

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4006

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HIGGINBOTHAM, COWLES, CRISS, ELLINGTON, HAMRICK,
WESTFALL, ATKINSON AND STATLER

[Passed March 10, 2018; in effect ninety days from passage.]

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

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

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

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

Be it enacted by the Legislature of West Virginia:

CHAPTER 4. THE LEGISLATURE.

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

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

- 1 (a) The Governor shall appoint twelve members as follows:
- 2 (1) Three academic historians;
- 3 (2) The State Superintendent of Schools, or a designee;
- 4 (3) One representative of the Division of Culture and History;
- 5 (4) One representative of the Division of Tourism;
- 6 (5) One representative from the Herbert Henderson Minority Affairs Office;
- 7 (6) Five citizens members, no more than one of whom may be from any one state
- 8 senatorial district;

9 (7) One member of the House of Delegates, to be appointed by the Speaker of the House
10 of Delegates, who shall serve as an ex officio nonvoting member of the commission; and

11 (8) One member of the Senate, to be appointed by the President of the Senate, who shall
12 serve as an ex officio nonvoting member of the commission.

13 (b) The members shall serve until July 1, 2021.

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

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

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

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

§5-26A-3. Members.

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

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

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

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

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

- 10 (4) The State Superintendent of Schools or a designee;
- 11 (5) A representative of a county or municipal government;
- 12 (6) A representative of a local labor organization;
- 13 (7) A representative of a for-profit business operating within the state;
- 14 (8) An individual whose age is between the age of sixteen years and twenty-five years,
15 inclusive, who has been, or remains, a participant or a supervisor in a volunteer or service
16 program; and
- 17 (9) A representative of an arts or crafts organization.
- 18 (c) The membership of the West Virginia Commission for National and Community Service
19 shall include a representative of the corporation for national and community service who shall
20 serve as a member in a nonvoting, ex officio capacity.
- 21 (d) No more than twenty-five percent of the voting membership of the West Virginia
22 commission for national and community service may be individuals who are employed by the
23 state or its agencies, except that the membership may include additional employees of the state
24 or its agencies in a nonvoting, ex officio capacity.
- 25 (e) No member of the West Virginia Commission for National and Community Service may
26 vote on an issue affecting organizations for which the member has served as a staff person or as
27 a volunteer at any time during the twelve-month period before the member's appointment to the
28 commission.
- 29 (f) No more than fifty percent plus one of the members of the West Virginia Commission
30 for National and Community Service may be members of the same political party.
- 31 (g) To the extent possible, the membership of the West Virginia Commission for National
32 and Community Service shall reflect the diversity of the state's population.
- 33 (h) Members of the West Virginia Commission for National and Community Service who
34 were appointed under the executive order of the Governor entered on January 28, 1994, shall
35 continue as members of the commission for a term of three years, except that the Governor shall

36 designate eight members who shall serve for a term of two years and shall also designate an
37 additional eight members who shall serve for a term of one year. Additional appointments by the
38 Governor under the provisions of this section and appointments by the Governor upon the
39 expiration of a member's term shall be made for a term of three years. Appointments of members
40 by the Governor to serve for an unexpired term shall be for the remainder of the unexpired term.
41 Members may be reappointed.

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

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

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

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

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

§5B-2C-6. Periodic reports.

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

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

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

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

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

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

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

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

ARTICLE 1. GENERAL PROVISIONS.

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

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

3 (1) Department of Administration;

4 (2) Department of Environmental Protection;

5 (3) Department of Health and Human Resources;

6 (4) Department of Military Affairs and Public Safety;

- 7 (5) Department of Revenue;
- 8 (6) Department of Transportation;
- 9 (7) Department of Commerce; and
- 10 (8) Department of Veterans' Assistance.

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

§5F-1-6. House Bill 4006 amendments effective date.

1 Except for instances where specifically provided otherwise, all amendments to this Code
2 made by the passage of House Bill 4006 during the 2018 regular session of the Legislature shall
3 become effective July 1, 2018.

ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.

