performing a majority of his or her duties.

23 (c) In considering the filling of a vacancy pursuant to this
24 section, a county board is entitled to determine the appropriate
25 weight to apply to each of the criterion when assessing an

1 applicant's qualifications: *Provided*, That if one or more
2 permanently employed instructional personnel apply for a classroom
3 teaching position and meet the standards set forth in the job
4 posting, each criterion under subsection (b) of this section shall
5 be given equal weight except that the criterion in subdivisions
6 (10) and (11) shall each be double weighted.

7 (d) For a classroom teaching position, if the recommendations
8 resulting from the operations of subdivisions (10) and (11),
9 subsection (b) of this section are for the same applicant, and the
10 superintendent concurs with that recommendation, then the other
11 provisions of ~~subsections (b) and~~ subsection (c) of this section do
12 not apply and the county board shall appoint that applicant
13 notwithstanding any other provision of this code to the contrary.

14 (e) The state board shall promulgate a rule, including an
15 emergency rule if necessary, in accordance with the provisions of
16 article three-b, chapter twenty-nine-a of this code to implement
17 and interpret the provisions of this section, including provisions
18 that may provide for the compensation based on the appropriate
19 daily rate of a classroom teacher who directly participates in
20 making recommendations pursuant to this section for periods beyond
21 his or her individual contract.

22 (f) Recommendations made pursuant to subdivisions (10) and
23 (11), subsection (b) of this section shall be made based on a
24 determination as to which of the applicants is the highest
25 qualified for the position. ~~*Provided, That*~~ When making

1 recommendations, principals and faculty senates shall consider each
2 criterion listed in subdivisions (1) through (9) of subdivision (b)
3 of this section and shall use a matrix or chart to document said
4 consideration. However, nothing in this subsection shall require
5 principals or faculty senates to assign any amount of weight to any
6 factor in making a recommendation.

7 (g) With the exception of guidance counselors, the seniority
8 of classroom teachers, as defined in section one, article one of
9 this chapter, shall be determined on the basis of the length of
10 time the employee has been employed as a regular full-time
11 certified and/or licensed professional educator by the county board
12 of education and shall be granted in all areas that the employee is
13 certified, licensed or both.

14 (h) Upon completion of one hundred thirty-three days of
15 employment in any one school year, substitute teachers, except
16 retired teachers and other retired professional educators employed
17 as substitutes, shall accrue seniority exclusively for the purpose
18 of applying for employment as a permanent, full-time professional
19 employee. One hundred thirty-three days or more of said employment
20 shall be prorated and shall vest as a fraction of the school year
21 worked by the permanent, full-time teacher.

22 (i) Guidance counselors and all other professional employees,
23 as defined in section one, article one of this chapter, except
24 classroom teachers, shall gain seniority in their nonteaching area
25 of professional employment on the basis of the length of time the

1 employee has been employed by the county board of education in that
2 area: *Provided*, That if an employee is certified as a classroom
3 teacher, the employee accrues classroom teaching seniority for the
4 time that that employee is employed in another professional area.
5 For the purposes of accruing seniority under this paragraph,
6 employment as principal, supervisor or central office
7 administrator, as defined in section one, article one of this
8 chapter, shall be considered one area of employment.

9 (j) Employment for a full employment term shall equal one year
10 of seniority, but no employee may accrue more than one year of
11 seniority during any given fiscal year. Employment for less than
12 the full employment term shall be prorated. A random selection
13 system established by the employees and approved by the board shall
14 be used to determine the priority if two or more employees
15 accumulate identical seniority: *Provided*, That when two or more
16 principals have accumulated identical seniority, decisions on
17 reductions in force shall be based on qualifications.

18 (k) Whenever a county board is required to reduce the number
19 of professional personnel in its employment, the employee with the
20 least amount of seniority shall be properly notified and released
21 from employment pursuant to the provisions of section two, article
22 two of this chapter. The provisions of this subsection are subject
23 to the following:

24 (1) All persons employed in a certification area to be reduced
25 who are employed under a temporary permit shall be properly

1 notified and released before a fully certified employee in such a
2 position is subject to release;

3 (2) Notwithstanding any provision of this code to the
4 contrary, all employees subject to release shall be considered
5 applicants for any vacancy in an established, existing or newly
6 created position that, on or before February 15, is known to exist
7 for the ensuing school year, and for which they are qualified, and,
8 upon recommendation of the superintendent, the board shall appoint
9 the successful applicant from among them before posting such
10 vacancies for application by other persons;

11 (3) An employee subject to release shall be employed in any
12 other professional position where the employee is certified and was
13 previously employed or to any lateral area for which the employee
14 is certified, licensed or both, if the employee's seniority is
15 greater than the seniority of any other employee in that area of
16 certification, licensure or both;