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

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

- 4 (1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;
- 5 (2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;
- 6 (3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;
- 7 (4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this
8 code;
- 9 (5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;
- 10 (6) Boundary Commission provided in §29-23-1 *et seq.* of this code;
- 11 (7) Public Defender Services provided in §29-21-1 *et seq.* of this code;
- 12 (8) Division of Personnel provided in §29-6-1 *et seq.* of this code;
- 13 (9) The West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;
- 14 (10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and

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

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

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

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

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

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

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

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

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

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

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

33 (4) Division of Natural Resources and Natural Resources Commission provided in §20-1-
34 1 *et seq.* of this code;

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

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

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

38 (A) Division of Unemployment Compensation;

39 (B) Division of Employment Service;

40 (C) Division of Workforce Development; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75 (5) State Commission on Intellectual Disability provided in §29-15-1 *et seq.* of this code;

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

77 (7) Bureau for Child Support Enforcement provided in chapter 48 of this code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

115 (2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

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

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

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

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

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

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

124 (l) Except for powers, authority and duties that have been delegated to the secretaries of
125 the departments by the provisions of §5F-2-2 of this code, the position of administrator and the
126 powers, authority, and duties of each administrator and agency are not affected by the enactment
127 of this chapter.

128 (m) Except for powers, authority and duties that have been delegated to the secretaries
129 of the departments by the provisions of §5F-2-2 of this code, the existence, powers, authority,
130 and duties of boards and the membership, terms and qualifications of members of the boards are
131 not affected by the enactment of this chapter. All boards that are appellate bodies or are
132 independent decision makers shall not have their appellate or independent decision-making
133 status affected by the enactment of this chapter.

134 (n) Any department previously transferred to and incorporated in a department by prior
135 enactment of this section means a division of the appropriate department. Wherever reference is
136 made to any department transferred to and incorporated in a department created in §5F-1-2 of
137 this code, the reference means a division of the appropriate department and any reference to a
138 division of a department so transferred and incorporated means a section of the appropriate
139 division of the department.

140 (o) When an agency, board, or commission is transferred under a bureau or agency other
141 than a department headed by a secretary pursuant to this section, that transfer is solely for
142 purposes of administrative support and liaison with the Office of the Governor, a department
143 secretary or a bureau. Nothing in this section extends the powers of department secretaries under

144 §5F-2-2 of this code to any person other than a department secretary and nothing limits or
145 abridges the statutory powers and duties of statutory commissioners or officers pursuant to this
146 code.

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 7. COMPENSATION AND ALLOWANCES.

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

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

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

10 Commissioner, Division of Highways, \$92,500; Commissioner, Division of Corrections,
11 \$80,000; Director, Division of Natural Resources, \$75,000; Superintendent, State Police,
12 \$85,000; Commissioner, Division of Financial Institutions, \$75,000; Commissioner, Division of
13 Culture and History, \$65,000; Commissioner, Alcohol Beverage Control Commission, \$75,000;
14 Commissioner, Division of Motor Vehicles, \$75,000; Director, Human Rights Commission,
15 \$55,000; Commissioner, Division of Labor, \$70,000; Chairperson, Board of Parole, \$55,000;
16 members, Board of Parole, \$50,000; members, Employment Security Review Board, \$17,000;
17 and Commissioner, Workforce West Virginia, \$75,000. Secretaries of the departments shall be
18 paid an annual salary as follows: Health and Human Resources, \$95,000: *Provided*, That effective
19 July 1, 2013, the Secretary of the Department of Health and Human Resources shall be paid an

20 annual salary not to exceed \$175,000; Transportation, \$95,000: *Provided, however,* That if the
21 same person is serving as both the Secretary of Transportation and the Commissioner of
22 Highways, he or she shall be paid \$120,000; Revenue, \$95,000; Military Affairs and Public Safety,
23 \$95,000; Administration, \$95,000; Commerce, \$95,000; Veterans' Assistance, \$95,000; and
24 Environmental Protection, \$95,000: *Provided further,* That any officer specified in this subsection
25 whose salary is increased by more than \$5,000 as a result of the amendment and reenactment
26 of this section during the 2011 regular session of the Legislature shall be paid the salary increase
27 in increments of \$5,000 per fiscal year beginning July 1, 2011, up to the maximum salary provided
28 in this subsection.

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

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

42 (c) Each of the following appointive state officers named in this subsection shall be
43 appointed by the Governor, by and with the advice and consent of the Senate. Each of the
44 appointive state officers serves at the will and pleasure of the Governor for the term for which the
45 Governor was elected and until the respective state officers' successors have been appointed

46 and qualified. Each of the appointive state officers are subject to the existing qualifications for
47 holding each respective office and each has and is hereby granted all of the powers and authority
48 and shall perform all of the functions and services heretofore vested in and performed by virtue
49 of existing law respecting each office.

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

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

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

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC RECREATION; ATHLETIC
ESTABLISHMENTS; MONUMENTS AND MEMORIALS; ROSTER OF
SERVICEMEN; EDUCATIONAL BROADCASTING AUTHORITY.**

ARTICLE 5. EDUCATIONAL BROADCASTING AUTHORITY.

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

1 [Repealed.]

CHAPTER 18. EDUCATION.

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

§18-2I-1. Professional development coordination and delivery; system goals.

1 The purpose of this article is to establish clear state-level leadership for professional
2 development for all West Virginia public school educators and administrators. As the state

3 institution charged with the general supervision of the state school system, the state board shall
4 institute a system for the coordination and delivery of high-quality professional development. The
5 system shall clearly define the goals for professional development and delineate roles and
6 responsibilities of the various state, school district and individual school levels for the delivery of
7 high-quality professional development. The state board shall include among the goals for the
8 system of professional development the following:

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

14 (2) Professional development is among the array of supports and processes necessary
15 under a performance-based accreditation system to build the capacity of schools to impact
16 student performance and well-being by increasing staff individual and collective skills,
17 competencies, and abilities. It should be based on a thorough analysis of accountability data and
18 strategic planning for continuous improvement that addresses those areas that must be a priority
19 for individual school support, including an analysis of personnel evaluation data in order to target
20 individualized professional learning at the school level;

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

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

§18-2I-2. Legislative findings.

1 The Legislature finds:

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

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

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

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

11 (5) That continuous improvement is the on-going process of planning, determining,
12 implementing, and refining efforts to improve student performance and well-being. It is the
13 collective staff process of analyzing student performance data, studying current school and
14 classroom practices, determining root causes, researching solutions, and implementing
15 processes outlined in the school's strategic plan; and

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

§18-2I-3. Annual professional development master plan established by state board.

1 [Repealed.]

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

1 (a) On or before November 1, 2018, the state board shall promulgate a rule in accordance
2 with §29A-3B-1 *et seq.* of this code to ensure the coordination, development and evaluation of

3 high-quality professional development programs. The rule shall include, but is not limited to, the
4 following:

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

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

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

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

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

19 (6) Processes for collaboration among West Virginia Department of Education, county
20 boards, principals and classroom teachers; and

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

24 (b) The Center for Professional Development, formerly provided for under §18A-3A-1 *et*
25 *seq.* of this code before the effective date of the amendment and reenactment of this section
26 during the 2018 regular session of the Legislature, is hereby transferred to be under the authority
27 and control of the state board. To assist in the delivery of high quality professional development
28 for teachers, principals, and other school employees, the state board shall incorporate within the

29 Department of Education the Center for Professional Development whose general mission shall
30 be under the direction of the state board to advance the quality of teaching and learning in the
31 schools of West Virginia through programs, technical assistance and support to schools and
32 school systems to meet the legislative findings and goals of this article. The center shall perform
33 other duties that may be assigned to it by the state board. In addition, the center shall provide
34 statewide coordination for the continued growth and development of advanced placement
35 programs in West Virginia high schools, including, but not limited to, serving as a liaison for The
36 College Board, Inc., and providing for the training of advanced placement teachers.

ARTICLE 10A. REHABILITATION SERVICES.

§18-10A-1. Definitions.

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

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

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

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

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

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

14 (6) "Vocational rehabilitation" and "vocational rehabilitation services" means any services,
15 provided directly or through public or private instrumentalities, found by the director to be
16 necessary to compensate a disabled individual for his or her employment handicap and to enable

17 him or her to engage in a remunerative occupation including, but not limited to, medical and
18 vocational diagnosis, vocational guidance, counseling and placement, rehabilitation training,
19 attendant care services, physical restoration, transportation, occupational licenses, occupational
20 tools and equipment, including motor vehicles, maintenance, and training books and materials.

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

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

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

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

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

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

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

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

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

45 (b) Dressing;

46 (c) Ambulation;

47 (d) Meal preparation and consumption;

48 (e) Assistance in moving in and out of bed;

49 (f) Bathing and grooming;

50 (g) Housecleaning and laundry; and

51 (h) Any other similar activity of daily living.

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

§18-10A-2. Division of Rehabilitation Services.

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

8 (b) References in this article or §18-10B-1 *et seq.* of this code to the state Board of
9 Vocational Education, the state Board of Rehabilitation or the state board as the governing board
10 of vocational or other rehabilitation services or facilities mean the Secretary of Commerce. All
11 references in the code to the Division of Vocational Rehabilitation mean the Division of
12 Rehabilitation Services and all references to the Director of the Division of Vocational
13 Rehabilitation means the Director of the Division of Rehabilitation Services.