17 (4) If an employee subject to release holds certification,
18 licensure or both in more than one lateral area and if the
19 employee's seniority is greater than the seniority of any other
20 employee in one or more of those areas of certification, licensure
21 or both, the employee subject to release shall be employed in the
22 professional position held by the employee with the least seniority
23 in any of those areas of certification, licensure or both; and

24 (5) If, ~~prior to August 1 of the year a reduction in force is~~
25 ~~approved,~~ not less than twenty days prior to the beginning of the

1 next instructional term following an approved reduction in force,
2 the reason for any particular reduction in force no longer exists
3 as determined by the county board in its sole and exclusive
4 judgment, the board shall rescind the reduction in force or
5 transfer and shall notify the released employee in writing of his
6 or her right to be restored to his or her position of employment.
7 Within five days of being so notified, the released employee shall
8 notify the board, in writing, of his or her intent to resume his or
9 her position of employment or the right to be restored shall
10 terminate. Notwithstanding any other provision of this
11 subdivision, if there is another employee on the preferred recall
12 list with proper certification and higher seniority, that person
13 shall be placed in the position restored as a result of the
14 reduction in force being rescinded.

15 (1) For the purpose of this article, all positions which meet
16 the definition of "classroom teacher" as defined in section one,
17 article one of this chapter shall be lateral positions. For all
18 other professional positions, the county board of education shall
19 adopt a policy, ~~by October 31, 1993,~~ and may modify the policy
20 thereafter as necessary, which defines which positions shall be
21 lateral positions. The county board shall submit a copy of its
22 policy to the state board within thirty days of adoption or any
23 modification, and the state board shall compile a report and submit
24 the report to the Legislative Oversight Commission on Education
25 Accountability by December 31, ~~1993,~~ and ~~by that date~~ in any

1 ~~succeeding~~ year in which any county board submits a modification of
2 its policy relating to lateral positions. In adopting the policy,
3 the board shall give consideration to the rank of each position in
4 terms of title; nature of responsibilities; salary level;
5 certification, licensure or both; and days in the period of
6 employment.

7 (m) After the twentieth day prior to the beginning of the
8 instructional term, no person employed and assigned to a
9 professional position may transfer to another professional position
10 in the county during that instructional term unless the person
11 holding that position does not have valid certification, nor may a
12 person employed and assigned to a professional position resign and
13 be employed by another county board after the twentieth day prior
14 to the beginning of the instructional term. The provisions of this
15 subsection are subject to the following:

16 (1) The person may apply for any posted, vacant positions with
17 the successful applicant assuming the position at the beginning of
18 the ~~next~~ second half of the instructional term as determined in the
19 county of employment or initial employment;

20 (2) Professional personnel who have been on an approved leave
21 of absence may fill these vacancies in their county of employment
22 upon their return from the approved leave of absence;

23 (3) The county board, upon recommendation of the
24 superintendent, may authorize a transfer to fill a another position
25 in the county before the ~~next~~ second half of the instructional

1 term, or with the mutual consent of the person may release him or
2 her to commence employment in another county, when it is determined
3 to be in the best interest of the students. The county
4 superintendent shall notify the state board of each transfer and
5 each release of a person employed in a professional position to
6 another professional position or county after the twentieth day
7 prior to the beginning of the instructional term;

8 (4) The provisions of this subsection do not apply to the
9 ~~filling~~ transfer of a person to another professional position in
10 the county vacated because of resignation or retirement that became
11 effective on or before the twentieth day prior to the beginning of
12 the instructional term, but not posted until after that date; and

13 (5) The Legislature finds that it is not in the best interest
14 of the students particularly in the elementary grades to have
15 multiple teachers for any one grade level or course during the
16 instructional term. It is the intent of the Legislature that the
17 filling of positions through transfers of personnel from one
18 professional position to another after the twentieth day prior to
19 the beginning of the instructional term should be kept to a
20 minimum.

21 (n) All professional personnel whose seniority with the county
22 board is insufficient to allow their retention by the county board
23 during a reduction in work force shall be placed upon a preferred
24 recall list. As to any professional position opening within the
25 area where they had previously been employed or to any lateral area

1 for which they have certification, licensure or both, the employee
2 shall be recalled on the basis of seniority if no regular,
3 full-time professional personnel, or those returning from leaves of
4 absence with greater seniority, are qualified, apply for and accept
5 the position.

6 (o) Before position openings that are known or expected to
7 extend for twenty consecutive employment days or longer for
8 professional personnel may be filled by the board, the board shall
9 be required to notify all qualified professional personnel on the
10 preferred list and give them an opportunity to apply, but failure
11 to apply shall not cause the employee to forfeit any right to
12 recall. The notice shall be sent by certified mail to the last
13 known address of the employee, and it shall be the duty of each
14 professional personnel to notify the board of continued
15 availability annually, of any change in address or of any change in
16 certification, licensure or both.