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

1 The division shall be administered, under the general supervision and direction of the
2 Secretary of the Department of Commerce or, if required by federal law his or her designated
3 state board, by a director appointed by the secretary, or if required by federal law his or her
4 designated state board in accordance with established personnel standards and on the basis of
5 his or her education, training, experience, and demonstrated ability.

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

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

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

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

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

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

27 (6) Prepare and submit to the Secretary of the Department of Commerce or his or her
28 designated state board annual reports of activities and expenditures and, prior to each regular
29 session of the Legislature, estimates of sums required for carrying out the provisions of this article
30 and estimates of the amounts to be made available for this purpose from all sources.

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

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

§18-10A-6a. West Virginia Rehabilitation Services Special Account; expenditures.

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

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

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

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

17 to the convening of the Legislature, the director shall submit for inclusion in the executive budget
18 document and budget bill his or her recommended capital expenditures, recommended priorities,
19 estimated costs, and request for appropriations for maintaining or improving the delivery of
20 vocational rehabilitation services.

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

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

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

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

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

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

16 (c) Services to appraise the individual's patterns of work behavior and ability to acquire
17 occupational skills, and to develop work attitudes, work habits, work tolerance, and social and

18 behavior patterns suitable for successful job performance, including the utilization of work,
19 simulated or real, to assess and develop the individual's capacities to perform adequately in a
20 work environment;

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

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

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

28 As used in this section, the term "disadvantaged individuals" means: (1) Disabled
29 individuals as defined in §18-10A-1(5) of this code; (2) individuals disadvantaged by reason of
30 their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or
31 delinquency records, or other conditions which constitute a barrier to employment; and (3) other
32 members of their families when the provision of vocational rehabilitation services to family
33 members is necessary for the rehabilitation of the individual described in subdivision (1) or (2)
34 above.

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

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

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

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

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

7 (1) The State Treasurer, or his or her designee;

8 (2) A representative of the Higher Education Policy Commission, who may or may not be
9 a member of the Higher Education Policy Commission, appointed by the commission who serves
10 as a voting member of the board;

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

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

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

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

21 (C) Two members representing the public.

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

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

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

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

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

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

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

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

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

7 (b)(1) Beginning on July 1, 1994, the prerequisites for issuance of an administrative
8 certificate for principals shall include that the person has successfully completed at least six credit
9 hours of approved course work in public school management techniques at an accredited
10 institution of higher education and has successfully completed education and training in
11 evaluation skills approved by the state board.

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

18 (c) Prior to employment as a principal or assistant principal, or in another administrative
19 position the duties of which require conducting personnel performance evaluations, the principal,
20 assistant or administrator shall successfully complete education and training in evaluation skills
21 approved by the state board.

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

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

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

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

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

37 (f) The assignment of principals and assistant principals by each county board of
38 education is subject to the following:

39 (1) A certificated principal shall be assigned to each school;

40 (2) A principal may not be assigned more than two schools;

41 (3) No additional schools may be assigned to the principal of a school where enrollment
42 exceeds four hundred students;

43 (4) A principal assigned to more than one school may not be assigned any teaching duties
44 except on a temporary emergency basis;

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

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

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

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

55 (9) The State Board of Education may not deny a county board of education the right to
56 place a principal in a school with less than one hundred seventy students.

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

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

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

6 (c) For purposes of this section, “professional personnel”, “professional”, or
7 “professionals”, means professional personnel and other professional employees, as defined in
8 §18A-1-1 of this code but does not include classroom teachers, principals, and assistant principals
9 subject to the evaluation processes established pursuant to §18A-3C-2 of this code.

10 (d) The performance evaluation system shall contain, but not be limited to, the following
11 information:

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

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

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

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

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

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

21 and

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

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

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

35 (e) A professional whose performance is considered to be unsatisfactory shall be given
36 notice of deficiencies. A remediation plan to correct deficiencies shall be developed by the
37 employing county board and the professional. The professional shall be given a reasonable period
38 of time for remediation of the deficiencies and shall receive a statement of the resources and
39 assistance available for the purposes of correcting the deficiencies.

40 (f) No person may evaluate professional personnel for the purposes of this section or
41 professional educator for the purposes of §18A-3C-2 of this code unless the person has an
42 administrative certificate issued by the state superintendent and has successfully completed
43 education and training in evaluation skills approved by the state board, which will enable the
44 person to make fair, professional, and credible evaluations of the personnel whom the person is
45 responsible for evaluating.

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

53 (h) This subsection applies to all classroom teachers irrespective of the process under
54 which they are evaluated.

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

- 61 (A) Teach and reteach strategies;
62 (B) Write to learn activities;
63 (C) Cultural diversity;
64 (D) Color coding; or
65 (E) Any other similar items which are not required to serve as a guide to the teacher or
66 substitute for daily instruction;

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

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

72 (4) Nothing in §18A-3C-1 *et seq.* of this code may be construed to negate the provisions
73 of this subsection.

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

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

1 (a) The education of professional educators in the state is under the general direction and
2 control of the state board.

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

- 5 (1) Programs in all institutions of higher education, including student teaching and teacher-
6 in-residence programs as provided in this section;
7 (2) Beginning teacher induction programs;
8 (3) Granting West Virginia certification to persons who received their preparation to teach
9 outside the boundaries of this state, except as provided in subsection (b) of this section;

10 (4) Alternative preparation programs in this state leading to certification, including
11 programs established pursuant to the provisions of §18A-3-1a, §18A-3-1b, §18A-3-1c, §18A-3-
12 1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h and §18A-3-1i of this code and programs which
13 are in effect on the effective date of this section; and

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

16 (b) The state board shall adopt standards for the education of professional educators in
17 the state and for awarding certificates valid in the public schools of this state. The standards
18 include, but are not limited to the following:

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

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

24 (3) A provision for the study of classroom management techniques, including methods of
25 effective management of disruptive behavior including societal factors and their impact on student
26 behavior; and

27 (4) A teacher from another state shall be awarded a teaching certificate for a comparable
28 grade level and subject area valid in the public schools of this state, subject to §18A-3-10 if he or
29 she has met the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

66 (2) A “teacher-in-residence program” means an intensively supervised and mentored
67 residency program for prospective teachers during their senior year that refines their professional
68 practice skills and helps them gain the teaching experience needed to demonstrate competence
69 as a prerequisite to certification to teach in the West Virginia public schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

144 (i) The state superintendent may issue certificates as provided in §18A-3-2a of this code
145 to graduates of educator preparation programs and alternative educator preparation programs
146 approved by the state board. The certificates are issued in accordance with this section and rules
147 adopted by the state board.

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

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

151 (B) Is of good moral character;

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

153 and

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

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

159 (j) Institutions of higher education approved for educator preparation may cooperate with
160 each other and with one or more county boards to organize and operate centers to provide
161 selected phases of the educator preparation program. The phases include, but are not limited to
162 the following:

- 163 (1) Student teaching and teacher-in-residence programs;
164 (2) Beginning teacher induction programs;
165 (3) Instruction in methodology; and
166 (4) Seminar programs for college students, teachers with provisional certification,
167 professional support team members, and supervising teachers.

168 By mutual agreement, the institutions of higher education and county boards may budget
169 and expend funds to operate the centers through payments to the appropriate fiscal office of the
170 participating institutions and the county boards.

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

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

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

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

182 (A) Comply with the provisions of §18-28-1 *et seq.* of this code;

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

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

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

189 (3) "Exceptional child" or "exceptional children" has the meaning ascribed to these terms
190 pursuant to §18-20-1 of this code, but, as used in this section, the terms do not include gifted
191 students.

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

1 (a) *Alternative program rules.* –

2 (1) The state board shall promulgate a legislative rule or rules in accordance with §29A-
3 3B-1 *et seq.* of this code containing procedures for the approval and operation of alternative
4 teacher education programs as provided in this article. The State Board shall promulgate separate
5 procedures for alternative programs for classroom teachers, alternative programs for highly
6 qualified special education teachers, and additional alternative programs to prepare highly
7 qualified special education teachers. These procedures shall be separate from the state board's
8 other procedures for approving standard teacher education programs.

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

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

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

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

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

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

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

20 (2) Procedures for determining whether a partnership agreement complies with §18A-3-
21 1b and §18A-3-1c of this code;

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

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

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

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

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

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

1 On or before October 1, 2018, the state board shall promulgate rules in accordance with
2 §29A-3B-1 *et seq.* of this code regarding the minimum qualities, proficiencies and skills that will
3 be required of principals after July 1, 2019. The state board shall promulgate and may, from time
4 to time, amend such rules. The rules promulgated by the state board shall address at least the
5 following:

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

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

12 (3) School community leadership qualities, including, but not limited to, the ability to
13 organize and leverage community initiative, communicate effectively, work effectively with local
14 school improvement councils, manage change, resolve conflict, and reflect the highest personal
15 values;

16 (4) Educational proficiencies, including, but not limited to, knowledge of curriculum,
17 instructional techniques, student learning styles, student assessment criteria, school personnel
18 performance, evaluation skills, and family issues; and

19 (5) Administrative skills, including, but not limited to, organizational, fiscal, public policy,
20 and total quality management skills and techniques.