17 (p) Openings in established, existing or newly created
18 positions shall be processed as follows:

19 (1) Boards shall ~~be required to~~ post and date notices of each
20 opening at least once. At their discretion, boards may post an
21 opening for a position other than classroom teacher more than once
22 in order to attract more qualified applicants. At their
23 discretion, boards may post an opening for a classroom teacher one
24 additional time after the first posting in order to attract more
25 qualified applicants only if fewer than three individuals apply

1 during the first posting subject to the following:

2 (A) Each notice shall be posted in conspicuous working places
3 and on the county website for all professional personnel to observe
4 for at least five working days. Each notice of a vacancy in an area
5 of critical need and shortage shall be posted on the statewide job
6 bank in accordance with section seven-a, article two of this
7 chapter;

8 (B) ~~At least one~~ Each notice shall be posted at least once
9 within twenty working days of the position openings and shall
10 include the job description and any information on state and
11 federal loan forgiveness programs applicable to the position;

12 (C) Any special criteria or skills that are required by the
13 position shall be specifically stated in the job description and
14 directly related to the performance of the job;

15 (D) Postings for vacancies made pursuant to this section shall
16 be written so as to ensure that the largest possible pool of
17 qualified applicants may apply; and

18 (E) Job postings may not require criteria which are not
19 necessary for the successful performance of the job and may not be
20 written with the intent to favor a specific applicant;

21 (2) No vacancy shall be filled until after the five-day
22 minimum posting period of the most recent posted notice of the
23 vacancy;

24 (3) If one or more applicants under all the postings for a
25 vacancy meets the qualifications listed in the job posting, the

1 successful applicant to fill the vacancy shall be selected by the
2 board within thirty working days of the end of the first posting
3 period;

4 (4) A position held by a teacher who is certified, licensed or
5 both, who has been issued a permit for full-time employment and is
6 working toward certification in the permit area shall not be
7 subject to posting if the certificate is awarded within five years;
8 and

9 (5) Nothing provided herein shall prevent the county board of
10 education from eliminating a position due to lack of need.

11 (q) Notwithstanding any other provision of the code to the
12 contrary, where the total number of classroom teaching positions in
13 an elementary school does not increase from one school year to the
14 next, but there exists in that school a need to realign the number
15 of teachers in one or more grade levels, kindergarten through six,
16 teachers at the school may be reassigned to grade levels for which
17 they are certified without that position being posted: *Provided,*
18 That the employee and the county board mutually agree to the
19 reassignment.

20 (r) Reductions in classroom teaching positions in elementary
21 schools shall be processed as follows:

22 (1) When the total number of classroom teaching positions in
23 an elementary school needs to be reduced, the reduction shall be
24 made on the basis of seniority with the least senior classroom
25 teacher being recommended for transfer; and

1 (2) When a specified grade level needs to be reduced and the
2 least senior employee in the school is not in that grade level, the
3 least senior classroom teacher in the grade level that needs to be
4 reduced shall be reassigned to the position made vacant by the
5 transfer of the least senior classroom teacher in the school
6 without that position being posted: *Provided*, That the employee is
7 certified, licensed or both and agrees to the reassignment.

8 (s) Any board failing to comply with the provisions of this
9 article may be compelled to do so by mandamus and shall be liable
10 to any party prevailing against the board for court costs and
11 reasonable attorney fees as determined and established by the
12 court. Further, employees denied promotion or employment in
13 violation of this section shall be awarded the job, pay and any
14 applicable benefits retroactive to the date of the violation and
15 payable entirely from local funds. Further, the board shall be
16 liable to any party prevailing against the board for any court
17 reporter costs including copies of transcripts.

18 (t) The county board shall compile, update annually on July 1
19 and make available by electronic or other means to all employees a
20 list of all professional personnel employed by the county, their
21 areas of certification and their seniority.

22 (u) Notwithstanding any other provision of this code to the
23 contrary, upon recommendation of the principal and approval by the
24 classroom teacher and county board, a classroom teacher assigned to
25 the school may at any time be assigned to a new or existing

1 classroom teacher position at the school without the position being
2 posted.

3 (v) The amendments to this section during the 2013 regular
4 session of the Legislature shall be effective for school years
5 beginning on or after July 1, 2013, and the provisions of this
6 section immediately prior to those amendments remain in effect
7 until July 1, 2013.

NOTE: The purpose of this bill is to improve the process for employing highly qualified professional personnel in the public schools. Among the changes made in the bill are several to ensure that positions filled by retirees and not fully qualified teachers are posted statewide and easily available to new graduates and reduction in force teachers who are seeking employment; allowing capable teachers to more easily obtain certification in additional content areas; ensuring teachers and principals consider applicant qualifications for employment; and limiting the movement of professional personnel to other counties when they are already assigned to a position and the instructional is about to or has begun.

Strike-throughs indicate existing language that would be removed, and underscoring indicates new language that would be added.