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

1 [Repealed.]

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

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

4 Therefore, a professional staff development council comprised of proportional
5 representation from the major school levels and from vocational, special education and other
6 specialties in proportion to their employment numbers in the county shall be established in each
7 school district in the state in accordance with rules adopted by the State Board of Education.
8 Nominations of instructional personnel to serve on the county staff development council may be
9 submitted by the faculty senates of the district to the county superintendent who shall prepare
10 and distribute ballots and tabulate the votes of the counties instructional personnel voting on the
11 persons nominated. Each county staff development council shall consist of between nine and
12 fifteen members at the discretion of the county superintendent based on the size of the county.
13 The councils have final authority to propose staff development programs for their peers based
14 upon an analysis of the individual and collective needs of the schools of the county as indicated
15 by their strategic plans.

16 The county superintendent or a designee has an advisory, nonvoting role on the council.
17 The county board shall make available an amount equal to one tenth of one percent of the
18 amounts provided in accordance with §18-9A-4 of this code and credit the funds to an account to

19 be used by the council to fulfill its objectives. The local board has final approval of all proposed
20 disbursements.

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

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

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

1 [Repealed]

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

1 [Repealed.]

§18A-3A-2b. The Principals Academy.

1 [Repealed.]

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

1 [Repealed.]

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

1 [Repealed.]

ARTICLE 3C. IMPROVING TEACHING AND LEARNING.

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

1 (a) The Legislature makes the following findings:

2 (1) Processes set forth in this article for the performance evaluation of professional
3 personnel and the induction and professional growth of teachers and leaders are not intended to
4 make up for substandard initial preparation, but instead are intended to build on a solid foundation

5 created by the teacher and principal preparation programs. Therefore, the Legislature expects
6 the teacher preparation programs to graduate teachers and leaders who can perform at a level
7 that increases student achievement. The Legislature expects that the processes set forth in this
8 article will allow a teacher and principal to excel beyond that level in the classroom and in school
9 leadership positions;

10 (2) The comprehensive system of support provided in this article should be implemented
11 in a way that effectively provides for the professional growth of teachers and principals;

12 (3) In order for the comprehensive system of support to much more effectively provide for
13 the professional growth of teachers and principals, professional development resources must be
14 focused in the most cost effective manner on the unique needs of individual schools, including
15 their professional personnel evaluation data, to increase the school's capacity to improve student
16 performance and progress; and

17 (4) Although the quality of the teacher is extremely important to the academic achievement
18 of students, students cannot learn if they are not present to receive the instruction. Therefore,
19 attending school on a regular basis is of utmost importance to the academic success of students.

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

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

25 (2) Universal support for emerging teachers and principals including comprehensive
26 induction and support for (A) Beginning teachers, student teachers, teachers teaching in
27 assignments for which they have less than a full professional credential, and teacher candidates
28 pursuing certification through an alternative route; and (B) beginning principals, assistant
29 principals, and vocational administrators, and those of them beginning a new assignment at a
30 school with a significantly different grade level configuration;

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

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

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

39 (c) For purposes of this article “professional personnel” includes classroom teachers,
40 assistant principals, and principals as defined in §18A-1-1 of this code.

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

1 (a) The provisions of this section govern the performance evaluation of classroom
2 teachers, principals and assistant principals employed in public schools and school systems. To
3 the extent that this section conflicts with the provisions of §18A-2-12 of this code relating to
4 professional personnel performance evaluations, this section shall govern.

5 (b) Before July 1, 2018, the state board shall adopt a legislative rule in accordance with
6 §29A-3B-1 *et seq.* of this code, for annually evaluating the performance of each professional
7 person. The rule shall provide for performance evaluations of professional personnel to be
8 conducted in accordance with this section in each school and school system.

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

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

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

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

19 (2) Eighty percent of the evaluation shall be based on an appraisal of the educator's ability
20 to perform the critical standard elements of the professional teaching standards. The appraisal
21 shall include conferences with the evaluator reinforced through observation. Twenty percent of
22 the evaluation shall be based on evidence of the learning of the students assigned to the educator
23 in accordance with paragraph (C), subdivision (1) of this subsection.

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

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

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

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

39 (2) Eighty percent of the evaluation shall be based on an appraisal of the principal's or the
40 assistant principal's ability to perform the critical standard elements of the professional leadership
41 standards and achieve the goals established for the principal and the school. Twenty percent of
42 the evaluation shall be based on evidence of the learning of the students assigned to the school
43 in accordance with paragraph (C), subdivision (1) of this subsection.

44 (e) Evaluations of the performance of professional personnel shall serve the following
45 purposes:

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

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

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

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

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

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

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

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

70 (g) The rule adopted by the state board shall include provisions for written improvement
71 plans when necessary to improve the performance of the professional personnel. The written
72 improvement plan shall be specific as to what improvements are needed in the performance of
73 the professional personnel and shall clearly set forth recommendations for improvements
74 including recommendations for additional education and training of professionals subject to
75 recertification. Professional personnel whose performance evaluation includes a written
76 improvement plan shall be given an opportunity to improve his or her performance through the
77 implementation of the plan.

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

89 (i) No person may evaluate professional personnel for the purposes of this section unless
90 the person has an administrative certificate issued by the state superintendent and has
91 successfully completed education and training in evaluation skills approved by the state board
92 which will enable the person to make fair, professional, and credible evaluations of the personnel
93 whom the person is responsible for evaluating.

94 (j) Prior to implementation of the evaluation process pursuant to this section at a school,
95 each affected employee shall be given training to ensure that the employees have a full

96 understanding of the purposes, instruments, and procedures used in evaluating their
97 performance. Thereafter, this training shall be held annually at the beginning of the employment
98 term.

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

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

21 (b) On or before July 1, 2018, the state board shall publish guidelines on the design and
22 implementation of a county-level comprehensive system of support for improving professional
23 practice. The purpose of the guidelines is to assist the county board with the design and
24 implementation of a system that best achieves the goals of this section within the county. The
25 guidelines may include examples of best practices and resources available to county boards to
26 assist them with the design and implementation of a comprehensive system.

27 (c) Effective for the school year beginning July 1, 2018, and thereafter, a county board is
28 not eligible to receive state funding appropriated for the purposes of this section or any other
29 provision of law related to beginning teacher and principal internships and mentor teachers and
30 principals unless it has adopted a plan for implementation of a comprehensive system of support
31 for improving professional practice, the plan has been verified by the state board as meeting the
32 requirements of this section and the county is implementing the plan. The plan shall address the
33 following:

34 (1) The manner in which the county will provide the strong school-based support and
35 supervision that will assist beginning teachers in developing instructional and management
36 strategies, procedural and policy expertise, and other professional practices they need to be
37 successful in the classroom and perform at the accomplished level. Nothing in this subdivision
38 prohibits a school or school system that was granted an exception or waiver from §18A-3-2c of
39 this code prior to the effective date of this section from continuing implementation of the program
40 in accordance with the exception or waiver;

41 (2) The manner in which the county will provide the strong support and supervision that
42 will assist beginning principals in developing instructional leadership, supervisory and
43 management strategies, procedural and policy expertise, and other professional practices they
44 need to be successful in leading continuous school improvement and performing at the
45 accomplished level or above;

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

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

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

59 (6) If a county uses master teachers, mentors, academic coaches, or any other
60 approaches using individual employees to provide support, supervision, or other professional
61 development or training to other employees for the purpose of improving their professional
62 practice, the manner in which the county will select each of these individual employees based
63 upon demonstrated superior performance and competence as well as the manner in which the
64 county will coordinate support for these employees. If the duties of the position are to provide
65 mentoring to an individual teacher at only one school, then priority shall be given to applicants
66 employed at the school at which those duties will be performed;

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

70 (8) The manner in which the county will adjust its scheduling, use of substitutes,
71 collaborative planning time, calendar, or other measures as may be necessary to provide

72 sufficient time for professional personnel to accomplish the goals of this section as set forth in the
73 county's plan; and

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

76 (d) Effective the school year beginning July 1, 2018, and thereafter, appropriations for
77 beginning teacher and principal mentors and internships and any new appropriation which may
78 be made for the purposes of this section shall be expended by county boards only to accomplish
79 the activities as set forth in their county plan pursuant to this section. Effective the school year
80 beginning July 1, 2018, and thereafter, no specific level of compensation is guaranteed for any
81 employee service or employment as a mentor and such service or employment is not subject to
82 the provisions of this code governing extra duty contracts.

83 (e) The Legislative Oversight Commission on Education Accountability shall review the
84 progress of the implementation of this article and may make any recommendations it considers
85 necessary to the Legislature during the 2019 regular legislative session.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

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

1 (a) The commission is comprised of nine members, all of whom are entitled to vote. The
2 membership of the commission is as follows:

3 (1) The State Superintendent of Schools, ex officio;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.

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

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

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

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

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

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

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

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

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

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

ARTICLE 11. MISCELLANEOUS INSTITUTES AND CENTERS.

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

1 [Repealed.]

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

1 [Repealed.]

ARTICLE 16. HEALTH CARE EDUCATION.

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

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

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

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

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

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

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

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

14 (g) Distribute the funds which were appropriated to the Higher Education Policy
15 Commission for the rural health initiative;

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

18 (i) Consult with the Council for Community and Technical College Education established
19 under §18B-2B-3 of this code on the coordination of the education of student practical nurses with
20 the rural health initiative; and

21 (j) Perform such other duties as may be prescribed by this article or as may be necessary
22 to effectuate the provisions of this article.

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

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

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

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

17 (c) Notwithstanding the provisions of §12-3-12 of this code, any funds appropriated to the
18 Higher Education Policy Commission in accordance with the provisions of this section that remain
19 unallocated or unexpended at the end of any fiscal year shall not expire, shall remain in the line
20 item to which they were originally appropriated and shall be available in the next fiscal year to the
21 board of trustees or a school of medicine for allocation or expenditure for the purposes of this
22 article.

23 (d) Additional financial support shall come from fees generated by services, from grants
24 and contracts, and from community resources. Any fees so generated shall be paid to and
25 expended by the facility established as a primary health care education site unless an alternative

26 fee arrangement is mutually agreed upon by the chief administrator of the site and the vice
27 chancellor for health sciences.

ARTICLE 18B. SCIENCE AND RESEARCH COUNCIL.

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

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

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

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

6 (2) Providing expertise and policy guidance in science and research to the state, its
7 agencies and state institutions of higher education regarding federal programs such as the
8 Experimental Program to Stimulate Competitive Research ("EPSCoR") and similar state
9 programs such as the West Virginia Research Trust Fund established in §18B-18A-1 *et seq.* of
10 this code and the Research Challenge Fund established in §18B-1B-12 of this code;

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

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

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

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

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

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

25 (3) The State Superintendent of Schools or designee;

26 (4) The Secretary of Commerce or designee;

27 (5) The Vice Chancellor for Science and Research of the Commission;

28 (6) The Chancellor of the Commission who chairs the council;

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

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

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

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

37 (C) Research and development;

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

39 (E) Undergraduate research or science education.

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

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

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

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

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

1 (a) The technology-related assistance revolving loan fund for individuals with disabilities
2 board created by chapter 247 Acts of the Legislature, regular session, 1996, is hereby continued.

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

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

7 (2) A representative of the banking industry;

8 (3) A representative of the medical profession;

9 (4) A certified public accountant; and

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

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

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

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

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

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

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

5 (2) Maintain written minutes of its meetings;

6 (3) Propose rules for legislative promulgation in accordance with §29A-3-1 *et seq.* of this
7 code for the transaction of its business and to carry out the purposes of this article. The rules shall
8 include: (A) Guidelines, procedures, reporting requirements, accountability measures and such

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

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

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

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

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

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

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

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

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

33 (2) The applicant has the ability to repay the loan. Any necessary loan limitation shall be
34 determined by the board. All loans must be repaid within such terms and at such interest rates as

35 the board may determine to be appropriate. However, no loan may extend beyond sixty months
36 from date of award and may be paid off anytime without prepayment penalty. The board shall
37 determine the interest rate to be charged on loans made pursuant to this article, but in no event
38 may the interest rate on any such loans be less than four or more than twenty-one percent per
39 annum.

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

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

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

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

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

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

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

58 The board may accept federal funds granted by Congress or executive order for the
59 purposes of this chapter as well as gifts and donations from individuals, private organizations, or
60 foundations. The acceptance and use of federal funds does not commit state funds and does not

61 place an obligation upon the Legislature to continue the purposes for which the federal funds are
62 made available. All funds received in the manner described in this article shall be deposited in the
63 revolving loan fund to be disbursed as other moneys in the revolving loan fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, House Committee

.....
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

.....
Clerk of the House of Delegates

.....
Clerk of the Senate

.....
Speaker of the House of Delegates

.....
President of the Senate

The within this the.....
day of, 2018.

.....
Governor